



Written by [Bruce Walker](#) on November 2, 2010

Repeal Direct Election of Senators?

Mike Lee, the Republican nominee for the Senate in the Utah election this year, supports repealing the 17th Amendment. “People would be better off if senators, when they deliver their messages to Washington, remember the sovereignty of the state,” Lee told reporters recently.



The Constitution was carefully crafted by our Founding Fathers. Most Americans are familiar with the checks and balances within the federal government, but the real check on rogue government was the great power retained by state governments.

The Constitution was a compact between the states and the federal government, not the people and the federal government. Each of the 13 original colonies was, at the time the Constitution was adopted, essentially a sovereign nation, albeit joined in a confederacy with the other states. The argument made by southern states before the Civil War, that nothing prevented a state from seceding from the Union, was generally accepted by Americans in the prior decades.

Why didn't the Founding Fathers do more to provide practical protection to state governments? They did. In only one case — in order to ratify constitutional amendments the consent of three-fourths of the state legislatures is required — have state legislatures retained all the vast powers conferred on them by the Constitution. Even in that case, by usurping the power of “interpreting” the Constitution as a way of making it “grow,” federal courts have become the system for amending the Constitution. When progressives speak of the need to have the Constitution change to meet new circumstances, they are not addressing a concern overlooked by the Founding Fathers. The process of amendment is very clear in the Constitution. What these progressives are doing is perverting the amendment process by transferring it from state legislatures to federal judges.

The Founding Fathers also provided that state legislatures would have ultimate control over the election of Presidents, if that power was exercised. Presidents are elected by members of the Electoral College. Most Americans know that. But how are these electors selected? Now, in every state, presidential electors are chosen by the people. When, two years ago, a voter cast a ballot for Barack Obama or John McCain, the voter actually chose a slate of individual electors who were committed to vote for Barack Obama or John McCain. What does the Constitution say about these electors? It provides that the state legislature shall choose the method of picking these electors. In early elections there was no “popular vote for president,” because state legislatures exercised their power to choose electors — so state legislatures did, and could today, directly control the election of the President.

The Founding Fathers also provided that United States senators would be chosen by state legislatures and not by the voters in states. Then as a “reform” proposed by progressives, the 17th Amendment was adopted in 1913 as part of the Constitution, and since that time, senators have been chosen by the voters of the state they represent. Not only has Mike Lee in Utah supported a repeal of this amendment, but the Idaho Republican Party and Tea Party supporters in Alaska have, too. It is probably not



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coincidental that the impulse to return power to state legislatures comes from parts of America that are very far from Washington, D.C. The Senate is given great power in our federal system. Not only is it impossible to pass federal laws without the consent of the Senate, but presidential appointments and treaties also must be approved by that body, not the House of Representatives. When the House impeaches federal officers, the actual trial of the impeachment occurs in the Senate.

What would happen if senators, once again, were chosen by state legislatures? What would happen if state legislatures asserted their sovereign power and, again, began to directly choose presidential electors? Washington would listen much more closely to states. Alaska, Utah, and Idaho — though thousands of miles from our capital — would be listened to much more attentively than now. Our constitutional system, so warped by judicial usurpations and by the abdication of authority by state legislatures, would again have robust and sovereign states and a federal government that stayed within only that narrow range of activities envisioned in Article I of the Constitution.

Photo of Mike Lee: AP Images



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