

## ISSUE BRIEF

### *“Information to Action”*

**Topic:** 10<sup>th</sup> Amendment

**Title:** *Why the 10<sup>th</sup> Amendment Matters* by Joshua Charles

The mission of the NAFSL is “to recruit former state legislators for membership and equip them with the tools and resources necessary to engage and educate elected state legislators, as well as their constituencies, and ensure that these policy drivers are vested with a *deepened understanding* of the precepts of balanced federalism and state sovereignty, as well as the significance of our republican form of governance.”

Few things are as important to a “deepened understanding” of our Constitutional Republic as the Tenth Amendment of the Constitution. This amendment was ratified on December 15, 1791 as part of the “Bill of Rights” which was added to the Constitution during George Washington’s first term as President.

The text of the amendment reads as follows:

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.

In these words is expressed the entire theory of our system: that the Federal government possesses only those powers which it is explicitly *granted*, and the states and the people retain all the powers they are not explicitly *denied*, in the Constitution.

James Madison, considered the “Father of the Constitution,” wrote an article in *The National Gazette* entitled “Charters” shortly after the Tenth Amendment became part of the Constitution. There he explains the entire theory behind the U.S. Constitution:

In Europe, charters of liberty have been granted by power. America has set the example...of charters of power granted by liberty.

In short, Madison argued that the American system was based on a grand national “covenant” in which the people participate in and approve of the powers their government will exercise over them—solemnized by a “charter” known as the U.S. Constitution—as opposed to their rights and liberties being dictated to them by an already-existing government. Because of this, the government created by the Constitution is not one of generalized powers (like the “police powers” states possess), but one of *enumerated* and thus *specified* powers.

In this sense, the Tenth Amendment is the most “philosophical” part of the Constitution, for instead of enumerating a specific power or right, it explains the theory behind the whole system. For the people to maintain it, therefore, they must be educated, Madison says:

How devoutly is it to be wished, then, that the public opinion of the United States should be enlightened; that it should attach itself to their governments as delineated in the *great charters*...and that it should guarantee, with a holy zeal, these political scriptures from every attempt to add to or diminish from them.

That’s why if you want to learn about the Constitution, there would be no better place to begin as a citizen, or as a legislator, than the Tenth Amendment.