

Ten Tenth Amendment - State Sovereignty Points

The Constitution was written under the principle of “positive grant.” What this means is quite simple. The federal government is authorized to exercise only those powers which are “positively” “granted” to it by the Constitution. If a power is specifically listed in the Constitution, the federal government can do it - and vice versa. This principle was so important to the founding fathers that they codified it in law as the 10th Amendment.

The language of the 10th is clear and concise: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Thus, the federal government’s powers are limited to a specific set of activities – the rest is to be handled by the state government, or locally, by the people themselves.

The Constitution does not include a congressional power to override state laws. It does not give the judicial branch unlimited jurisdiction over all matters. It does not provide Congress with the power to legislate over everything. This is verified by the simple fact that attempts to make these principles part of the Constitution were soundly rejected by its signers.

If the Congress had been intended to carry out anything they claim would promote the “general welfare,” what would be the point of listing its specific powers in Article I, Section 8, since these would’ve already been covered?

James Madison, during the Constitutional ratification process, drafted the “Virginia Plan” to give Congress general legislative authority and to empower the national judiciary to hear any case that might cause friction among the states, to give the congress a veto over state laws, to empower the national government to use the military against the states, and to eliminate the states’ accustomed role in selecting members of Congress. Each one of these proposals was soundly defeated. In fact, Madison made many more attempts to authorize a national veto over state laws, and these were repeatedly defeated as well.

The Tenth Amendment was adopted after the Constitutional ratification process to emphasize the fact that the states remained individual and unique sovereignties; that they were empowered in areas that the Constitution did not delegate to the federal government. With this in mind, any federal attempt to legislate beyond the Constitutional limits of Congress’ authority is a usurpation of state sovereignty - and illegal.

Tragically, the Tenth Amendment has become almost a nullity at this point in our history, but there are a great many reasons to bring it to the forefront. Most importantly, though, we must keep in mind that the Founders envisioned a loose confederation of states – not a one-size-fits-all solution for everything that could arise. Why? The simple answer lies in the fact that they had just escaped the tyranny of a

king who thought he knew best how to govern everything – including local colonies from across an ocean.

Governments and political leaders are best held accountable to the will of the people when government is local. Second, the people of a state know what is best for them; they do not need bureaucrats, potentially thousands of miles away, governing their lives. Think about it. If Hitler had ruled just Berlin and Stalin had ruled just Moscow, the whole world might be a different place today.

A constitution which does not provide strict limits is just the thing any government would be thrilled to have, for, as Lord Acton once said, "Power tends to corrupt, and absolute power corrupts absolutely."

We agree with historian Kevin Gutzman, who has said that those who would give us a "living" Constitution are actually giving us a dead one, since such a thing is completely unable to protect us against the encroachments of government power.

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