

American Government & Politics: A Christian Worldview
Article: “The Tenth Amendment Is Always the Right Answer”
(15–20 Minutes)

TEACHER INSTRUCTIONS/KEY

Goal

Students see that the Fifth Amendment is specifically worded to protect anyone who might be oppressed or even killed by government, regardless of whether they are citizens or not.

Instructions

1. Instruct students to read the article and take notes/underline key passages. (Give them 6–8 minutes.)
2. Have students discuss their thoughts on the article in pairs/groups. (Give them 3–5 minutes.)
3. Ask for volunteers to share their takeaways from the article.

Main Points

- Some law students are reportedly told that the Tenth Amendment is never the correct answer on legal multiple-choice tests; this attitude reflects how modern political and legal institutions disregard the Tenth Amendment.
- Thomas Jefferson considered the Tenth Amendment the “foundation of the Constitution” (that any federal action beyond the powers specifically granted in the Constitution opens the door to unlimited government power).
- The Tenth Amendment states that powers not delegated to the federal government are reserved to the states or the people.
- James Madison wrote in The Federalist No. 45 that the federal government’s powers were intended to be “few and defined.”
- Many politicians, judges, academics, lobbyists, and media figures favor a broad interpretation of federal power rather than the limits imposed by the Tenth Amendment.
- Federal authority has expanded far beyond the limited powers envisioned by the Constitution (federal involvement in healthcare, education, regulations, and numerous aspects of daily life).
- Many Americans accept this, because they have been taught that broad federal authority is legitimate.
- Political systems based on democratic competition can encourage people to support government growth because they hope to benefit from or someday control that power.
- Political economist Bertrand de Jouvenel argued that modern political actors often have little incentive to limit government power, because they may someday wield it themselves.
- A written constitution was designed to place firm limits on government authority and prevent power from continually expanding.
- Jefferson believed government officials should not be trusted with unlimited discretion, but should be restrained by constitutional limits (“the chains of the Constitution”).

The Tenth Amendment Is Always the Right Answer

The Tenth Amendment Center

Mike Maharrey • October 23, 2019

I've been told that law students prepping for the Bar Exam are told that if the Tenth Amendment is ever among the answers on a multiple-choice question, they can immediately rule it out.

Future lawyers are told the Tenth Amendment is never the "right" answer.

Thomas Jefferson had a little different view of the Tenth Amendment. He called it the "foundation of the Constitution."

"I consider the foundation of the Constitution as laid on this ground: That 'all powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people.' To take a single step beyond the boundaries thus specifically drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition."

The Tenth Amendment makes it unquestioningly clear that the Constitution constrains the general government to very specific and very limited powers. As James Madison explained in Federalist #45, "The powers delegated to the federal government by the proposed Constitution are few and defined."

That's the dirty little secret politicians don't want you to know.

Now—brace yourself. This might come as a shock. But the people in power are perfectly happy to operate with an undefined, boundless field of power.

And that's why the Tenth Amendment is never the right answer according to the politicians, and the academics, judges, power brokers, lobbyists, and talking heads that support them.

Before the ink was even dry on the Constitution, the political class was already "interpreting" the document to expand its own powers. Today, that federal government controls nearly every aspect of your life. It runs your healthcare, educates your children and monitors your every move. Bureaucrats in Washington D.C. even tell you what kind of light bulbs you can screw into your fixtures and how much water you can flush down your toilets.

So much for powers "few and defined."

Sadly, most Americans accept this state of affairs. They even embrace it. In fact, most Americans actually believe that the federal government legitimately exercises all of this authority. After all, they've been taught all their lives that the Tenth Amendment is the wrong answer.

The nature of the American political system exacerbates the expansion of power. "Democracy" gives everybody the false sense that they have some hand in exercising power—or that they will at least benefit from its expansion. This creates a dilemma, as political economist Bertrand de Jouvenel explained:

"Under the 'ancient regime,' society's moving spirits, who had, as they knew, no chance of a share in Power, were quick to denounce its smallest encroachment. Now, on the other hand, when everyone is potentially a minister, no one is concerned to cut down an office to which he aspires one day himself, or to put sand in a machine which he means to use himself when his turn comes. Hence, it is that there is in the political circles of a modern society a wide complicity in the extension of Power."

A written constitution was meant to lay down rules that check the tendency for government to grow. It erects barriers to government power that must not be crossed. As Jefferson put it, "in questions of power then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the constitution."

In other words, in the American political system, as originally conceived, the Tenth Amendment is always the right answer.

This article may be found here:

<https://tenthamendmentcenter.com/2019/10/23/the-tenth-amendment-is-always-the-right-answer>