

The BEACON SpotLight

A Study of Constitutional Issues by Topic

Issue 9: The Exceptional Tenth Amendment and Its Unknown Exception

The last of the **Amendments** of the Bill of Rights, the **Tenth**, is as exceptional as the others, declaring:

> "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."

The essence of the Tenth Amendment is that the States individually reserved all the powers which they didn't collectively delegate over to the federal government (when the States ratified the U.S. Constitution into existence, under Article VII).

Qualifiers must be inserted into that broad statement, of course, because the Constitution also prohibits the States from continuing to exercise of some of the powers which they exercised before ratification, such as the power to emit bills of credit (paper currency).[1]

And the reason 'people' are mentioned in the amendment is that the powers not delegated to the federal government but also prohibited the States are reserved to the people at large, not delegated to any government.

One may understand the importance and breadth of the Tenth Amendment by realizing most assertions that the federal government is doing something 'unconstitutional', i.e., beyond its power, may be boiled down to the simpler argument that the federal government has violated the Tenth Amendment.

When one desires to look broadly at federal transgressions without getting mired down in the details of any one issue, examining Tenth Amendment violations therefore suffices well.

Sadly there seems to be almost no limit today to the number of different violation topics which the Tenth Amendment could cover, so off-track is the government.

Given this multitude of possibilities, the question which patriots must first ask themselves is whether there is *ever* a time when the States do *not* reserve residual powers unto themselves; i.e., is there ever a time when the Tenth Amendment simply does not apply (in other words, is there ever an exception to it)?

When the States act collectively together, the answer is 'no', there are no exceptions to the amendment.

All powers not delegated to the United States by the States united under the U.S. Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people, *whenever the States act together*.

But acting *individually*, that is entirely another matter.

And that is the precise starting point to begin making sense of government nonsense, the strange world where two plus two seemingly no longer amounts to four.

To understand two hundred years of political decline — growing federal tyranny in the Land of the Free and Home of the Brave — it is imperative to begin questioning accepted political doctrine (to stop looking at things the same way, as it only leads to continued failure).

And tragically patriots have been failing at an increasing rate of late.

The first challenge to conventional wisdom is to examine whether federal actions in apparent contradiction to the Constitution are actually 'unconstitutional'; is there really not even *one* clause within the Constitution which could ever support questionable federal actions?

1. See Article I, Section 10 of the U.S. Constitution.

FOUNDATION FOR Liberty

Released into the Public Domain
July 9, 2016 (revised September 5, 2016)

To answer that question, one must first realize that every State in the Union, has, voluntarily, under Article I, Section 8, Clause 17 of the U.S. Constitution, individually ceded or transferred from its reserved powers, *the remainder of its governing powers over specific tracts of land* and has given this land and the governing power for that land over to Congress and the U.S. Government, for authorized federal purposes.

For instance, in 1791, the States of Maryland and Virginia voluntarily gave up all of their reserved State powers, *in a specific area of land not over ten miles square*, for the future federal seat (what in time became the District of Columbia).[2]

And every State in the Union (counting Maryland and Virginia), has also, over the years, ceded lands to Congress and the U.S. Government for "Forts, Magazines, Arsenals, dock-Yards and other needful Buildings."

In all of these "exclusive legislative" areas authorized by Clause 17, no longer does any State have any reserved State powers, at least other than as the State specifically reserved in its cession law, such as the power to continue to serve civil process in the ceded land now under exclusive federal authority.

Stated again due to its importance: in Article I (Section 8, Clause 17) cessions of power, one State *individually* cedes all powers except those explicitly reserved in its cession law.

And even if a State reserves other named powers, it is imperative for patriots to realize that this cession of power under Article I is *wholly opposite* normal (collective) cessions of State power to the federal government under the Article VII ratification and Article V amendment processes, *of ceding only named powers and reserving all others*.

---

2. In 1846, because the Virginia lands of Alexandria were deemed no longer necessary for the federal purposes for which they had been ceded, Congress retroceded Virginia's lands back to her (and so Alexandria is again part of Virginia and no longer a federal enclave). See Volume IX, Statutes at Large, Page 35.



Cessions of State power under Article I *cede all power except what are explicitly named in a reservation of powers!*

Cessions of State power under Article I *cede all power except what are explicitly named in a reservation of powers!*

The cessions of power in both Articles VII and V (combined) and those in Article I therefore wholly oppose each other and are as different as the night is from the day.

Due to such differences, one must realize therefore that the *forms of government* created under these two mutually-exclusive cessions of State power are themselves mutually exclusive *and stand at opposing ends of a political spectrum.*

Under the whole of the Constitution, as patriots well know, the Congress and U.S. Government were delegated enumerated powers together only with the necessary and proper means to implement those named powers.

