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## WELCOME TO NEW COLUMBIA: THE FISCAL, ECONOMIC AND POLITICAL CONSEQUENCES OF STATEHOOD FOR D.C.

David Schleicher\*

Returning from work on a stormy day a few months ago, I was somewhat surprised to find the lampposts on the street covered in D.C. Statehood signs. While such campaigns ebb and flow, this level of full-street coverage was, to say the least, impressive. At that moment, with a whoosh of wind, the banners fell off one of the lampposts and flew down Connecticut Avenue. Independence, you might say, was in the air.

And with good reason, too: the District is booming. Over the past five years, the economic growth of metro D.C. has dramatically outstripped the nation as a whole.<sup>1</sup> In 2013, D.C.'s population rose at a faster rate than every state but North Dakota,<sup>2</sup> growth that is particularly startling given D.C.'s high housing prices.<sup>3</sup> Indeed, at 646,449, its population has come to exceed that of Wyoming and Vermont.<sup>4</sup> Given this growth, it is not surprising that there are increased calls for a new political status.

For too long, however, the statehood debate has overwhelmingly focused on the same set of issues: the impact of statehood on the federal government's structure.

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<sup>1</sup> See Carol Morello & Dan Keating, *D.C. Region is Nation's Richest, Most Educated Region in the Nation, Census Data Show*, WASH. POST, Dec. 15, 2010, at A1.

<sup>2</sup> See Michael A. Memoli, *California Back on Growth Path, but North Dakota Sets the Pace*, L.A. TIMES (Dec. 30, 2013), <http://articles.latimes.com/2013/dec/30/nation/la-na-nn-north-dakota-fastest-population-growth-20131230>. Reporting on population flows frequently fails to acknowledge the role played by housing prices. But the cost of housing is simply the price of admission into a city. Regions and cities with low housing costs (because they do not restrict housing supply with strict zoning restrictions), like Houston and Atlanta, have seen huge population inflows despite having lower wages than cities like San Francisco, New York, or Washington, where demand for housing has expressed itself in high prices because of strict limits on housing supply. See David Schleicher, *City Unplanning*, 122 YALE L.J. 1670, 1674–75 (2013) [hereinafter Schleicher 2013].

<sup>3</sup> U.S. CENSUS BUREAU, ANNUAL ESTIMATES OF THE RESIDENT POPULATION FOR THE UNITED STATES, REGIONS, STATES, AND PUERTO RICO: APRIL 1, 2010 TO JULY 1, 2013 (2013), available at <http://www.census.gov/popest/data/state/totals/2013>.

<sup>4</sup> *District of Columbia*, UNITED STATES CENSUS BUREAU (Mar. 27, 2014, 9:54 AM), <http://quickfacts.census.gov/qfd/states/11000.html>; David Shuster, *Racism on Display: Washington, D.C.'s Status in Congress*, HUFFINGTONPOST (Jan. 17, 2013, 10:36 AM), [http://www.huffingtonpost.com/david-shuster/racist-to-the-core-the-co\\_b\\_2492360.html](http://www.huffingtonpost.com/david-shuster/racist-to-the-core-the-co_b_2492360.html).

These issues take a variety of forms—from high-theoretic discussions on the nature of representation to gritty questions of Congressional party power.<sup>5</sup> Yet if D.C. did become a state, the most impactful change in its citizens' lives would *not* be their new ability to elect members of Congress; it would be the dramatic shift in economics and politics that would come with the creation of a new, single-city state government. If we want to know what life will be like in the proposed New Columbia, these changes must be our starting point.<sup>6</sup>

This Essay sketches some of the long-term economic and political consequences of D.C. statehood. My goal is not to add to the chorus of supporters or opponents of statehood; instead, I aim to flesh out some of the unseen promise and peril that D.C. statehood would bring. On the day New Columbia enters the Union, it would bear a constellation of features unprecedented in the nation: the only state wholly part of one metropolitan region,<sup>7</sup> the only state without local governments, and the only wholly urban state. These features, which to date have seldom been considered, have deep implications for the advisability of statehood when compared to the alternatives of retrocession (becoming part of Maryland)<sup>8</sup> or the stateless status quo. At the same time, these features also furnish a blueprint for steps to mitigate the risks and exploit the benefits that statehood, if pursued, would offer.

A quick overview: Part I of this Essay will discuss the special fiscal and economic conditions that New Columbia would face. On one hand, statehood would better allow D.C. to take advantage of periods of economic success. In particular, a state of New Columbia would likely be free of the restrictive confines of the Height of Buildings Act, allowing for greater growth when demand for living in D.C. is high.<sup>9</sup> Moreover, as has been noted elsewhere, the District would likely also gain greater taxing power

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<sup>5</sup> See, e.g., Shani O. Hilton, *Surprise: D.C. Statehood Not a GOP Priority*, NBC WASH. (Aug. 22, 2012, 1:23 PM), <http://www.nbcwashington.com/blogs/first-read-dmv/SurpriseDC-Statehood-Not-a-GOP-Priority-167051805.html>; Shuster, *supra* note 4.

<sup>6</sup> The name “New Columbia” has been proposed by statehood advocates as a possible name for the state of D.C., and so has been adopted for this Essay. See New Columbia Admission Act, H.R. 292, 113th Cong. (2013).

<sup>7</sup> Rhode Island comes close, with thirty-eight of thirty-nine municipalities in the Providence-Fall River-Warwick, RI-MA Metropolitan Statistical Area. BUREAU OF LABOR STATISTICS, MAY 2013 METROPOLITAN AND NONMETROPOLITAN AREA DEFINITIONS (2013), available at [http://stats.bls.gov/oes/current/msa\\_def.htm#77200](http://stats.bls.gov/oes/current/msa_def.htm#77200) [hereinafter MAY 2013 METROPOLITAN].

<sup>8</sup> The present territory of the District was delimited by 1801 through the District of Columbia Organic Act. See MICHAEL K. FAUNTROY, HOME RULE OR HOUSE RULE? CONGRESS AND THE EROSION OF LOCAL GOVERNANCE IN THE DISTRICT OF COLUMBIA 29 (2003). Under the Act, both Virginia and Maryland ceded parts of their territory to form the new district. *Id.* In 1846, however, those portions of the District that Virginia ceded were returned to their original state. *Id.* As a result, all land in the current District has its territorial origins in Maryland. Thus, in theory, the District's land and people could legally be combined with Maryland through appropriate legislation.

