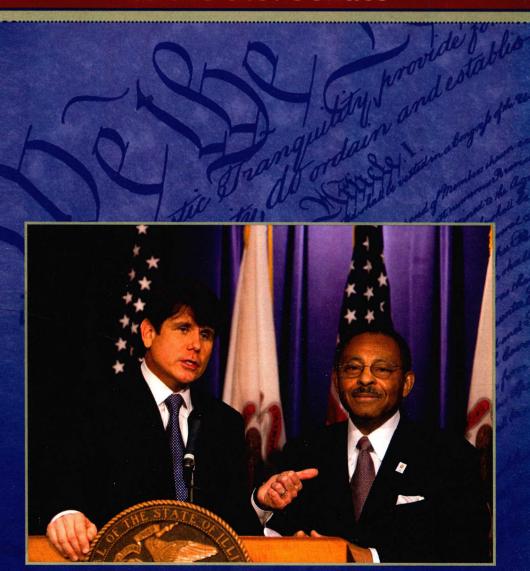


#### **AMENDMENT XVII**

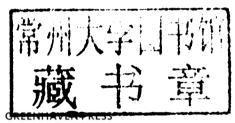
# Establishing Election to the U.S. Senate





# Amendment XVII Establishing Election to the U.S. Senate

Jeff Hay, Book Editor



A part of Gale, Cengage Learning





Christine Nasso, *Publisher* Elizabeth Des Chenes, *Managing Editor* 

© 2010 Greenhaven Press, a part of Gale, Cengage Learning.

Gale and Greenhaven Press are registered trademarks used herein under license.

For more information, contact: Greenhaven Press 27500 Drake Rd. Farmington Hills, MI 48331-3535 Or you can visit our Internet site at gale.cengage.com

#### ALL RIGHTS RESERVED.

No part of this work covered by the copyright herein may be reproduced, transmitted, stored, or used in any form or by any means graphic, electronic, or mechanical, including but not limited to photocopying, recording, scanning, digitizing, taping, Web distribution, information networks, or information storage and retrieval systems, except as permitted under Section 107 or 108 of the 1976 United States Copyright Act, without the prior written permission of the publisher.

For product information and technology assistance, contact us at

Gale Customer Support, 1-800-877-4253

For permission to use material from this text or product, submit all requests online at www.cengage.com/permissions

Further permissions questions can be emailed to permissionrequest@cengage.com

Articles in Greenhaven Press anthologies are often edited for length to meet page requirements. In addition, original titles of these works are changed to clearly present the main thesis and to explicitly indicate the author's opinion. Every effort is made to ensure that Greenhaven Press accurately reflects the original intent of the authors. Every effort has been made to trace the owners of copyrighted material.

Cover photograph @ Ralf-Finn Hestoft/Corbis.

#### LIBRARY OF CONGRESS CATALOGING-IN-PUBLICATION DATA

Amendment XVII: establishing election to the U.S. Senate / Jeff Hay, book editor. p. cm. -- (Constitutional amendments: beyond the Bill of Rights) Includes bibliographical references and index.

ISBN 978-0-7377-4697-6 (hardcover) -- ISBN 978-0-7377-5112-3 (pbk.)
1. United States. Senate--Elections. 2. Election law--United States. 3. United States. Constitution. 17th Amendment--History. I. Hay, Jeff. II. Title: Amendment 17. III. Title: Amendment seventeen. IV. Title: Establishing election to the U.S. Senate.

KF4913.A954 2010 342.73'055--dc22

2009054110

Printed in the United States of America

1 2 3 4 5 14 13 12 11 10

### Contents

Foreword	11
Amendment Text and Explanation	14
Introduction	16
Chronology	25
Chapter 1: Historical Background on the Seventeenth Amendment	
The Senate Is the Real Power in the U.S. Government  A. Maurice Low	30
The author of an article published ten years before the appearance of the Seventeenth Amendment argues that, not only does the Senate dominate the House of Representatives and often even the president, but an even smaller group of long-standing senators wields the true power within the U.S. government.	
Senators Serve Powerful Financial Interests Instead of the American People  David Graham Phillips	39
Focusing on the career of Maryland senator Arthur P. Gorman, a "muckraking" journalist in 1906 describes the Senate as the arm of major industries seeking government privileges.	
Advocates of the Seventeenth Amendment Hoped That It Would Minimize Corruption  Lewis L. Gould  Elections in 1910 resulted in a Democratic majority in Congress for the first time in many years. Among the measures they energetically undertook was a constitutional amendment to give ordinary citizens the chance to elect senators directly.	48
The Seventeenth Amendment Inspired Passionate Debate in the Senate The New York Times	53

