

states tools, or rules, that if followed would maintain the healthy tension necessary to protect self-governance by the people and prevent any level of government from overstepping its bounds.

Among those rules or tools given to states were these:

The 10th Amendment, which reserved any power not specifically delegated to the national government to the states and the people. Clearly, the founders intended the national government to stay within the bounds of duties enumerated in the Constitution.

The election of U.S. senators by state legislatures. Having senators directly accountable to state legislatures would keep the national government in check. If the national government centralized authority or passed bills disliked by the states, legislatures could call their senators in for an accounting. It would not be likely for the Congress to usurp state authority if senators owed their political lives to state legislatures. The power was carefully balanced and the tension was healthy.

The ability of state legislatures to initiate constitutional amendments. This also would keep the national government in check because if it got out of line the states could take action to rein it in. It is clear that the founders intended state leaders to have the ability to initiate constitutional amendments.

The sense that state leaders would rise in indignation and band together to oppose congressional centralization of authority and usurpation of power. In *Federalist 46*, James Madison predicted that "ambitious encroachments of the federal government on the authority of the state governments . . . would be signals of general alarm. Every government would espouse the common cause . . . plans of resistance would be concerted." States would react as though in danger from a "foreign yoke," he suggested.

Those were some of the tools the founders put in place to safeguard the roles of both levels of government and to prevent either from becoming too dominant.

It would likely be a matter of some bitterness and disappointment to the founders if they were to return today to see what happened to the finely-crafted balance, the healthy tension that they built into the Constitution. As they see a national government that dictates to states on nearly every issue and that is involved in every aspect of citizens' lives, they might wonder what happened to those tools and rules they established to maintain balance.

The sad fact is that each one of those tools has either been eroded away, given away, or rendered impossible to use. Thus, today there does not exist any restraint to prevent the national government from taking advantage of the states. To their credit, leaders of the Republican Congress have gone out of their way to involve governors in important decisions. But there is nothing permanent in that relationship. With a change in leadership, state leaders could easily be relegated to their past status as lobbyists and special interest groups. Over the past several decades, they have had to approach Washington hat in hand, hoping and wishing that Congress will listen to them. There has been no balance of power, no full partnership in a federal-state system. States must accept whatever the Congress gives them. States have no tools, no rules, ensuring them an equal voice.

Let's look at what happened to those tools and rules the founders so carefully provided to ensure balance.

The 10th Amendment has been eroded to the point that in the minds of most Washington insiders it barely exists. The preponderance of congressional action and federal

court decisions over the past 60 years have rendered the 10th Amendment nearly meaningless. It would barely be recognizable by the founders. States did not defend or guard it properly and it no longer protects states.

States gave away the power to have their U.S. senators directly accountable to state legislatures. There was good reason for this, as graft and corruption sometimes occurred in the appointment of senators by legislatures. States ratified the 17th Amendment making senators popularly elected, and citizens should not be asked to give up the right to elect their senators. But while it does not make sense to try to restore that tool, it should be replaced with something else more workable.

The ability of states to initiate constitutional amendments has never been used and is essentially unworkable. Clearly, the founders intended for state leaders to be able to initiate amendments as a check on federal power, but it has never happened and likely never will. The Congress sits as a constitutional convention every day it is in session, and can propose constitutional amendments any time it desires. But many citizens have an enormous fear of state leaders coming together to do the same thing, even though any amendment proposed would require ratification by three-fourths of states. Thus, this tool provided by the founders has become impractical and does not protect states from federal encroachment.

The fourth tool was the founders' belief that state leaders would jealously guard their role in the system and rise up in opposition to federal intrusions. That has not happened, especially as state governments have become dependent on federal dollars and have been willing to give up freedom for money. States have proven themselves to be politically anemic. Instead of mobilizing against federal encroachments, state leaders have spent their time lobbying for money and hoping for flexibility.

Thus, it is no wonder that states have little true clout as budget cuts are made and as the pie is being divided in Washington D.C. There is no healthy tension. States have no tools or rules to protect themselves. What is passing for federalism in Washington today is not a true sharing of power, but a subcontracting of federal programs to states. The federal government is merely delegating, not devolving true authority.

Because the tools protecting states have been rendered ineffective, it is important that Congress replace them with new versions that accomplish what the Founders intended. That is why I am so supportive of your Tenth Amendment Enforcement Act. It would help prevent all three branches of the federal government from overstepping their constitutional authority and would help restore the careful balance put in place by the Founders.

I thank you for your efforts to return power to the states and to the people. Please count me among the supporters of this legislation.

Sincerely,

MICHAEL O. LEAVITT,
Governor, State of Utah.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
March 12, 1996.

Hon. TED STEVENS,
Member, U.S. Senate, Chairman, Committee on
Governmental Affairs, Washington, DC.

DEAR TED: Thank you for your letter regarding the Tenth Amendment Enforcement Act of 1996.

Two centuries ago, the challenge to individual liberty came from an arrogant, overbearing monarchy across the sea. Today, that challenge comes all too often from our

own federal government, which has ignored virtually every constitutional limit fashioned by the framers to confine its reach and thus to guard the freedoms of the people.