<sup>9</sup> See *infra* notes 36–43 and accompanying text.

(although it would lose some forms of generous federal funding, particularly in its Medicaid program).<sup>10</sup> Yet such benefits come at a price: as a single-city state, New Columbia would face drastic risks in times of downturn. The fact that New Columbia would be entirely in one economic region, and the fact that it would exclusively be the center city of that region, would mean almost necessarily that the state would face substantial financial risks in the case of regional and urban-form related shocks.<sup>11</sup> Moreover, states frequently redistribute money from successful parts of the state to the unsuccessful to mitigate regional downturns: New Columbia would not have this ability. What's more, in the event of financial catastrophe, New Columbia would also be ineligible for Chapter 9 bankruptcy, insofar as it would be a state and not a municipality.

Such a dynamic understanding of New Columbia's fiscal and economic conditions makes the case for statehood weaker and the case in favor of retrocession to an adjoining state, a status which would allow for the potential for growth while ensuring a fiscal safety net, much stronger. Alternatively, if statehood were to proceed, I argue the New Columbians should adopt several structural protections against economic volatility. In particular, I argue in favor of a budget rule that results in the automatic development of a "rainy day fund" in prosperous times, and a state constitution that eschews a balanced budget rule.

Part II discusses the implications of New Columbia's unique internal politics. As noted, New Columbia would be the only state without local governments. The absence of separate spheres for local and state elections would have at least two major implications for New Columbia's politics and policy. First, as a state composed of an overwhelmingly single-party city, New Columbia's elections would likely be decidedly uncompetitive. Even in the status quo, this absence of party-level electoral competition is a likely cause of many pathologies in D.C. politics, from excessive restrictions on growth to its persistent problems with corruption. To ensure the state of New Columbia does not share these defects, any move towards statehood will need to include reforms aimed at introducing more political competition. Second, and more optimistically, the unprecedented marriage of a city and a state government offers a powerful change for innovation. Historically, the relatively circumscribed legal power of cities has prevented them from pursuing a number of effective policies because such powers are the exclusive province of states. Further, big cities are often losers in state political fights.<sup>12</sup> In this context, New Columbia's fusion of city and state provides many opportunities for policy flexibility and discovery unavailable to most big cities.

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<sup>10</sup> See *infra* notes 21–35 and accompanying text.

<sup>11</sup> See *infra* notes 44–56 and accompanying text.

<sup>12</sup> George Washington Plunkitt famously described New York City as "pie for the hayseeds" in the state government in Albany. WILLIAM L. RIORDAN, *PLUNKITT OF TAMMANY HALL: A SERIES OF VERY PLAIN TALKS ON VERY PRACTICAL POLITICS* 21 (1963).

## I. NEW COLUMBIAN ECONOMICS

So far, most literature on the economics of D.C. statehood focuses on the static, short-term consequences on the city's budget.<sup>13</sup> Such work is important but ignores a crucial reality; over the long run, a state's fiscal health depends substantially on the dynamic question of how resiliently it responds to economic change. This section argues that the way New Columbia responds to long-term economic change is crucial to assessing whether statehood would actually help D.C. residents and, if statehood is pursued, what legislative and constitutional structures might best ensure prosperity.

Before proceeding, though, it is important to summarize the traditional arguments for and against the economics of D.C. statehood. In the status quo, the District is caught in a bind: it is obligated to pay for services and programs commonly provided by states, but not provided with the tax powers states generally possess.

First, expenditures: the District has all sorts of responsibilities that accrue to states, and not cities, like Medicaid, child and family services, and higher education. A 2005 study by the Fiscal Policy Institute and the Brookings Institution found that these state-like services cost the city \$1.1 billion annually.<sup>14</sup> Some of this was traditionally offset by an annual payment by the federal government.<sup>15</sup>

To some extent, these additional expenses were mitigated in 1997. That year, the Federal Government passed the Revitalization Act, which removed some of the state-like responsibilities of D.C. in return for ending the annual federal payment to the District.<sup>16</sup> The federal government began paying for the D.C. judicial and incarceration systems, increased the matching rate for its Medicaid funding to offset what the city would ordinarily receive from a state government, and assumed responsibility for the unfunded pension liabilities racked up before the Home Rule Act.<sup>17</sup> More recent changes increased funding for the WMATA, the regional transportation body,<sup>18</sup> and gave D.C. residents the ability to attend any state university at the in-state rate<sup>19</sup>—an

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<sup>13</sup> See, e.g., William Raspberry, *Why Seek Statehood for D.C.?*, WASH. POST, Sept. 26, 1988, at A15.

<sup>14</sup> Ed Lazere & David Garrison, *A New Federal Contribution to the District of Columbia, Need, Likely Impact, and Some Options*, BROOKINGS INST. 3 (2005), available at [http://www.brookings.edu/~media/research/files/reports/2005/11/cities%20lazere/20051116\\_dcinfrastructure.pdf](http://www.brookings.edu/~media/research/files/reports/2005/11/cities%20lazere/20051116_dcinfrastructure.pdf).

<sup>15</sup> *Id.*

<sup>16</sup> National Capital Revitalization and Self-Government Improvement Act of 1997, Pub. L. No. 105-33, 111 Stat. 251; ALICE RIVLIN ET AL., BUILDING THE BEST CAPITAL CITY IN THE WORLD 81,100 (2008) [hereinafter RIVLIN 2008].

<sup>17</sup> Lazere & Garrison, *supra* note 14, at 3.

<sup>18</sup> See Clean Railroads Act of 2008, H.R. 2095, 110th Cong. § 601 (authorizing some \$1.5 billion in additional federal funding for WMATA's infrastructure).

<sup>19</sup> See District of Columbia College Access Act of 1999, Pub. L. No. 106-98, § 3, 113 Stat. 1323 (1999).

acknowledgment that states and not cities are usually responsible for higher education. Nevertheless, many such special spending obligations still remain in place.<sup>20</sup>

At the same time, D.C. faces several limits in its ability to raise revenue. The central limit on the D.C. government's ability to raise revenue is that, as part of the Home Rule Act, Congress explicitly barred the city from taxing the income of non-residents who work in the District.<sup>21</sup> Every state that taxes incomes includes a tax on non-residents who work in the state,<sup>22</sup> but Virginia and Maryland successfully fought to include this limit in the Home Rule Act.<sup>23</sup> In 1997, economists estimated that this limit costs the District government \$1.4 billion annually.<sup>24</sup> In 2005, the city estimated that the cost was \$2.2 billion,<sup>25</sup> and the number is surely higher now, as incomes in the region have been rising substantially (for purposes of comparison, the 2015 overall budget estimate is \$6.5 billion<sup>26</sup>). The District is treated like a city for taxing purposes, not a state.