Debates on the proposed Seventeenth Amendment grew heated in the U.S. Senate, with some members rejecting a proposal that the national government set election rules for senators in individual states. They feared that it might empower African American voters. The Seventeenth Amendment 57 Was the Work of a Small Group of Congressional "Progressives" A. Bower Sageser A caucus of so-called progressives in the U.S. Congress grew influential following the 1910 elections. They wanted to make government more responsible to the people and less susceptible to special interests. Chapter 2: Calls to Repeal or Change the Seventeenth Amendment The Seventeenth Amendment Has Made 62 the Senate Less Effective George H. Haynes By reducing its overall prestige and forcing candidates and incumbents to campaign in elections, the Seventeenth Amendment has reduced the ability of the Senate to fulfill its role in government as effectively as before. The Seventeenth Amendment Has 69 Inspired a Wave of Federalist Decisions in the U.S. Supreme Court Iohn Dean Writing only a year after the September 11, 2001, terrorist attacks on the United States, a legal scholar claims that the Supreme Court has begun addressing states' rights since senators, thanks in part to the Seventeenth Amendment, are inclined to subordinate their authority to the needs of the federal government in Washington, D.C., rather than to their home states' interests. The Seventeenth Amendment Destroyed 78 Federalism in the United States

Zell Miller

Federalism is the tradition in America whereby the states should have distinct identities and freedoms of their own as part of a larger federal union. In a statement made during his last year in office, former Georgia senator Zell Miller argues that the Seventeenth Amendment helped end that tradition.	
Repeal of the Seventeenth Amendment Will Not Improve the Senate	8
Lewis Gould  Calls to repeal the Seventeenth Amendment are mostly based on the belief that the direct election of senators results in these representatives being too beholden to special interests and reduces the power and independence of the individual states. This belief is misguided, given the circumstances in which the Seventeenth Amendment was proposed and ratified.	
The Seventeenth Amendment Should Be Changed to Prevent State Governors from Appointing Senators	8
Russ Feingold Following the 2008 elections, several senators had to be replaced because the officeholders were entering new positions, most notably Illinois senator Barack Obama, who had been elected president. Wisconsin senator Russ Feingold argued soon after that the Constitution be further amended so that special elections, not state governors, choose senatorial replacements.	
The Seventeenth Amendment Should Not Be Changed but Should Be Repealed Altogether George Will Direct election for membership in the House of Representatives is appropriate, but direct election of senators has only watered down the effectiveness of that body. Senator Feingold's proposed changes to the Seventeenth Amendment will likely make these problems worse.	9

101

The Seventeenth Amendment Is an

Improvement on the Alternatives

Publius

Even though the corrupt actions of former Illinois gover-
nor Rod Blagojevich in appointing a senator to replace
Barack Obama brought the Seventeenth Amendment into
question, returning to a system in which state legislators
choose senators is not the answer. Direct democracy is
always preferable.

# Chapter 3: The Seventeenth Amendment in Contemporary America

The Seventeenth Amendment Ensures That Senators Are Directly Elected	105
Constitutional Accountability Center	
In 2008 senatorial elections in Georgia, Alaska, and Minnesota were very close, with results unknown even months after the voting took place. The Seventeenth Amendment ensures that, even with delays, every vote will be counted.	
Politicians Should Not Try to Circumvent	108
the Intent of the Seventeenth Amendment  Michael Collins	
Even though in 2008 Democrat Al Franken narrowly won a senatorial seat in Minnesota, and Democrat Roland Burris was legally appointed to replace Barack Obama as senator from Illinois, Senate Republicans tried to set up roadblocks to their actually being seated.	
The Seventeenth Amendment Did Not Go Far Enough	116
Jennifer Rubin	
The Seventeenth Amendment allows governors to appoint senators to fulfill the terms of those who have left office. This provides the potential for governors to abuse this power and choose close associates or even family members. It is better to stick to the principle of direct elections.	
States That Appoint Senate Replacements Should Hold Special Elections Instead	120

Jerry H. Goldfeder

Following the 2008 elections, many states had to replace senators headed to the presidency, the vice presidency, and several cabinet posts. This cluster of replacements shed light on the various state laws and practices that, in most cases, allow governors to choose replacements until the next election cycle. This stands in contrast with the House of Representatives, where replacements are chosen in special elections.

