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If we were to ask legislators and bureaucrats what feature of the US Constitution they think most actively restricts the national government's power, we would likely hear of the tripartite partition of the national government or the Bill of Rights. Yet, upon review of our Founders' commentary on the constitution's original provisions, we are led to the original election of national senators by state legislatures.

Anteceding the 17th amendment, United States senators were hand-picked by state legislatures. The political livelihood of these senators was dependent upon their respective state legislature, and they would be remiss to act in ways contrary to the interests of their state. Therefore, senators, directly accountable to their states, would actively repel, never mind propose, political initiatives aggrandizing the national government at the expense of the states.

Indeed, James Madison notes in Federalist No. 62 how the states' selection of senators *"Gives the state governments such an agency in the formation of the federal government as must secure the authority of the former"*. In other words, the states' selection of its senators was intended to not only limit the national government, but also preserve the authority and powers of the states.

While Constitutional amendments may seem irreversible, legal scholars have repeatedly underscored the 17th amendment's injurious impact on our Federal Republic's power equilibrium. Late Supreme Court Justice Antonin Scalia stated as much:

"The states owned the senate, since it was not elected by the people but by the state governments, that was the central mechanism that preserved the states, and we threw that away in a burst of populism and you can trace the decline of so called states' rights from that point."

As a gruesome political feud over our nearly \$32 trillion debt ceiling plays out on the national stage, many wonder how a government originally fettered to fulfilling a shortlist of specific tasks mutated to its current state. The 17th amendment, by stripping the states of a useful tool for containing the national government, provides an answer.

In Memoriam:

Former State Representative Fred Brummer, a Charter Member of the National Association of Former State Legislators recently passed away after a brief illness.



Mr. Brummer was a CPA with Brummer & Rogers, PA, and practiced accounting since 1981. Before beginning his private accounting practice, Brummer had ten years of government accounting and budget control experience. He was a member of both the American and Florida Institutes of CPAs.

The Honorable Fred Brummer served in the Florida House of Representatives from 1998-2006 and as an Orange County Florida Commissioner from 2006-2014.

He was Chair of the State Administration Committee and Vice Chair of the House Appropriations Committee. He also served on the Appropriations Committee for Commerce and Local Affairs, as well as the Committee for Finance and Taxation.

Fred Brummer received the highest ranking in the Florida House by the Associated Industries of Florida. The Florida Chamber of Commerce recognized Brummer with its award for legislative accomplishment in each of his eight years in the Legislature. The First Amendment Foundation presented him with the prestigious Pete Weitzel/Friend of the First Amendment Award.

Having served on and chaired numerous County Advisory Boards and Committees, Brummer always considered community service to be the most significant quality necessary to holding public office.

His dedicated work in local civic organizations earned Brummer several service awards including being named Businessman of the Year by his Area Chamber of Commerce and Rotarian of the Year.

Coming Up:

Recently, we established a strategic partnership with the [Save Our States](#) organization. For over 20 years, this highly respected organization has been on the front lines, nationally defending the Founder's Electoral College process. We will be joining them at the [American Legislative Exchange Council \(ALEC\) Annual Conference](#) this coming July 26-28 in Orlando, Florida. Please let us know if you are able to join us!

Also, we will have a booth at the [National Conference of State Legislatures \(NCSL\) Annual Legislative Summit](#) this coming August 14-16 in Indianapolis, Indiana. There is a plan in the works for a dinner event on the topic of Federalism. More details to come. Hope you can be there.



James Kallinger, President
National Association of Former State Legislators