Nevertheless, statehood would not be a short-term budgetary panacea. In particular, New Columbia would be in a far worse taxing position than other states because of the huge amount of nontaxable property in the District. For example, federal land takes up 28% of the District's land acreage.<sup>27</sup> If the District could tax this property, it would increase its revenue by \$550 million.<sup>28</sup> The District still, however, has responsibility to provide police, fire, and other services for these areas.<sup>29</sup> Further, another 3.9% of the District's taxable wealth is owned by non-profits.<sup>30</sup> When combined with other property tax exempt properties, 42% of the total property wealth of the city cannot be taxed.<sup>31</sup> Moreover, a state of New Columbia would largely lack wealthy suburbs that could engage in transfer payments with the central city.<sup>32</sup>

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<sup>20</sup> See Lazere & Garrison, *supra* note 14, at 4.

<sup>21</sup> D.C. CODE § 1-206.02(a)(5) (2013).

<sup>22</sup> CAROL O'CLEIREACAIN, *THE ORPHANED CAPITAL: ADOPTING THE RIGHT REVENUES FOR THE DISTRICT OF COLUMBIA* 103–05 (1997).

<sup>23</sup> For more on these negotiations, see *id.* at 105.

<sup>24</sup> CAROL O'CLEIREACAIN & ALICE M. RIVLIN, *A SOUND FISCAL FOOTING FOR THE NATION'S CAPITAL: A FEDERAL RESPONSIBILITY* 4 (2012).

<sup>25</sup> See RIVLIN 2008, *supra* note 16, at 21 n.13 (citing YESIM YILMAZ, D.C. OFFICE OF REVENUE ANALYSIS, *CALCULATING THE IMPACT OF FEDERAL PREEMPTIONS ON THE DISTRICT'S TAX REVENUE* 4 (DRAFT Mar. 5, 2008)).

<sup>26</sup> Letter from Natwar M. Gandhi to Mayor Vincent Gray and Chairman Phil Mendelson (Nov. 3, 2013), available at [http://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/FINAL\\_FY\\_2015\\_Current\\_Services\\_Funding\\_Level\\_Budget%5B1%5D.pdf](http://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/FINAL_FY_2015_Current_Services_Funding_Level_Budget%5B1%5D.pdf).

<sup>27</sup> O'CLEIREACAIN & RIVLIN, *supra* note 24, at 4.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 3.

<sup>30</sup> Joseph Cordes, *The Nonprofit Property Tax Exemption: Who Benefits, Who Pays, and by How Much*, URBAN BROOKINGS TAX POL'Y CENTER (May. 2, 2012), <http://urban.org/taxandcharities/upload/panel-1-cordes.pdf>.

<sup>31</sup> O'CLEIREACAIN & RIVLIN, *supra* note 24, at 4.

<sup>32</sup> See RIVLIN 2008, *supra* note 16, at 25 (describing how the city of Baltimore, unlike D.C., is able to receive assistance from other parts of its state).

Recognizing these countervailing forces, Alice Rivlin, a former Director of the federal Office of Management and Budget and leading expert on the budgetary effects of statehood,<sup>33</sup> concluded that it is unclear if statehood would improve or harm the fiscal position of the District:

The net effect of all these fiscal positives and negatives associated with statehood is extremely uncertain. My guess is that statehood would bring positive net fiscal benefits to the District, provided it included the power to tax non-resident income (except for a federal enclave), although losing the savings from the Revitalization Act of 1997 would offset a large fraction of the gain.<sup>34</sup>

Up to this point, however, the traditional debate has focused on statehood's immediate impact on the city budget. What is not acknowledged, though, is the vast impact that dynamic economic change would have on the finances of New Columbia. As I outline below, these effects would be substantial. In brief, statehood would have a dramatic pro cyclical effect on the local budget, permitting the District to take better advantage of good times, but leaving it at greater risk in downturns.

Begin with the advantage that New Columbia would enjoy during boom times. Perhaps the strictest and least rational restraint the federal government puts on the district is the Height of Buildings Act,<sup>35</sup> restricting the height of buildings in D.C. based on the width of nearby streets.<sup>36</sup> D.C.'s economy is currently doing extremely well,<sup>37</sup> but the restrictions of the Height Act (combined with D.C.'s restrictive zoning regime, which will later be discussed), have meant that the city faces an enormous crisis in providing housing and office space. D.C. currently has the nation's lowest office vacancy rate,<sup>38</sup> and the central business district has the third highest rent per square foot.<sup>39</sup> Housing is similarly expensive.<sup>40</sup>

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<sup>33</sup> *See id.* at 9.

<sup>34</sup> *If the District of Columbia Becomes a State: Fiscal Consequences: Hearing Before the Spec. Comm. On Statehood and Self-Determination* (D.C. 2009) (statement of Alice M. Rivlin).

<sup>35</sup> Building Height Act of 1910, Pub. L. No. 61-196, 36 Stat. 452 (1910).

<sup>36</sup> D.C. CODE § 6-601.05 (2014).

<sup>37</sup> Joel Kotkin, *The Expanding Wealth of Washington*, FORBES (Mar. 19, 2012, 9:32 AM), <http://www.forbes.com/sites/joelkotkin/2012/03/19/the-expanding-wealth-of-washington>.

<sup>38</sup> Jeff Clabaugh, *D.C. Has Nation's Lowest Office Vacancy Rate*, WASH. BUS. J. (Aug. 26, 2013), [http://www.bizjournals.com/washington/breaking\\_ground/2013/08/dc-has-nations-lowest-office-vacancy.html](http://www.bizjournals.com/washington/breaking_ground/2013/08/dc-has-nations-lowest-office-vacancy.html).

<sup>39</sup> Ken McCarthy, *Some Needed Perspective on Sluggish Leasing*, COM. OBSERVER (Sept. 26, 2013), <http://commercialobserver.com/2013/09/some-needed-perspective-on-sluggish-leasing/>.

<sup>40</sup> Justin Karp, *Washington, D.C. Renting Costs Among Highest in Nation, Report Says*, WJLA (Apr. 2, 2012), <http://www.wjla.com/articles/2012/04/washington-d-c-renting-costs-among-highest-in-nation-report-says-74458.html>.

