

HOUSE JOINT RESOLUTION NO. 25

INTRODUCED BY T. MILLETT

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE UNITED STATES CONGRESS PROPOSE AN AMENDMENT TO THE UNITED STATES CONSTITUTION TO REPEAL THE SEVENTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

WHEREAS, before the passage of the Seventeenth Amendment to the United States Constitution, on a vacancy in the office of a senator, the governor of a state was empowered under Article I, section 3, clause 2, of the United States Constitution to fill the vacancy with a temporary appointment until the time when the state legislature convened and selected a replacement; and

WHEREAS, on ratification of the Seventeenth Amendment to the United States Constitution in 1913, the power to elect senators from each state was passed to the people of each state; and

WHEREAS, on ratification of the Seventeenth Amendment to the United States Constitution in 1913, when a vacancy occurred in the office of a senator, the governor of the state was directed to issue a writ of election to fill the vacancy provided, although the state legislature could empower the governor to appoint a temporary successor until the next election; and

WHEREAS, the founders of our republic and the framers of the constitution recognized that in a republican form of government, the legislative authority should necessarily be predominant; and

WHEREAS, the founders intended that legislative authority be divided into two different branches composed by different modes of election, creating different principles of action, and be as little connected with each other as the nature of their common functions and their common dependencies on society would admit; and

WHEREAS, James Madison explained the reason for bicameralism in Federalist No. 10: "Before taking effect, legislation would have to be ratified by two independent power sources: the people's representatives in the House and the state legislatures' agents in the Senate"; and

WHEREAS, James Madison argued in Federalist No. 62 that "[t]he appointment of senators by state

1 legislatures gives the state governments such an agency in the formation of the federal government as must
2 secure the authority of the former"; and

3 WHEREAS, Alexander Hamilton, in Federalist No. 10, concluded that because the legislatures were
4 selected bodies of men, the choice of United States senators would "generally be made with peculiar care and
5 judgment by the legislatures"; and

6 WHEREAS, the founders of the constitution created an ingenious template of checks and balances,
7 with divisions and distributions of power to provide for and protect the highest sovereignty—that of each
8 individual citizen; and

9 WHEREAS, the Seventeenth Amendment to the United States Constitution disrupts that balance of
10 power by providing for the selection of senators by popular vote in the same manner representatives are
11 selected by popular vote; and

12 WHEREAS, popular election of senators has diluted the power of the separate states, diminished
13 federalism, and resulted in the increased power of the federal government over the individual states.

14
15 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
16 THE STATE OF MONTANA:

17 That the Legislature of the state of Montana urges the Montana Congressional Delegation and all the
18 members of the United States Congress to propose an amendment to the United States Constitution repealing
19 the Seventeenth Amendment that reads as follows:

20 "Section 1. The seventeenth article of amendment to the Constitution of the United States is hereby
21 repealed.

22 Section 2. The Senate of the United States shall be composed of two Senators from each State,
23 selected by the legislature of each State. Each Senator shall serve a six-year term and may be reappointed.
24 Each Senator shall have one vote in the Senate.

25 Section 3. Among the duties of each Senator is the primary duty to represent the government of their
26 State, and in particular the State's legislature, in the Senate. For the purpose of maintaining communications
27 with its Senators, each State legislature shall establish a liaison committee and shall specify the duties,
28 procedures, and method of appointment of that committee. A liaison committee shall work with its United States

1 Senators in evaluating the impact of federal legislation on its state. All legislation proposed by Congress, and all
2 treaties proposed, shall be submitted to each State's liaison committee.

3 Section 4. The salary and benefits for a Senator shall be provided by the Senator's state.

4 Section 5. Senators are subject to removal by the State legislature. Removal of a Senator requires a
5 majority of each house of the State legislature, or in the case of a unicameral legislature, a simple majority.

6 Section 6. Congress is precluded from enacting any legislation affecting the senatorial selection
7 process. Each State legislature shall enact rules and procedures, consistent with this amendment, related to
8 the selection and removal of Senators.

9 Section 7. This amendment shall not be so construed as to affect the term of any Senator chosen
10 before it becomes valid as part of the Constitution. The electors in each State shall have the qualifications
11 requisite for electors of the most numerous branch of the State legislatures."

12 BE IT FURTHER RESOLVED, that copies of this resolution be sent to the President of the United
13 States, the Majority Leader of the United States Senate, the Speaker of the United States House of
14 Representatives, and the members of the Montana Congressional Delegation.

15 - END -