



Written by [Joe Wolverton, II, J.D.](#) on October 6, 2010

Alaskan Senatorial Candidate Supports Repeal of 17th Amendment

The vigorous and timely advocacy of the enforcement of the Tenth Amendment has been well chronicled in the pages of The New American and elsewhere. There are, in fact, organizations devoted exclusively to that commendable task. While no constitutionalist worthy of the distinction can doubt the vital nature of that mission, there is another amendment whose prominence in recent headlines must also concern those dedicated to the advancing of constitutional principles of freedom and good government — the 17th Amendment.



“U.S. Senate candidate Joe Miller’s support for repealing 17th Amendment draws criticism” is the title of an article published Wednesday in the Fairbanks (Alaska) *Daily News-Miner*. Joseph Wayne “Joe” Miller is an attorney and is seeking election to the seat in the Senate occupied for over seven years by the woman he defeated in this year’s Republican primary — Lisa Murkowski.

Miller is a native of Kansas and moved to the “Last Frontier” after graduating from Yale Law School to accept an associate attorney position in Anchorage. He has since practiced in Alaska and served in various local and state judicial appointments.

Responding to a question posed by an attendee at a town hall meeting in Fairbanks, Miller denounced Washington, D.C., as a place where members of Congress are “treated like royalty.” Miller recommended the imposition of term limits and the repeal of the 17th Amendment as treatments for the aristocratic fever that has afflicted so many in our nation’s capital.

Predictably, Miller’s comments have siphoned ounces of ink from the pens of pundits and pontificators. The usual coterie of soi-disant defenders of the people have begun their vilification of Miller via the broadcast mockery of his beliefs. For example:

From the *Seattle Post-Intelligencer*: “Tea Party candidate boils over.”

From CNN: “Political Theater: Telling Tales about the 17th Amendment.”

The mainstream media is not alone in its renouncement of Joe Miller’s (apparently) controversial statement. Miller’s opponent in the campaign for senator from Alaska is Democrat Scott McAdams. McAdams is quoted in the *Daily News-Miner* as accusing Miller of trying to “deny Alaskans their constitutional rights....” He told the paper, “This is just one more example of how Joe [Miller] wants to repeal the 20th Century and hurt Alaska. Alaskans embrace their power to elect their candidates — Joe should know that — that’s the American — and the Alaskan way.”

While such a reaction from one’s political foe is perfunctory, the vituperative response from Senator Lisa Murkowski smacks of sour grapes and is ill-suited to one of her station. “We have Joe Miller take some extraordinary positions in this campaign,” Murkowski told the Fairbanks paper, “but I never



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imagined he would support disenfranchising himself and every other Alaskan. Joe is no longer content with simply taking away federal support for Alaskan families, now he wants to take away their right to select our United States senators,” she continued.

It is noteworthy to remind readers that despite her recent electoral defeat, Murkowski refuses to go gently into that good night of private life, and has initiated a write-in campaign to retain her seat.

This effort and the tenor of her remarks regarding Mr. Miller’s alleged zeal for the disenfranchisement of every Alaskan is ironical in light of the fact that Ms. Murkowski herself has never won popular election to the senate, as she was appointed to the office in 2002 by her father, Frank Murkowski, who was then governor of Alaska.

So, what of this charge of wanting to disenfranchise the voters of Alaska? Would a return to the original, pre-17th Amendment construction of the Constitution deny citizens of a state the right to elect their representatives? Yes and no.

The 17th Amendment to the United States Constitution was ratified in 1913 and reads in relevant part: “The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof....” As set forth in the original text of Article 1, Senators were to be “chosen by the Legislature” of the states. Inarguably, then, the 17th Amendment stripped the state legislatures of the responsibility of electing senators to the national government and placed it in the hands of the people.

That “the people” are the ultimate sovereign in the United States is not to be seriously debated. The people of all lands are “endowed by their Creator” with the right of self-government, a right alienable only according to the constitutional expression of their will and pleasure to do so. Furthermore, as governments are the creation of men, governments are endowed only with those specific and very limited powers ceded to them by those whose sovereign will gave them life — the people.

In the case of the Senate, however, it was not “the people’s” interests that were meant to be advocated. It is aphoristic to say that the Framers of the Constitution of the United States created a national government of separated powers and checks and balances. This delicate distribution of power was the *sine qua non* of the grand American experiment. While at once establishing a dynamic and robust central authority, the Founding Fathers, in their wisdom, retained and relied upon the equally sovereign states and the salutary effect they would have upon the tendency of consolidated governments to grow unwieldy and tyrannical.

To that end, on Thursday, June 7, 1787, the delegates to the Constitutional Convention in Philadelphia voted unanimously to place the election of the members of the national senate in the seasoned and popularly elected representatives in the various state legislatures. The river of representation of the people was to be distilled through several layers of elected representation (the definition of federalism). The people were to be represented in the new Senate as citizens of the states. Thus, removed as it was by degrees from the heat and mercurial temperment of the momentary passions of the people, said Edmund Randolph, the Senate would act as a check against the “turbulence and follies of democracy.”

Alas, as of April 8, 1913, that check has been abolished and the nation was pushed closer toward falling into the one of the innumerable chasms of democracy. The Senate no longer reflects the political philosophy of our Founding Fathers that the states were best suited to respond to the legitimate needs of their citizens. The interests of the “United States” have been sacrificed on the altar of popular democracy. Sadly, our Founders knew that all the republics of history died on that altar and they, through the mechanism of federalism and states rights, sought to obviate this end for the republic they



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were forming.

While news of a high-profile senatorial candidate speaking out publicly in favor of the repeal of the 17th Amendment is attention grabbing, the prosaic defense of the Constitution falls to those with pens consecrated to the abolition of tyranny and the restoration of the full panoply of republican institutions as set forth by the Constitution.

For now, we see how the repeal of one amendment (the 17th) and the re-establishing of another (the 10th), our republic can be put back on the path that leads to smaller government and constitutional order.

To that end, constitutionalists welcome the aid of Joe Miller and others to the cause of freedom. Those already committed to this endeavor have formed a two-flanked attack against the monster of democracy and it's predictable progeny — mob rule. From one side, the restoration of the rights of states to govern themselves as expressed by the 10th Amendment and from other, the repeal of the 17th Amendment which robbed the states of the rightful representation of the particular interests in the halls of Congress.

Photo: U.S. Senate candidate Joe Miller: AP Images



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