If D.C. became a state (or joined Maryland through retrocession), the Height of Buildings Act would likely be held unconstitutional.<sup>41</sup> Freed from such restrictions, D.C. would be able to accommodate growth far more effectively during boom times. Such growth could take many forms. For example, Vince Gray, the city's current mayor, has called for modifications in the Height Act to allow taller buildings downtown (a 25% increase above the height limit in the L'Enfant City) and greater density along Metro lines.<sup>42</sup> In any case, removing building height restrictions would make D.C. an even more economically vibrant place in prosperous times.

This newfound ability to harness growth, however, comes at a cost: when lean times hit New Columbia, they will hit with a vengeance.

No city booms forever. Downturns inevitably occur for any number of reasons: changes in transportation costs, tastes, politics, or the demands of the broader macroeconomy.<sup>43</sup> Moreover, these shifts are often caused by forces beyond the control of local, city, or state decision-makers.

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<sup>41</sup> The power Congress is invoking in passing district-wide restrictions on height is surely its power over the District under Article I, Section 17 of the Constitution. While the federal government could surely still limit heights of buildings in some parts of the city under its other powers, it would need to justify why parts of New Columbia that are further from the White House than unrestricted Rosslyn, Virginia, need height restrictions. Acknowledging this as part of a push for statehood, proponents suggested that, prior to statehood, the District could give the Department of Interior a "scenic easement" that prevents anyone from building above the limits set by the Height Act. See *The Economic and Financial Impacts of District of Columbia Statehood: Hearing Before Spec. Comm. on Statehood and Self-Determination* (D.C. 2009) (statement of Walter Smith), available at [http://www.web.archive.org/web/20130814103015/http://www.dcvote.org/trellis/struggle/statehood\\_testimony\\_smith.pdf](http://www.web.archive.org/web/20130814103015/http://www.dcvote.org/trellis/struggle/statehood_testimony_smith.pdf); then click "Browse History"; then select "August 14, 2013"). However, such a proposal is probably not constitutional for two reasons. First, under the equal footing doctrine, states must be admitted as equal sovereigns, and a state without the power to regulate heights would not be equal to other sovereigns. See generally Valerie J. M. Brader, *Congress' Pet: Why the Clean Air Act's Favoritism of California Is Unconstitutional Under the Equal Footing Doctrine*, 13 HASTINGS W.-NW. J. ENVTL. L. & POL'Y 119, 151 (2007). Further, zoning is part of a state's police power and it cannot be held to a contract delegating that much of its police power. *Euclid v. Ambler Realty Co.*, 272 U.S. 365, 373 (1926); see also *United States Trust Co. v. New Jersey*, 431 U.S. 1, 21–23 (1977) (holding essential parts of a state's police power cannot be contracted away).

<sup>42</sup> See *Changes to the Heights Act: Shaping Washington, D.C., for the Future, Part II: Hearing Before H. Comm. On Oversight and Reform*, 113th Cong. (2013) (statement of Harriet Tregoning, Director of the Office of Planning), available at <http://oversight.house.gov/wp-content/uploads/2013/12/Tregoning.pdf>; Richard Simon, *Washington, D.C., Might Finally Get Tall Buildings*, GOVERNING (Dec. 3, 2013) available at <http://www.governing.com/news/headlines/Washington-Might-Finally-Get-Tall-Buildings-.html>; Aaron Wiener, *Issa Offers Hope for D.C. Autonomy on Building Heights*, WASH. CITY PAPER (Dec. 2, 2013), available at <http://www.washingtoncitypaper.com/blogs/housingcomplex/2013/12/02/issa-offers-hope-for-d-c-autonomy-on-building-heights/>.

<sup>43</sup> See Schleicher 2013, *supra* note 2, at 1692–93 (noting that cities which do not substantially hinder new development see larger population growths).



What form might these shocks take in D.C.? One possibility would be that the recent trend toward the urbanization of wealthy professionals,<sup>44</sup> a trend that has greatly bolstered D.C.'s finances, slows or reverses. Other areas in the D.C. Metro-Region, like Rosslyn or Tyson's Corner, could develop into true downtowns, challenging D.C. for dominance in the region. Moreover, D.C.'s economy is substantially concentrated in a limited number of sectors, such as law (even more than those other parts of the nation that are highly dependent on federal money, like Northern Virginia's government and consultant heavy economy).<sup>45</sup> Shocks specific to these industries—increased regulation of lobbying, for instance, or deregulation of the legal market—might be felt particularly hard in D.C. Or, perhaps, a terrorist attack in D.C. could harm the city without harming the general region.

Whatever the cause, over time, at least some regional downturn is likely to impact D.C. at some point. If and when it does, the state of New Columbia would be particularly hard-pressed to cope with downturn.

First and foremost, as a state existing wholly within one metropolitan area, New Columbia would be unable to call on resources from regions that did not face a similar shock. This is a sharp contrast to other state governments, which commonly make such transfers in times of regional decline. New York State, for example, transferred substantial resources from upstate areas to New York City during the urban downturn of the 1970s,<sup>46</sup> but today shifts resources from downstate to upstate to mitigate that region's relative decline.<sup>47</sup> Maryland's overall economy was once powered by

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<sup>44</sup> See ALAN EHRENHALT, *THE GREAT INVERSION AND THE FUTURE OF THE AMERICAN CITY* 3–5 (2012); David Schleicher, *The City as a Law and Economic Subject*, 2010 U. ILL. L. REV. 1507, 1511–12 (2010); Schleicher 2013, *supra* note 2, at 1689–90.

<sup>45</sup> As of 2010, Northern Virginia region had 12,565 legal jobs out of a total regional population of roughly 2.8 million, a ratio of one lawyer per 223 citizens. See Stephen S. Fuller & Ellen Harpel, *Workforce Trends and Occupational Forecasts for Northern Virginia 2010–2020*, GMU REGIONAL STUDIES (June 2011), available at [http://cra.gmu.edu/pdfs/studies\\_reports\\_presentations/Workforce\\_Trends\\_and\\_Occupational\\_Forecasts\\_in\\_Northern\\_Virginia.pdf](http://cra.gmu.edu/pdfs/studies_reports_presentations/Workforce_Trends_and_Occupational_Forecasts_in_Northern_Virginia.pdf). By contrast, D.C. has 51,928 lawyers for a population of roughly 610,000, an incredible ratio of one legal job per twelve citizens. See *American Bar Association National Lawyer Population*, AM. BAR ASS'N (2013), available at [http://www.americanbar.org/content/dam/aba/administrative/market\\_research/2013natl\\_lawyer10\\_year\\_trends.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/market_research/2013natl_lawyer10_year_trends.authcheckdam.pdf).