A Respected Senator Plans Ahead	126
Fredreka Schouten and Kathy Kiely	
An ailing Senator Edward Kennedy of Massachusetts, one of the Senate's longest-serving members, wanted the Massachusetts state government to be able to replace him quickly when and if he became unable to continue serving.	
Appendix	
The Amendments to the U.S. Constitution	132
For Further Research	134
Index	137



# Amendment XVII Establishing Election to the U.S. Senate

#### Other Books of Related Interest

#### **Opposing Viewpoints Series**

American Values
Civil Liberties
Political Campaigns
The U.S. Supreme Court

#### **Current Controversies Series**

Federal Elections
The U.S. Economy



# Amendment XVII Establishing Election to the U.S. Senate

Jeff Hay, Book Editor

#### **GREENHAVEN PRESS**

A part of Gale, Cengage Learning





Christine Nasso, *Publisher* Elizabeth Des Chenes, *Managing Editor* 

© 2010 Greenhaven Press, a part of Gale, Cengage Learning.

Gale and Greenhaven Press are registered trademarks used herein under license.

For more information, contact: Greenhaven Press 27500 Drake Rd. Farmington Hills, MI 48331-3535 Or you can visit our Internet site at gale.cengage.com

#### ALL RIGHTS RESERVED.

No part of this work covered by the copyright herein may be reproduced, transmitted, stored, or used in any form or by any means graphic, electronic, or mechanical, including but not limited to photocopying, recording, scanning, digitizing, taping, Web distribution, information networks, or information storage and retrieval systems, except as permitted under Section 107 or 108 of the 1976 United States Copyright Act, without the prior written permission of the publisher.

For product information and technology assistance, contact us at

Gale Customer Support, 1-800-877-4253

For permission to use material from this text or product, submit all requests online at www.cengage.com/permissions

Further permissions questions can be emailed to permissionrequest@cengage.com

Articles in Greenhaven Press anthologies are often edited for length to meet page requirements. In addition, original titles of these works are changed to clearly present the main thesis and to explicitly indicate the author's opinion. Every effort is made to ensure that Greenhaven Press accurately reflects the original intent of the authors. Every effort has been made to trace the owners of copyrighted material.

Cover photograph © Ralf-Finn Hestoft/Corbis.

#### LIBRARY OF CONGRESS CATALOGING-IN-PUBLICATION DATA

Amendment XVII: establishing election to the U.S. Senate / Jeff Hay, book editor. p. cm. -- (Constitutional amendments: beyond the Bill of Rights) Includes bibliographical references and index.

ISBN 978-0-7377-4697-6 (hardcover) -- ISBN 978-0-7377-5112-3 (pbk.)

1. United States. Senate--Elections. 2. Election law--United States. 3. United States. Constitution. 17th Amendment--History. I. Hay, Jeff. II. Title: Amendment 17. III. Title: Amendment seventeen. IV. Title: Establishing election to the U.S. Senate.

KF4913.A954 2010 342.73'055--dc22

2009054110

Printed in the United States of America

1 2 3 4 5 14 13 12 11 10

### Contents

Foreword	11
Amendment Text and Explanation	14
Introduction	16
Chronology	25
Chapter 1: Historical Background on the Seventeenth Amendment	
The Senate Is the Real Power in the U.S. Government	30
A. Maurice Low	
The author of an article published ten years before the appearance of the Seventeenth Amendment argues that, not only does the Senate dominate the House of Representatives and often even the president, but an even smaller group of long-standing senators wields the true power within the U.S. government.	
Senators Serve Powerful Financial Interests Instead of the American People	39
David Graham Phillips	
Focusing on the career of Maryland senator Arthur P. Gorman, a "muckraking" journalist in 1906 describes the Senate as the arm of major industries seeking government privileges.	
Advocates of the Seventeenth Amendment	48
Hoped That It Would Minimize Corruption  Lewis L. Gould	
Elections in 1910 resulted in a Democratic majority in Congress for the first time in many years. Among the measures they energetically undertook was a constitutional amendment to give ordinary citizens the chance to elect senators directly.	
The Seventeenth Amendment Inspired Passionate Debate in the Senate The New York Times	53