Throughout all the States of the Union under normal operating conditions, the whole of the Constitution and all of its limitations (including the Tenth Amendment) apply.

This normal **Republican Form of Government** has but *limited* power which federal officials and members of Congress are utterly powerless to move beyond or expand.

Government officials and members of Congress who are delegated federal powers are powerless to change the extent of those powers (as only States ratify amendments).

But in the government seat and exclusive legislative jurisdiction forts and ports, areas no longer part of any State, here members of Congress and federal officials have a fantastic amount of discretion to govern as they see fit, **Federal Tyranny**, as explained below.

Again, this alternate source of authority stands at the opposing end of the political spectrum, there holding all powers except what are specifically withheld.

And patriots wanting to make sense of two hundred years of oppressive government action must take notice of this *enumerated* constitutional power which <u>is</u> delegated to Congress and the U.S. Government in the Constitution.

In exclusive legislative areas, members of Congress and federal officials there act *in the place of the State,* but when they do, the U.S. Constitution, including the Tenth Amendment, *does not there necessarily apply!*

The whole of the Constitution was *never* meant to address the otherwise local powers of Congress for the government seat, only Article I, Section 8, Clause 17 does so (the Constitution was to guide and limit *federal* action throughout the whole Union).

The Tenth Amendment reserves powers to the individual States, powers which the States did NOT *collectively* delegate to the Congress and U.S. Government.

But despite Article VII, despite Article V, despite the Tenth Amendment, a State may voluntarily, under Article I (Section 8, Clause 17), cede lands *and all governing power over those lands* to Congress and the U.S. Government for allowed purposes.

After ceding *all remaining* State power to the federal government for these unique ceded lands, legally-speaking, the lands are no longer part of a State. These areas are federal enclaves where members of Congress may exercise *exclusive* legislation "in all Cases whatsoever."

Thus members of Congress and government officials there may act *in the place of a State* (enacting local legislation a State would otherwise normally enact), but emphatically neither they nor the lands therein are a 'State'.

Since these enclaves no longer form any part of a 'State', it is important to realize that *no longer does any State Constitution there remain valid and binding*.

Members of Congress do not form any part of any State legislature; they may enact otherwise local legislation for exclusive legislative jurisdictions *without the need to conform to any State Constitution* (and far in excess of other federal constitutional concerns which are meant for the whole country).

Imagine the extent of power which a State legislature could exercise if no State Constitution defined and limited their power. Well, that is the amount of control the U.S. Congress may exercise in these exclusive legislative areas!

But that is not all. Because these federal enclaves are not legally a 'State', neither do the limitations imposed upon 'States' in the U.S. Constitution there apply!

Thus, the constitutional limits on States, from emitting bills of credit, for example, do not there apply to Congress *legislating for the federal seat and enclaves*.

Members of Congress may, for the government seat and federal enclaves scattered throughout the Union, emit bills of credit without violating any constitutional principle (even though they may not do so for the whole Union, for the power to emit bills of credit is not an enumerated power, nor part of the 'necessary and proper' means to implement a delegated power [see page 4 {*Patriot Quest*}]).

Doesn't this perhaps sound like the extensive authority which members of Congress and federal officials have been known to exercise for well over a century? Most assuredly.

But even this doesn't accurately describe the extent of power which members of Congress and federal officials may exercise in exclusive legislative areas, because there is only *one* constitutional clause which actually discusses the extent of power which members of Congress may there draw upon, and this clause provides them with the *enumerated* power to legislate exclusively "in all Cases whatsoever!"

How's that for essentially unlimited government of unimaginable discretion, where there is no rule book!

The federal government may in federal enclaves 'make it up as they go along', exactly like they've increasingly been doing for two hundred years, where everything is up for grabs for those who control this awe-inspiring power.

The U.S. Constitution therefore authorizes two *different* forms of government; the most *limited* and most *extensive* forms of government on the planet, with the least and greatest amounts of power *anywhere*.

The government's only real tricks have been to seemingly expand their extensive power beyond its true lawful geographical confines and hiding the true source of awe-inspiring power from prying eyes (with confusion) to keep their secret sufficiently well-hidden (because full disclosure of their clever loophole would end their reign).

In federal enclaves, members of Congress and government officials act with and under the powers w*hich one State individually ceded them* (NOT the powers which all the States of the Union ceded them under the Article VII ratification or Amendment V amendment processes)!