<sup>46</sup> For a view of New York State's support of New York City during the bankruptcy crisis of the 1970s, see *Flushing Nat. Bank v. Mun. Assistance Corp. for City of New York*, 358 N.E.2d 848, 855 (N.Y. 1976).

<sup>47</sup> Cf. Jason R. Abel & Richard Deitz, *New Measures of Economic Growth and Productivity in Upstate New York*, 14 CURRENT ISSUES IN ECON. & FIN. 9 (2008), available at [http://www.newyorkfed.org/research/current\\_issues/ci14-9.html](http://www.newyorkfed.org/research/current_issues/ci14-9.html) (showing how upstate New York has poorer economic growth than downstate and the rest to country); *Giving and Getting: Regional Distribution of Revenue and Spending in the New York State Budget, Fiscal Year 2009–10*, NELSON A. ROCKEFELLER INST. OF GOV'T (Dec. 2011), available at [http://www.rockinst.org/pdf/nys\\_government/2011-12-Giving\\_and\\_Getting.pdf](http://www.rockinst.org/pdf/nys_government/2011-12-Giving_and_Getting.pdf). For data on upstate New York's decline in manufacturing, see Jason Bram & Michael Anderson, *Declining*

Baltimore's economic dynamism,<sup>48</sup> but now it transfers money from the rich suburbs of D.C. to prop up Baltimore's challenged economy.<sup>49</sup> A state of New Columbia, however, would be unable to make such transfers.

To see the impact of this limit, consider Rhode Island. Today, Rhode Island is almost entirely part of the Providence-Fall River-Warwick, RI-MA Metropolitan Statistical Area.<sup>50</sup> During the recent economic downturn, a large number of Rhode Island municipalities faced fiscal crises, including one bankruptcy in Central Falls.<sup>51</sup> But the state, faced with simultaneous local crises and fiscal problems of its own, was in no position to help.<sup>52</sup> As a result, Rhode Island was particularly vulnerable to economic harm.

Moreover, should fiscal catastrophe come to pass, the state of New Columbia would be far less equipped to request national assistance. The national government has thus far maintained a strict "no bailout" rule for state governments, seeking to avoid moral hazard.<sup>53</sup> Moreover, cities have access to Chapter 9 bankruptcy, but as a state government, New Columbia would not.<sup>54</sup> As a result, should a D.C. economic downturn become a budget crisis, the state of New Columbia would lack access to several crucial means of recovery.

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*Manufacturing Employment in the New York-New Jersey Region: 1969–1999*, 7 CURRENT ISSUES IN ECON. & FIN. 1 (2001).

<sup>48</sup> See generally Eleanor S. Bruchey, *The Development of Baltimore Business: 1880–1914*, MD. HIST. MAG., Spring 1969, at 18–42 (describing the industrial development of Baltimore between 1880–1914).

<sup>49</sup> O'CLEIREACAIN & RIVLIN, *supra* note 24, at 9–10 (discussing present-day wealth transfers to Baltimore). Other examples of such city-to-non-city regional transfers are quite common in either direction. In Washington State, Seattle's economy is a substantial net contributor to rural coffers, while in Minnesota, redistribution from rural areas subsidizes city services. See *Linking State Spending to Where Taxes are Generated is a Bad Idea*, SEATTLE T. ONLINE (Jan. 23, 2011, 4:15 PM), [http://seattletimes.com/html/editorials/2014001088\\_edit24onestate.html](http://seattletimes.com/html/editorials/2014001088_edit24onestate.html); Ben Oleson, *A Brief History of Minnesota's System of Government Finance*, STRONG TOWNS (2011), <http://www.webarchive.org/web/20111114030027/http://www.strongtowns.org/storage/reports/A%20Brief%20History%20of%20Minnesota's%20System%20of%20Local%20Government%20Finance%201960-2010.pdf>.

<sup>50</sup> See MAY 2013 METROPOLITAN, *supra* note 7.

<sup>51</sup> See Jess Bidgood, *Plan to End Bankruptcy in Rhode Island City Gains Approval*, N.Y. TIMES, Sept. 7, 2012, at A21.

<sup>52</sup> Mary Williams Walsh & Abby Goodnough, *A Small City's Depleted Pension Fund Rattles Rhode Island*, N.Y. TIMES, July 12, 2011, at B1, available at [http://www.nytimes.com/2011/07/12/business/central-falls-ri-faces-bankruptcy-over-pension-promises.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2011/07/12/business/central-falls-ri-faces-bankruptcy-over-pension-promises.html?pagewanted=all&_r=0).

<sup>53</sup> See David A. Skeel, Jr., *States of Bankruptcy*, 79 U. CHI. L. REV. 677, 704–06 (2012) (describing how federal bailouts for states is not feasible). The federal government's reluctance to bail out the states is longstanding, beginning in the 1840s. See Thomas Sargent, *An American History Lesson For Europe*, WALL ST. J., Feb. 3, 2012, at A17, available at <http://online.wsj.com/news/articles/SB10001424052970204740904577193032770537826>.

<sup>54</sup> Skeel, *supra* note 53, at 679–80 (noting that municipalities may file for bankruptcy while state governments lack that option).

By contrast, in the status quo, D.C. can call on the federal government for assistance. Indeed, as a creature of the federal government, D.C. can countercyclically benefit from boom times anywhere else in the country when compensating for local challenges.<sup>55</sup> Moreover, when the District faces fiscal crisis, as it did in 1997, it is able to turn to the federal government for help (as discussed above).<sup>56</sup>

Taken together, what do these procyclical changes mean for the case for D.C. statehood? They certainly strengthen the case for retrocession (joining with Maryland) instead of statehood. Retrocession would allow the District to harness the benefits of boom times—such as by changing building regulations—while allowing for transfers in times of trouble.