Debates on the proposed Seventeenth Amendment grew heated in the U.S. Senate, with some members rejecting a proposal that the national government set election rules for senators in individual states. They feared that it might empower African American voters.	
The Seventeenth Amendment Was the Work of a Small Group of Congressional "Progressives"  A. Bower Sageser  A caucus of so-called progressives in the U.S. Congress grew influential following the 1910 elections. They wanted to make government more responsible to the people and less susceptible to special interests.	57
Chapter 2: Calls to Repeal or Change the Seventeenth Amendment	
The Seventeenth Amendment Has Made the Senate Less Effective  George H. Haynes  By reducing its overall prestige and forcing candidates and incumbents to campaign in elections, the Seventeenth Amendment has reduced the ability of the Senate	62
to fulfill its role in government as effectively as before.  The Seventeenth Amendment Has Inspired a Wave of Federalist Decisions in the U.S. Supreme Court  John Dean	69
Writing only a year after the September 11, 2001, terrorist attacks on the United States, a legal scholar claims that the Supreme Court has begun addressing states' rights since senators, thanks in part to the Seventeenth Amendment, are inclined to subordinate their authority to the needs of the federal government in Washington, D.C., rather than to their home states' interests.	
The Seventeenth Amendment Destroyed Federalism in the United States Zell Miller	78

Federalism is the tradition in America whereby the states should have distinct identities and freedoms of their own as part of a larger federal union. In a statement made during his last year in office, former Georgia senator Zell Miller argues that the Seventeenth Amendment helped end that tradition.	
Repeal of the Seventeenth Amendment Will Not Improve the Senate  Lewis Gould	8
Calls to repeal the Seventeenth Amendment are mostly based on the belief that the direct election of senators results in these representatives being too beholden to special interests and reduces the power and independence of the individual states. This belief is misguided, given the circumstances in which the Seventeenth Amendment was proposed and ratified.	
The Seventeenth Amendment Should Be Changed to Prevent State Governors from Appointing Senators	8
Russ Feingold Following the 2008 elections, several senators had to be replaced because the officeholders were entering new positions, most notably Illinois senator Barack Obama, who had been elected president. Wisconsin senator Russ Feingold argued soon after that the Constitution be further amended so that special elections, not state governors, choose senatorial replacements.	
The Seventeenth Amendment Should Not Be Changed but Should Be Repealed Altogether George Will Direct election for membership in the House of Representatives is appropriate, but direct election of senators has only watered down the effectiveness of that body. Senator Feingold's proposed changes to the Seventeenth Amendment will likely make these problems worse.	9

101

The Seventeenth Amendment Is an Improvement on the Alternatives *Publius* 

Even though the corrupt actions of former Illinois gover-
nor Rod Blagojevich in appointing a senator to replace
Barack Obama brought the Seventeenth Amendment into
question, returning to a system in which state legislators
choose senators is not the answer. Direct democracy is
always preferable.

# Chapter 3: The Seventeenth Amendment in Contemporary America

The Seventeenth Amendment Ensures That Senators Are Directly Elected	105
Constitutional Accountability Center	
In 2008 senatorial elections in Georgia, Alaska, and Minnesota were very close, with results unknown even months after the voting took place. The Seventeenth Amendment ensures that, even with delays, every vote will be counted.	
Politicians Should Not Try to Circumvent	108
the Intent of the Seventeenth Amendment  Michael Collins	
Even though in 2008 Democrat Al Franken narrowly won a senatorial seat in Minnesota, and Democrat Roland Burris was legally appointed to replace Barack Obama as senator from Illinois, Senate Republicans tried to set up roadblocks to their actually being seated.	
The Seventeenth Amendment Did Not Go Far Enough	116
Jennifer Rubin	
The Seventeenth Amendment allows governors to appoint senators to fulfill the terms of those who have left office. This provides the potential for governors to abuse this power and choose close associates or even family members. It is better to stick to the principle of direct elections.	
States That Appoint Senate Replacements Should Hold Special Elections Instead	120

Jerry H. Goldfeder

Following the 2008 elections, many states had to replace senators headed to the presidency, the vice presidency, and several cabinet posts. This cluster of replacements shed light on the various state laws and practices that, in most cases, allow governors to choose replacements until the next election cycle. This stands in contrast with the House of Representatives, where replacements are chosen in special elections.

A Respected Senator Plans Ahead	126
Fredreka Schouten and Kathy Kiely	
An ailing Senator Edward Kennedy of Massachusetts, one of the Senate's longest-serving members, wanted the Massachusetts state government to be able to replace him quickly when and if he became unable to continue serving.	
Appendix	
The Amendments to the U.S. Constitution	132
For Further Research	134
Index	137