This is the reason the courts routinely rule that various constitutional issues do not limit federal actions. And the court is *right*, because the federal government is using the power *one* State ceded them (in a cession law for ceded land), not all the States of the Union under Articles VII and V of the U.S. Constitution!

Members of Congress and federal officials do not even have to draw upon *any of the powers* which all the States of the Union ceded them under the Constitution (although those powers may be there also exercised) when they legislate for the government seat and enclaves.

In other words, members of Congress and government officials *do have the constitutional ability*, under Article I, Section 8, Clause 17, to exercise powers far, far beyond the normal limits of all other constitutional clauses.

Members of Congress and government officials therefore *do have* the constitutional ability to ignore the Tenth Amendment, for no substantial powers in the government seat *were ever reserved to any State in the Union!*

Members of Congress and government officials therefore *do have* the constitutional ability to ignore the Tenth Amendment, for no substantial powers in exclusive legislative jurisdiction forts, magazines, arsenals, dock-yards and other needful buildings *were ever reserved to any State in the Union!*

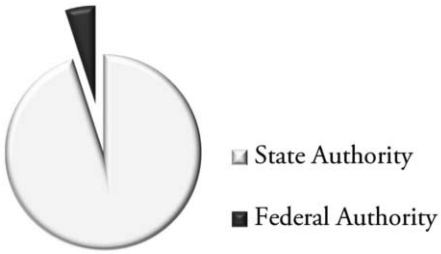
Members of Congress and government officials therefore *do have* the constitutional ability to ignore the Tenth Amendment, for no substantial powers in the government seat or exclusive legislative jurisdiction forts, magazines, arsenals, dock-yards and other needful buildings were ever reserved to any State in the Union!

Once patriots wrap their minds around this *fundamental principle of the Constitution*, which has always been with us, they may *finally* begin to make sense of two centuries' worth of government nonsense.

Once strict-constructionists understand that the U.S. Constitution has always allowed for a *second* form of government, they may finally begin to understand how the government and the courts have long made them look like ignorant fools who don't know well the Constitution.

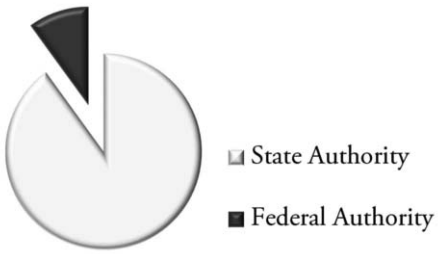
Pie Chart 'A' below signifies the division of power between the federal and State governments upon ratification of the U.S. Constitution.

Chart A



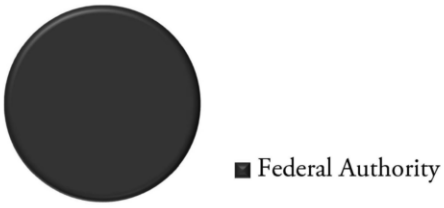
For 200 years, patriots have mistakenly thought that the federal government was somehow expanding the dark wedge of federal authority *on its own accord*, as shown by Chart B. This fundamental mistake explains 200 years of political failure to contain the beast; Chart B is but a false legal mirage which doesn't actually exist (because only States may ratify amendments) and thus cannot be slain.

Chart B



In truth, patriots simply didn't realize that there is another chart of power possible (besides Chart A for the whole Union). This alternate power chart is Chart C, for the federal seat. And it is under this alternate authority which the federal government predominantly acts.

Chart C

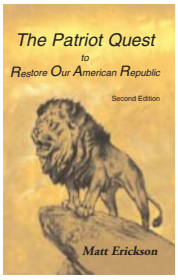


The federal government is not a magical genie, nor a wizard with spectacular power (for the whole Union, anyway). It is but a government of limited powers which may otherwise exercise *extensive* power over small tracts of land (and it does the latter extensively).

If the 2016 Presidential election shows us patriots anything, it is that it is time to stop concentrating on electing 'the right person' to positions of unlimited power, to stop working solely within democratic confines.

It is instead time to start concentrating on upholding proper republican principles of limited government, where it matters little who wins elections because the powers are limited only to those enumerated, together with those means both necessary and proper for their implementation.

To understand further how this constitutional principle of profound importance was ever implemented and how to contain or eliminate it in our near future, read *Patriot Quest*, a free electronic download at **www.PatriotCorps.org**.



See also:

www.FoundationForLiberty.org;

www.Scribd.com/matt_erickson_6;

www.Archive.org (search 'Patriot Quest')

FOUNDATION FOR Liberty

Released into the Public Domain
by Matt Erickson
July 9, 2016
(revised September 5, 2016)