However, if statehood were pursued, there are a number of specific protections New Columbia could design to mitigate a boom-bust cycle. First, the fact that New Columbia would be better able to take advantage of good times, but would be exposed to more risk in bad times, counsels in favor of a constitutionally protected rainy day fund. Such a rule might take the form of the budget rule used in Sweden, which requires a 1% budget surplus over a business cycle.<sup>57</sup> In any case, given states' traditional tendency to underfund or raid their rainy day funds, such strong provisions would be necessary to ensure that New Columbia could effectively weather downturns.<sup>58</sup>

At the same time, the imposition of a state "balanced budget" requirement that bars New Columbia from running year-to-year deficits would be a destructive misstep. For the reasons outlined above, New Columbia would likely have greater economic swings than other states.<sup>59</sup> A balanced budget rule would only exacerbate these swings, preventing countercyclical spending in bad times and requiring increases in good times.<sup>60</sup> Thus, the traditional benefits of balanced budget rules would not outweigh their unique disadvantages in the New Columbian context, and so they ought to be avoided.

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<sup>55</sup> Indeed, the 1997 financial challenge outlined above may be seen as the federal government redistributing resources from the then generally prosperous nation into the locally depressed District. *See supra* notes 16–20 and accompanying text.

<sup>56</sup> *See id.*

<sup>57</sup> *See* Ed Dolan, *How Smart Fiscal Rules Keep Sweden's Budget in Balance*, BUS. INSIDER (Aug. 1, 2011), <http://www.businessinsider.com/how-smart-fiscal-rules-keep-swedens-budget-in-balance-2011-8>.

<sup>58</sup> *See* Brian Galle & Kirk J. Stark, *Beyond Bailouts: Federal Tools for Preventing State Budget Crises*, 87 IND. L.J. 599, 601 (2012). That said, D.C. has recently been doing a good job of providing money for its rainy day fund. Benjamin R. Freed, *D.C. Announces \$417 Million Surplus to Be Added to 'Rainy-Day' Fund*, DCIST (Jan. 29, 2013), [http://dcist.com/2013/01/dc\\_announces\\_417\\_million\\_surplus\\_to.php](http://dcist.com/2013/01/dc_announces_417_million_surplus_to.php).

<sup>59</sup> The new state would have to endure losing the government benefits Congress planned to award it, but would gain the ability to tax out-of-state workers. *See supra* notes 16–26 and accompanying text.

<sup>60</sup> *See* Galle & Stark, *supra* note 58, at 600–01 (describing how states are vulnerable to the cycle of recession-reinforcing budget crises).

## II. NEW COLUMBIAN POLITICS

Beyond its economic idiosyncrasies, New Columbia would also have a special breed of state politics. In particular, it would face both the perils of limited party competition and the promise of new forms of government innovation.

First, one must consider political competition in New Columbia. Traditionally, big city politics are very different from national or state politics in an important way: almost all non-mayoral races are what political scientists call “second order,” or determined by voter preferences at other levels of government—local city council voting follows Presidential voting.<sup>61</sup> In most big cities in America, this means there is no partisan competition.<sup>62</sup> This turns out to have dramatic effects on the outputs of their legislatures.<sup>63</sup>

As a city-state, New Columbia would effectively be a state government with the politics of a big city. What would this mean? Most significantly, the absence of partisan competition would make New Columbia’s government less responsive to the opinions of the general public. Statehood would take D.C.’s existing pathologies—its reliance on “aldermanic privilege,” the economically destructive limits it places on growth, and its regular corruption—and open them to more policy areas.<sup>64</sup> However, were its politics improved, statehood would also allow D.C. to serve as a model for new combinations of policies that other cities, due to conflict with their state capitals, have not been able to consider.

One need only quickly peruse election returns to see that D.C. has little general election competition.<sup>65</sup> Democrats win with percentages close to the huge percentages that the President carried in D.C.<sup>66</sup> One might think that, in an overwhelmingly

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<sup>61</sup> David Schleicher, *Why Is There No More Partisan Competition in City Council Elections?: The Role of Election Law*, 23 J.L. & POL. 419, 419–20, 457 (2007) [hereinafter Schleicher 2007] (“[T]he less prominent the race the more likely that party identification . . . will predict a voter’s selection.”).

<sup>62</sup> See *id.* at 419–20; Christopher S. Elmendorf & David N. Schleicher, *Informing Consent: Voter Ignorance, Political Parties and Election Law*, 2013 U. ILL. L. REV. 363, 388–90 (2013) (describing voter ignorance even in primary elections).

<sup>63</sup> State legislative elections are frequently second-order, too, but to a lesser degree and with different consequences in places where the parties are more competitive. See Elmendorf & Schleicher, *supra* note 62, at 399–400 (defining a “second-order election” as one “in which voters respond to candidates and candidates appeal for votes, on the basis of political developments in a different area.”).

<sup>64</sup> For an explanation of aldermanic privilege, see Schleicher 2013, *supra* note 2, at 1710–1711. For the pernicious impact of single-party rule, see *id.* at 1699–1708.

<sup>65</sup> See *Election Results*, D.C. BOARD OF ELECTIONS (Jan. 15, 2014), [http://www.dcboe.org/election\\_info/election\\_results/](http://www.dcboe.org/election_info/election_results/).

<sup>66</sup> See *id.*, available at [http://www.dcboe.org/election\\_info/election\\_results/2012/November-6-General-Election/](http://www.dcboe.org/election_info/election_results/2012/November-6-General-Election/).

Democratic town, the real competition is in primaries. But this misses a central distinction between primaries and general elections.<sup>67</sup> Voters know little about individual candidates in legislative races, but this is not particularly important in the general elections as voters can—and do—use the party membership of candidates as a heuristic device.<sup>68</sup> When voting for Congress, by simply knowing that a candidate is a Democrat or Republican, voters can learn almost everything relevant about them. This is not true in primaries at any level, which have no on-ballot heuristics to differentiate between, say, centrist and liberal Democrats, never mind between candidates that differ on local issues. Further, voters cannot use an understanding of how things have gone in the past—what political scientists call retrospective voting<sup>69</sup>—because it is difficult to know whether any individual candidate is responsible for current conditions, whereas in general elections, voters can hold the party in control of the legislature responsible for governmental successes or failures.

The absence of party competition has dramatic consequence in D.C. First, and most obvious, is that D.C. has a substantial culture of political corruption. From the Marion Barry imbroglio to investigations against Mayor Vincent Gray's campaigns, the District has been repeatedly dogged by scandal.<sup>70</sup> This sordid history confirms what theory suggests: in the absence of competition, incumbents are less afraid of losing and more willing to take risks, leading to corruption.<sup>71</sup>

Second, the lack of political competition engenders irrational and suboptimal neighborhood parochialism. As argued by Barry Weingast and John Ferejohn, among others, legislatures can get into suboptimal equilibriums relying on distribution.<sup>72</sup> The most well known of these is pork barrel spending.<sup>73</sup> A legislature can support lower taxes and lower spending overall, but end up in a high spending, high tax equilibrium

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<sup>67</sup> Elmendorf & Schleicher, *supra* note 62, at 367, 388–89.

