

Name _____

Date _____

The Tenth Amendment

Learn more about this topic! Each section gives more detail on one of the lyrics from the song. Read each section, and then respond by answering the question or taking notes on key ideas.

1. The Articles of Confederation existed before the Constitution. Under this first founding document, states were fully independent. Congress served as a last resort to settle state disputes. After the Articles of Confederation were repealed in 1787, Federalists like James Madison drafted the Constitution. Federalists believed a strong, central federal government should have control over states. On the other hand, Anti-federalists believed individual states should remain independent with little to no federal involvement. Because of this, Anti-federalists opposed the adoption of the Constitution. This Anti-federalist fear of growing federal government power led James Madison to write the Bill of Rights. The 10th Amendment was included to ensure that “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.”

Notes

2. The enumerated powers are a list of powers granted to the federal government. These powers are delegated to Congress and can be found in Article I, Section 8 of the Constitution. These powers play an important role in relation to the 10th Amendment. Anything not included in these powers is delegated to state government, local government or the people. Enumerated powers include the power to borrow money on behalf of the United States, decide who can become a citizen and declare war. Powers not listed include maintenance of state highways, education of residents and administration of driving tests. Some rights are handled at the state level, while others are left to local government or individuals to decide for themselves. In some cases, the federal and state government have similar powers on different scales. For example, collecting and spending tax money.

Notes

3. In 1939, Supreme Court Justice Louis Brandeis suggested that a “state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.” This statement is a direct reference to the 10th Amendment. While every state is subject to federal laws, the 10th Amendment has afforded each state a degree of autonomy since our country’s founding. This autonomy has allowed states to experiment in many ways throughout history, including a specific instance in 1869. Wyoming, in an effort to attract more female settlers, became the first state to grant voting rights to women. While the motive for this decision may have been more about free publicity than equality, it is a clear example of state autonomy. At the time, the power to decide who votes was not delegated to the federal government. Because of this, state governments could make their own decision on voting laws. In this case and others, a state-level experiment preceded what would later become a national law.

Notes

4. The Constitution does not mention marriage. Because of this, marriage rights were originally passed on to state governments to regulate. This meant the federal government had no say over who could marry. Each state could decide to legalize or ban same-sex marriage. This was the case until 2015, when Obergefell v. Hodges was brought to the Supreme Court. In this case, couples from four states claimed their states’ refusal to recognize same-sex marriages as legal violated the Equal Protection Clause and Due Process Clause of the 14th Amendment. In a 5-4 majority decision, the Court held that denial of marriage rights violated the Due Process Clause. This clause states that no state can “deprive any person of life, liberty, or property, without due process of law.” In the Court’s opinion, marriage is a fundamental liberty. This decision legalized same-sex marriage nationwide even though marriage rights are not listed as an enumerated power.

Notes

5. In Culver, Oregon, there are two streets with particularly unique names. These connecting streets are called This Way Lane and That Way Lane. This isn't a joke—those are actual street names and an example of the 10th Amendment at work. Since the right to name streets is not listed as an enumerated power, local governments can name streets in their town or city without federal government input. They can create rules, guidelines and themes to help with the selection process. For example, a part of Philadelphia has numerous streets named after different types of trees. If a town's government decided to, they could hold a street naming contest in which residents come up with names for a new street. So if you ever find yourself near Caldwell, Idaho, be sure to take a drive down Chicken Dinner Road.

Notes