

The Seventeenth Amendment

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2022 0308

Is it time to Dissolve the Senate?

It's not often that I agree with Stephen Colbert, but during a January 2022, television show he offered the opinion that the United States Senate had outlived its usefulness and should be abolished (1). While I agree that the Senate no longer fulfills its original Constitutional obligation, abolishing it may not be the proper course of action.

With my apologies for being boring, we should review a little bit of history and a little bit of philosophy before going on. First, the history. Back in 1789, when the Constitution was Ratified, the Senate consisted of men who were sent to Washington for the expressed purpose of representing the interests of the individual states. At the time, or just before then, these states were independent nations that subsequently chose to come together to form a Union. They still, however, wanted to retain their identity and to protect their interests. The discussion of whether or not this was to be incorporated into the Constitution was the seminal thought that permeated the Federalist-Antifederalist debates. Did the states want to create a strong central government or did the states want to retain the greater parts of sovereignty and come together only for very specific purposes?

It was the Philosophy of Individual Freedom and the ability to compromise that led to the final structure of the Constitution. The people required Individual Freedom and so did the States. The people and the states also required the safety and security of working together to protect those freedoms. The compromise was that the People would have direct representation in Congress through the House of Representatives. The States would have direct representation in Congress through the Senate (2). Each State was considered an equal partner in the new nation and so each was allowed two Senators. It was in this way that the wishes of the people could be balanced with the wishes of the state. When both agreed, a law was enacted. When one or the other objected, the proposal failed. Neither the people nor the state could gain the upper hand in government. Considering the situation in 1770, such an arrangement was a vast improvement.

On April 8th, 1913, the dynamics described above all changed. With the ratification of the 17th Amendment, Senators were no longer selected by their state legislatures, but

were elected directly by the people. In everyday terms, the job changed from representing the interests of the state from which they came, to representing the interests of the people who voted for them and whom they wanted to vote for them again. Functionally, at that time, the Senate became completely redundant with the House of Representatives. The interests of the state were no longer relevant. By comparison, the Citizens United Ruling (3) and the Federal Elections Commission ruling on foreign support of Ballot Initiatives (4) elevated the influence of corporations and foreign interests to near-equivalence with the registered American Voter. It is quite arguable, at this point, that General Motors has a greater say in federal legislation than does any individual state.

My agreement with Mr. Colbert ends at that point. Rather than dissolving the Senate and leaving all lawmaking to one nearly imperial body, it would be worth considering reinstating the original structure of Congress and repeal the 17th Amendment.

References and Notes.

1: <https://www.breitbart.com/entertainment/2022/01/18/stephen-colbert-suggests-getting-rid-of-senate-following-dems-filibuster-failure-im-100-percent-serious/>

2: Senators were appointed through a process of selection by the State Legislatures.

3: The Citizens United Ruling elevated corporations to be the equivalent of natural citizens with respect to elections and campaign contributions.

https://www.law.cornell.edu/wex/citizens_united_v_federal_election_commission_%282010%29

4: The rule allows foreign entities to support ballot initiatives, but not campaigns for office.

<https://www.documentcloud.org/documents/21096628-fec-ballot-measure-ruling>