<sup>68</sup> *Id.* at 386, 404.

<sup>69</sup> See Jide O. Nzelibe & Matthew C. Stephenson, *Complementary Constraints: Separation of Powers, Rational Voting, and Constitutional Design*, 123 HARV. L. REV. 617, 624 (2010).

<sup>70</sup> See Paul Schwartzman & Mike DeBonis, *D.C. Grapples with Culture of Corruption*, WASH. POST, June 9, 2012, at A1, A18, available at [http://www.washingtonpost.com/local/dcs-political-corruption-has-deep-roots/2012/06/09/gJQAqvL9QV\\_story.html](http://www.washingtonpost.com/local/dcs-political-corruption-has-deep-roots/2012/06/09/gJQAqvL9QV_story.html) (“‘Politicians will say there’s a culture of corruption, and often people say it’s rhetoric,’ said Bryan Weaver, a Democratic activist who has campaigned for the council. ‘But when it comes to D.C., there’s a culture of corruption that really exists. What gets passed off as politics as usual are huge ethical lapses.’”).

<sup>71</sup> David Schleicher, *I Would, but I Need the Eggs: Why Neither Exit Nor Voice Substantially Limits Big City Corruption*, 42 LOY. U. CHI. L.J. 277, 288 (2011).

<sup>72</sup> JOHN A. FEREOHNS, PORK BARREL POLITICS: RIVERS AND HARBORS LEGISLATION, 1947–1968 233–52 (1974); Barry Weingast, *A Rational Choice Perspective on Congressional Norms*, 23 AM. J. POL. SCI. 245, 249, 252–53 (1979).

<sup>73</sup> Gerald Gamm & Thad Kousser, *Contingent Partisanship: When Party Labels Matter—and When They Don’t—in the Distribution of Pork in American State Legislatures*, AM. POL. SCI. ASS’N 2013 ANNUAL MEETING 1 (2013), available at <http://ssrn.com/abstract=2300304> (describing the large body of research in this area).

because members most prefer spending in their districts. This prisoner's dilemma-like set of preferences can result in a stable norm of all members supporting all other members' projects because they are worried that deviating from this norm will result in losing their own pork project.

Party competition is a key antidote for this type of bad norm development. As Mathew McCubbins has shown, parties in legislatures exist in part to constrain their members from offering amendments that might pass but would harm other party members.<sup>74</sup> Backbenchers give party leaders the power to do this—to set the voting rules and order—because the leaders have incentives to strengthen the party brands across all seats. Party leaders can help their caucus out of these prisoner dilemma-like “defect” equilibriums and into agreements to work in their collective interest.<sup>75</sup> Strong parties and strong party competition leads to less pork spending, something we can see in today's Congress.<sup>76</sup>

Yet, as Gerald Gamm and Thad Kousser have shown, when such party competition is lacking, suboptimal log-rolling and protectionism prevail. In particular, Gamm and Kousser note that uncompetitive legislatures feature more “district bills” or decisions by a general legislature to pass bills that are specific to one area, usually in deference to the member from that area and with little regard for their overall aggregate impact on the polity.<sup>77</sup>

In one-party D.C., this “pork barrel” equilibrium is precisely what has played out. Nowhere is the pattern clearer than in the field of housing development. D.C., as noted above, faces a major crisis in affordable housing and office space.<sup>78</sup> Yet, despite the crisis, the city council has resisted permitting new construction.<sup>79</sup> As previously noted, part of the reason for this is the Height Act's limit on building heights.<sup>80</sup> Yet to a substantial degree, construction has also been limited by ordinary municipal zoning restrictions. Why would the City's leaders vote to zone out growth in a time of prosperity and opportunity? A key reason is the city council's tradition of “aldermanic

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<sup>74</sup> See generally GARY W. COX & MATHEW MCCUBBINS, *LEGISLATIVE LEVIATHAN: PARTY GOVERNMENT IN THE HOUSE* (2d ed. 2007); GARY W. COX & MATHEW MCCUBBINS, *SETTING THE AGENDA: RESPONSIBLE PARTY GOVERNMENT IN THE U.S. HOUSE OF REPRESENTATIVES* 4–6 (2005); D. RODERICK KIEWIET & MATHEW D. MCCUBBINS, *THE LOGIC OF DELEGATION: CONGRESSIONAL PARTIES AND THE APPROPRIATIONS PROCESS* 1–2 (Benjamin I. Page ed. 1991).

<sup>75</sup> And of course to screw the other party! See generally Gamm & Kousser, *supra* note 73.

<sup>76</sup> David Schleicher, *How Polarization Cooked Congress's Pork*, PRAWFSBLAWG (May 8, 2012, 9:17 AM), <http://prawfsblawg.blogs.com/prawfsblawg/2012/05/-how-polarization-cooked-congresss-pork-.html>.

<sup>77</sup> See Gerald Gamm & Thad Kousser, *Broad Bills or Particularistic Policy?: Historical Patterns in American State Legislatures*, 104 AM. POL. SCI. REV. 151, 151, 165 (2010).

<sup>78</sup> See *supra* notes 37–40 and accompanying text.

<sup>79</sup> See Aaron Weiner, *Cheh Considers Bill That Would Give ANCs More Input on Residential Buildings*, WASH. CITY PAPER (Mar. 29, 2013), <http://www.washingtoncitypaper.com/blogs/housingcomplex/2013/03/29/cheh-considers-bill-that-would-give-more-input-on-residential-buildings/> [hereinafter Weiner 1].

<sup>80</sup> D.C. CODE § 6-601.05 (2012).

privilege,” a convention by which leaders defer to local advisory neighborhood commissions and the councilmember who represents the location of potential new building projects.<sup>81</sup> This tradition directly parallels the sort of suboptimal “go along to get along” equilibrium that characterizes one-party legislatures, and that would form the core of political culture in New Columbia.

D.C.’s regular use of this aldermanic privilege, as abetted by a lack of party competition, has led to deeply illogical outcomes. For instance, outside of downtown, the most logical place in the city to build new housing is neighborhoods in upper Northwest, where property values are high (evidence of demand) and density is low.<sup>82</sup> However, “homevoters” in those neighborhoods do not like new construction, as it would reduce the monopoly rents they get from owning in these ritzy areas.<sup>83</sup> Why doesn’t the rest of the city council simply overrule them for the benefit of all? Why does it sanction this type of protectionism by the city’s richest residents? The answer is aldermanic privilege. Zoning amendments, for all intents and purposes, must be approved by the councilmember from the area.<sup>84</sup> The rest of the council defers, lest projects put their neighborhoods against the wishes of their homevoters. The resulting outcome is deeply unsatisfying.