In our day, the threat to self-determination posed by the centralization of power in the nation's capital has been dramatically demonstrated. Under my administration, Virginia has challenged the constitutionality of federal mandates in court, and I have testified before the Congress in support of restoring powers to the States and the people.

The legislation you are proposing will help the States and the people regain prerogatives usurped by an overbearing federal government. I wholeheartedly support your efforts and would be pleased to work with you to highlight the impact of federal intrusion in Virginia.

With kind personal regards, I remain,

Sincerely,

GEORGE ALLEN.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, MI, March 19, 1996.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: I am writing in support of the Tenth Amendment Enforcement Act of 1996, which I understand you intend to introduce this week. Congressional action of this type is necessary to restore vigor to this often-neglected provision of our constitution and I wholeheartedly support your effort to do so.

Congress has over the years run roughshod over state concerns and prerogatives and has generally lost sight of the fact that ours is a federal system of government. In that system, the federal government has only those powers specifically delegated to it and enumerated in the constitution, with the balance remaining with the states or the people. Too often in our recent history the federal government has ignored the meaning of the Tenth Amendment in a mad rush to impose a one-size-fits-all approach in areas of traditional state and local concern. This approach stifles innovation and takes the policy debate further from the people by centralizing decision-making in Washington, D.C.

A recent example of federal intrusion into a matter best left to the states is the Motor Voter law, which imposes an unfunded mandate on the states to offer voter registration services at state social services offices. Michigan must comply with this requirement even though nearly 90 percent of its eligible population is already registered to vote. In fact, Michigan demonstrated the states' superior ability to craft innovative solutions in areas such as this when it initiated the motor voter concept some 21 years ago by offering voter registration services at Secretary of State branch offices. The imposition of a federal "solution" in this area ignores the fact that states are better positioned to address the needs of their citizens and can do so without prodding from the federal government.

The Tenth Amendment Enforcement Act of 1996 will help restore the balance to our federal system that the framers of the constitution intended. It will do so by requiring congress to identify specific constitutional authority for the exercise of federal power. This will have the salutary effect of reminding the congress that it can legislate only pursuant to an enumerated power in the constitution. Requiring congress to state its intention to preempt existing state or federal law or interfere with state power should assist in limiting the intrusion the federal Motor Voter law exemplifies.

I recently offered amendments to the National Governors' Association's policy on

state-federal relations that the governors adopted at our 1996 winter meeting. That policy calls upon Congress to "limit the scope of its legislative activity to those areas that are enumerated and delegated to the federal government by the constitution." The Tenth Amendment Enforcement Act of 1996 will help reinvigorate this fundamental constitutional principle and for that reason enjoys my full support.

Sincerely,

JOHN ENGLER,
Governor.

OFFICE OF THE GOVERNOR,
STATE OF MONTANA,
Helena, MT, March 6, 1996.

Hon. TED STEVENS,
Chairman, U.S. Senate Committee on Governmental Affairs, Washington, DC.

DEAR CHAIRMAN STEVENS: I am writing in support of your proposed legislation entitled the Tenth Amendment Enforcement Act of 1996. I applaud your efforts to protect states from federal legislation that, while perhaps unintentionally, has had a strangling effect on the states' ability to act effectively on behalf of their citizens.

The failure to respect states' rights takes a variety of forms, from unfunded mandates to complex requirements that prohibit states from adopting innovative programs to solve problems that may be unique to the state or region. I am sure it is difficult to determine which functions the federal government should properly manage and which should be left to state or local governments. I think most would agree, however, with the intent of the Tenth Amendment—that a better balance must be struck between the federal government and each of the states.

The revitalization of government is essential in these times of declining trust and diminishing respect of its cities. The Tenth Amendment Enforcement Act of 1996 would make government more responsive to our citizens and help restore the public's faith in the policy process.

I hope your proposal is received well in Congress. I know it would be received well in the states.

Sincerely,

MARC RACICOT,
Governor.

STATE OF WISCONSIN,
OFFICE OF FEDERAL/STATE RELATIONS,
Washington, DC, March 5, 1996.

Hon. TED STEVENS,
Chairman, Rules & Administration Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN STEVENS: I am writing you in support of legislation that you intend to introduce in your committee regarding the Tenth Amendment. Your vision in regard to this delegation of powers should be commended. Our founding fathers would applaud your courageous efforts.

As you know, the Tenth Amendment restricts the federal government's legislative and regulatory activities to those powers delegated to the federal government under the U.S. Constitution.

Since I have held elective office I have always been a staunch supporter of States Rights' and a firm believer that decisions are best made at the local level. Your bill identifies the problems associated with the lack of enforcement of the Tenth Amendment at present and aims to amend some of these inconsistencies.

Under the Tenth Amendment, federal laws may not interfere with state or local powers unless Congress declares its intent to do so, and Congress cites its specific constitutional authority. Allowing Members of Congress to challenge future legislation that attempts to supersede the Tenth Amendment in my opinion would be beneficial.

