



AMERICAN CONSTITUTIONALISM
 VOLUME I: STRUCTURES OF GOVERNMENT
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Supplementary Material

Chapter 7: The Republican Era – Federalism

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*George F. Edmunds, Should Senators Be Elected by the People? (1894)*¹

George F. Edmunds was a Republican senator from the state of Vermont, serving from 1866 to 1891. During that time, he was among the leading members of the U.S. Senate and a two-time candidate for the Republican presidential nomination. In the Senate he carved out a particular role for himself as a legal and constitutional expert, serving for many years as the chairman of the Senate Judiciary Committee and playing important parts in actions from the impeachment of President Andrew Johnson and the disputed election of 1876 to the drafting of the Edmunds Act prohibiting polygamy and the Sherman Antitrust Act.

This essay was written after Edmunds had left the Senate and returned to private legal practice. At this point, the movement for the direct election of senators was still in its early stages, but Edmunds lived to see the passage of the Seventeenth Amendment to the Constitution requiring direct election.

. . . . [I]t was agreed [early in the Philadelphia Convention] that the House of Representatives should be chosen directly by the people and in proportion to the number of inhabitants in each State, excepting two-fifths of the slaves. And after similar tribulations of proposal and discussion, it was settled that the President should be chosen on the principle of having regard, chiefly, to the population of the various states. . . . It was obvious that if the other branch of the legislature were constituted in the same way, either as to the number from each State or the direct method of election, there would be a perpetual tendency toward the effacement of State rights and State sovereignty in respect to local affairs, and the establishment of a national democracy by government, practically, *en masse*, where the weight of the mass in one part of the country might, and probably would, dominate over the other parts, and might in the end destroy the peaceful liberties of all, as has been the ever-repeating experience of ill-balanced and unchecked forms of government—democracy succeeding conservatism and liberal order; the commune succeeding democracy; anarchism overturning the commune; and a single despot or brace of despots springing from the cabals and corruptions of communism and anarchy to be the masters of all.

To establish a secure barrier against such tendencies and dangers, the constitution of a second legislative branch composed of persons having a different constituency, and representing the independent equality of the States, was a supreme necessity.

. . . . The legislature of a State . . . is the depository of the whole mass of the sovereign power which the people as such, have set forth and defined in its Constitution. . . . In constituting and exercising such a sovereignty, the people of a State never elect either branch of their legislature by the popular vote of all the citizens on a general ticket: that step remains to come in when the dream of the socialist shall be realized. The reason is obvious. Such a method would be purely the voice of an aggregation of mere numbers regardless of intelligence, property, and business interests, as well as of that innate sense of the value of the geographical distribution and separation of the various parts of a State into small communities substantially homogeneous. . . . The government of a State is instituted for the benefit of the whole people, and not for that of party, nor for that of a majority of its people alone; and the act of a State in choosing its senators is one of the most important parts of its governmental duty. Both reason and experience prove that an election by a majority of all the people of a State is radically a different thing

¹ Excerpt taken from “Papers Relating to the Election of Senators by Direct Vote of the People,” Sen. Doc. No. 512, 60th Cong., 1st sess. (March 23, 1908), 57–63.



from the choice of the same officers by the people (through their representatives) of the separate political divisions of it. . . .

. . . .
[A] new school of politicians has now appeared who profess to believe that the Fathers were mistaken in their theory of the surest foundation of our national republic, and that the system they adopted has not, in regard to senators, worked well—that the senators have not been the choice of, and have not represented, the great body of the people of the States that elected them, and therefore that elections of senators should be had by the suffrage of all the voters in the State *acting together*. . . .

. . . .
[T]he new school of constitution-makers say that they think the Senate has become a body of rich men who gained their places by corrupting legislatures in a pecuniary way. . . . But alas, this is not a peculiarity belonging to the office of senator alone. It has happened equally or more often in elections to the House of Representatives, as well in State and municipal elections. A legislative election of senators, therefore, is not the cause of this great evil. In the nature of things, it must be worse in popular elections, for the members of a legislature must, in the choice of a senator, vote openly, so that the constituents know whether or not their representatives have followed the general judgment of the particular communities they represent—a matter of vital importance in all representative government. But in popular elections, where each citizen is acting in his personal character only, it is equally important that he have the right to vote secretly, notwithstanding that he may be bribed in spite of every precaution that the law may adopt to prevent it. . . .

. . . .
[T]here is neither reasonable nor plausible ground, then, for taking the grave step of disturbing the exact and solid balance of the powers and factions of our national Constitution, which has in these respects given us a century of security, of State representation and of State rights as well as a wonderful national progress as a people.