Leaving decisions about the development of the upper Northwest in the hands of its councilmember is no more attractive than leaving hedge fund regulation to the Member of Congress from Greenwich, Connecticut, or gun safety regulation to the representative from Madison, North Carolina (where Remington Arms is headquartered). This type of norm is what prevails in the absence of partisan competition. If D.C. were to gain statehood, then it would inherit the suboptimal “go along to get along” equilibrium that all one-party polities tend to develop.

Can this fate be avoided? As a part of any move towards statehood—and even if statehood does not occur—D.C. should consider reforms that make political competition more likely. I have proposed a number of these over the years.<sup>85</sup> One that would

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<sup>81</sup> See David Alpert, *It’s One City, Not Eight Cities*, GREATER GREATER WASHINGTON (Mar. 26, 2012), <http://greatergreaterwashington.org/post/14213/its-one-city-not-eight-cities/>. Here, I’m referring to areas in which developers would need a zoning amendment in order to build. However, at least one member of the council (who is also on this panel) has asked for city council approval even when projects are entirely compliant with local zoning rules (*i.e.*, when building is as-of-right). See Weiner 1, *supra* note 79.

<sup>82</sup> Fedward Potz, *The Rent Is Too Damn High*, WE LOVE DC (Feb. 7, 2013, 8:00 AM), <http://www.welovedc.com/2013/02/07/the-rent-is-too-damn-high/>; Aaron Wiener, *Where the Millennials Live (and Other Demographic Treasures)*, WASH. CITY PAPER (Dec. 11, 2013), <http://www.washingtoncitypaper.com/blogs/housingcomplex/2013/12/11/where-the-millennials-live-and-other-demographic-treasures/>.

<sup>83</sup> See WILLIAM A. FISCHER, *THE HOMEVOTER HYPOTHESIS: HOW HOME VALUES INFLUENCE LOCAL GOVERNMENT TAXATION, SCHOOL FINANCE, AND LAND-USE POLITICS* 51–52 (2001); Schleicher 2013, *supra* note 2, at 1732.

<sup>84</sup> Schleicher 2013, *supra* note 2, at 1706–07.

<sup>85</sup> Elmendorf & Schleicher, *supra* note 62, at 409–11; Schleicher 2007, *supra* note 61, at 464–73.

be particularly attractive in the context of D.C. would be allowing interest groups that are able to gather enough signatures the ability to make on-ballot endorsements, allowing voters to tell the difference between a Chamber of Commerce-supported candidate and one supported by the Sierra Club—or whomever else.<sup>86</sup> In any case, such measures should be top priorities if the state of New Columbia is to overcome a culture of corruption and reach better policy outcomes.

Fortunately, however, New Columbia's political culture would also offer striking opportunities for innovation. In particular, the combination of a city and state government opens uncharted and intriguing possibilities for policy development.

To the sort of innovation that state-city fusion might bring, consider land use. Most cities lack the power to create different nuisance laws governing different neighborhoods (since common law is the province of the states). As a result, cities are left with the blunderbuss tool of restrictive land use rules, which often lead to excessive separation of uses. For example, cities frequently and unnecessarily bar residents from manufacturing zones because of the risk that residents would sue the manufacturers under nuisance laws.<sup>87</sup> However, if the city could simply create a "special nuisance zone,"<sup>88</sup> it would allow for residents who were willing to live in manufacturing zones to do so, creating a new space for housing expansions. As this possibility demonstrates, the ability to mix state power with a city's preferences should open up substantial policy areas for exploration.

Finally, the state of New Columbia might generate more radical innovations simply because D.C.'s population is different from the populations of most states. For instance, D.C. would be one of the nation's only majority-minority state,<sup>89</sup> one of the youngest states,<sup>90</sup> and the state with the most LGBT residents by percentage (despite being the eighth most LGBT city).<sup>91</sup>

Providing this population with the powers of Statehood might allow for new policy innovations and experiments untried in the status quo that could yield substantial benefits. Moreover, allowing populations that are minorities on the national stage the full power of state government would allow for greater "dissenting by deciding," as Heather Gerken would note,<sup>92</sup> making any dissents against national consensus

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<sup>86</sup> Schleicher 2007, *supra* note 61, at 425 (noting that, with only party affiliation on the ballot, voters have little information regarding candidate's stances on local issues).

<sup>87</sup> See Schleicher 2013, *supra* note 2, at 1681.

<sup>88</sup> See generally *id.* at 1672, 1681.

<sup>89</sup> *Median Age, by State*, USA TODAY (June 10, 2010), <http://usatoday30.usatoday.com/news/nation/census/median-age-by-state.htm>.

<sup>90</sup> U.S. CENSUS BUREAU, RESIDENT POPULATION BY RACE AND STATE: 2010 TBL. 19, available at <https://www.census.gov/compendia/statab/2012/tables/12s0019.pdf>.

<sup>91</sup> Jeremy W. Peters, *The Gayest Place in America?*, N.Y. TIMES, Nov. 15, 2013, at 11, 14, available at [http://www.nytimes.com/2013/11/17/fashion/Washington-DC-has-thriving-gay-lesbian-and-transgender-population.html?\\_r=0&pagewanted=all](http://www.nytimes.com/2013/11/17/fashion/Washington-DC-has-thriving-gay-lesbian-and-transgender-population.html?_r=0&pagewanted=all).

<sup>92</sup> See Heather K. Gerken, *Dissenting by Deciding*, 57 STAN. L. REV. 1745, 1770 (2005).



more powerful by providing an example of those dissents in action. Who knows what differences would emerge, but it would create an incredibly exciting opportunity.

#### CONCLUSION

New Columbian Statehood would carry profound legal, political and economic implications for the region. While we cannot anticipate every consequence this change would bring, several are clear enough; economically, New Columbia would be better poised to thrive in boom times, yet face starker risks in downturns, while politically, it would enjoy a new scope for innovation, but would suffer the harms of single-party corruption. This list is far from complete, but by turning our focus to these sorts of impacts and dynamics, we can begin to understand just what statehood would offer to the people of New Columbia.