As Governor of the State of Wisconsin, I have always been a firm believer that legislation is a far better course of action than litigation. Your bill would do away with needless regulation, infringement of states' abilities to provide quality services to its residents', and encourage local decision making opportunities.

The Tenth Amendment Enforcement Act of 1996 would prevent confusion between the three branches of government and would keep the pressure on Washington to address the concerns Governors have been advocating for years; the need to return power to the states and to the people.

Again, I would like to take this opportunity to thank you for your support on this important legislative matter. Please do not hesitate to contact me in the future.

Sincerely,

TOMMY G. THOMPSON,
Governor.

STATE OF NEW HAMPSHIRE,
OFFICE OF THE GOVERNOR,
Concord, NH, February 26, 1996.

Hon. TED STEVENS,
U.S. Senate, Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR SENATOR STEVENS: Thank you for your letter outlining your introduction of the Tenth Amendment Enforcement Act of 1996. I am pleased to offer my strong endorsement of this piece of legislation.

The individual states have seen a continual degradation of their power and sovereignty during the past 60 years. Beginning with the creation of the welfare state through President Roosevelt's New Deal in the 1930's, the federal government has inappropriately usurped power traditionally left to the states. Issues such as education, crime, commerce and the environment have been co-opted at the federal level. The result is an erosion of local control and the creation of a system of twisted rules and regulations. This overregulation has stifled State initiatives and innovations. The time has come to say enough is enough.

In the State of New Hampshire, many examples exist of federal overreaching. The most telling of these is our continuing attempts at reforming welfare. Our ambitious program would end welfare as we know it, putting people into the workforce. It is based upon the simple notion that those who are able to work for a living should do so. Instead of collecting a welfare check, individuals would receive unemployment benefits and job training. The result would be a motivated workforce, properly trained and prepared to sustain themselves instead of accepting government largesse. Unfortunately, the federal government has gone out of its way to hinder our efforts. New Hampshire is not alone in this fight. Each state has a similar story to tell.

Liberty is defined by American Heritage as the "condition of being free of restriction or control." It is clear that this definition does not relate to our current set of circumstances. The individual states are the engines of democracy, pushing new and exciting concepts which enrich the country as a whole. The states have been thwarted in their efforts to accomplish this. The time has come to reassert the authority of the Tenth Amendment and to return power back to the states and to the individual where it belongs. I believe that the Tenth Amendment Enforcement Act of 1996 will do this and strongly support its passage.

Very truly yours,

STEPHEN MERRILL,
Governor.

STATE OF TEXAS,
OFFICE OF THE GOVERNOR,
February 27, 1996.

Hon. TED STEVENS,
U.S. Senate Committee on Governmental Affairs,
Washington, DC.

DEAR SENATOR STEVENS: I strongly support your legislation, the Tenth Amendment Enforcement Act of 1996.

I applaud your efforts and hope to see this bill's passage this year.

Sincerely,

GEORGE W. BUSH.

STATE OF SOUTH CAROLINA,
OFFICE OF THE ATTORNEY GENERAL,
Columbia, SC, March 14, 1996.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: Please accept this letter as a pledge of support for the Tenth Amendment Enforcement Act of 1996, which you are introducing in the Senate. This is clearly one of the most important pieces of legislation to come before Congress this year.

As attorney general of South Carolina, I see first-hand the trouble that arises every time the federal government oversteps its boundaries and intrudes on states' rights. In fact, South Carolina can claim one of the most egregious examples of the federal government meddling in states' affairs with disastrous results.

Several years ago, when I was a solicitor in Charleston, S.C., a local hospital approached me with a plea: Help us do something about crack babies. In increasing numbers, pregnant women were abusing crack cocaine and giving birth to addicted newborns, who cry and shake uncontrollably, refuse to take food and, too often, ultimately die in intensive care.

Working with the hospital, I developed a program to aggressively confront pregnant women with the consequences of their drug use. Over five years, we presented all pregnant women who tested positive for cocaine with a choice: seek drug treatment or face arrest and jail time.

The program was undeniably successful—until the federal government intervened. Without offering any reasonable alternative solutions for saving these crack babies, federal officials came to Charleston and yowled about discrimination and privacy rights. When we refused to back down, they resorted to blackmail. They continued with the program.

So, now, once again, these crack babies cry unconsolably in Charleston—thanks to the federal government's intrusion where it has no business.

There are myriad other examples of ways the federal government ignores the 10th amendment—with effects that would be laughable if they didn't do so much harm. A sampling:

The Hunley. The federal government claims it owns the H.L. Hunley because it won the Civil War. However, the first submarine to sink another vessel lies on soil that belonged to the state of South Carolina even before the United States came into existence. Although common and maritime law, as well as state and federal statutes, point to South Carolina's ownership of the sunken submarine, the federal government's insistence on interfering in South Carolina affairs will cost all of the nation's taxpayers. Worse, its meddling in this matter has caused this war treasure to sit at the bottom of the Atlantic Ocean, rusting away, until the issue can be resolved with the federal government.

The Citadel. Traditionally, education has been a province of the states. And polls show