

Statement  
by  
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Senator Hubert H. Humphrey  
on the 10th Amendment

In no provision of our Constitution is the principle of Federalism underlying our system of government more thoroughly embodied than in the Tenth Amendment. Yet it would be difficult to discover a provision to which Constitutional historians have devoted so little attention. The Tenth Amendment is an expression of the principle of Federalism which is basic to the Constitution and it is not a limitation on the powers granted to the national government.

This principle of Federalism is one of the great gifts which the American system presents to development of orderly democratic government. It reflects the view of the Founding Fathers that democratic government should remain close to the people. This means that we need effective cooperation between local, State and Federal governments in order to allow the American people to meet

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great national problems as one united nation at the same time  
as we provide for the administration of many national policies  
on the local and State level.

Today the American government is giving careful scrutiny  
to this problem. The Commission on Intergovernmental Relations  
of which I am honored to be a member is now preparing a series of  
significant reports and recommendations designed to strengthen our  
Federal system.

In my judgment, this requires:

1. State and local governments to be made increasingly  
more responsive to possible needs.
2. Greater interest by citizens and citizen groups in  
State and local governments.
3. A willingness on the part of the Federal government to  
aid States in carrying out their responsibilities to help meet  
the needs of the American people.

Our Government is the oldest Federal system in the world.

It has met the test of civil war. It has accommodated territorial expansion, and the new States are enjoying Constitutional equality with the old. It has fostered unparalleled economic growth and social advances. It has shouldered a new degree of responsibility for social security and welfare. It has enabled the mustering of resources for waging two world wars and developing atomic energy.

At the same time our Federal system has preserved a degree of local autonomy unmatched in any of the other great powers of the world. Our States continue to strive to establish an effective division of power and responsibility between themselves and local governments. This makes possible a maximum of popular participation and consent.

The balance we must continue to strive for calls for the creation of sufficient strength and authority in our national government at the same time as we avoid over-centralization. The best way to meet the threat of over-centralization is to make our States and local governments ready and able to assume their full share of the total task of government.



Segregation

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Strength in our Federal system depends upon the recognition of all units of government, State, local and national that the Constitution of the United States is the supreme law of the land. It is now clear on the basis of the recent Supreme Court decision that racial segregation in schools is a violation of the Constitution. I am confident that the American people will willingly and wholeheartedly obey the Constitution and that all States will in the very near future conform their laws so that they are consistent with the Constitution. The three or four States who seem to believe that they face a serious problem in meeting the demands of the Constitution will undoubtedly find that their period of adjustment will be brief and that they, too, will shortly find it desirable and necessary to obey the spirit as well as the letter of the Constitution.

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Bricker Amendment

Under our Federal system the treaty making power belongs to the national government. This is so because no nation can defend itself effectively or participate fully as a nation in a world of nations unless it has one authority and one face to the world.

The Constitution provides that treaties become operative when they are entered into by the Executive branch of government and ratified by two-thirds of the Senate. In the 1923 case of Missouri vs. Holland the Supreme Court held that the Tenth Amendment does not prevent the United States Government from entering into a treaty affecting migratory birds even though the regulation of game is part of the police power of the State.

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The Supreme Court decided in three separate decisions that

the offshore oil lands of the United States beneath the ocean, that portion beginning with the end of the tidelands belongs to the government of the United States and not to the States. This is, in my judgment, as it should be and I disagree with the decision of the 83rd Congress which turned the oil in those Federal lands over to the States that bordered the ocean and the Gulf.

The offshore coast of the United States beyond the tidelands belongs to the people of the United States. It is the people of the United States who defend that coast and who pay for that defense through their taxes and through their manpower. It is young men from Minnesota and Pennsylvania as well as from California who defend the California coast as members of the United States Navy. There is no California Navy to defend that coast. It is to me only reasonable, therefore, that any wealth under the ocean defended by the



United States should be owned by the people of all the United

States and not just by the people who happen to live in the

four States near the treasure of oil.

## Federal Power

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The Constitution of the United States gives the Federal government control over navigable streams and rivers. This was a wise decision by our Founding Fathers because it made possible great migrations of people from one part of the United States to the other and helped develop and strengthen our country. Through this interest in navigation, the national government also has the authority for licensing for hydroelectric power development on those streams just as it has the responsibility for protection against flood damage to interstate commerce from those streams.



Civil Defense  
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There is no more serious problem facing the American people today than that of civil defense, which is a relatively new problem in the light of the weapons of mass destruction which we have created.

Under the terms of existing law passed by the 81st Congress, the responsibility for civil defense is vested primarily in the States whereas the national government has the responsibility to coordinate, guide and assist.

This, in my judgment, was a mistake with the result that today our nation is not prepared adequately to meet the threat from hydrogen attack.

Policy formulation and technical leadership for civil defense must come from the Federal government. The responsibility for civil defense is primarily a national responsibility.

The States and localities must have an important share. Civil defense is an integral part of national defense. It is largely inter-

state in character. Its nature, scope and severity need national planning and direction. An effective civil defense effort requires financial resources which State and local governments cannot carry and which the national government must bear. For any one State to fail in its civil defense responsibility could do serious damage to other States and to the nation. This demonstrates its national character.

It is necessary that the national government deal not only with States in its civil defense responsibilities, but also with cities. In many cases it is specific cases of target cities that must be worked with, and it is unnecessary and cumbersome not to work directly with those cities.

## Taxes

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Under our Federal system, it is of course necessary for both the Federal government and the States to have the power to tax. The heavy costs of defense, coupled with costs of other government activities have created revenue raising problems for all levels of government. This burden falls primarily on the national government because of its primary responsibilities in defense and because of the failure and/or inability of State and local governments to meet the needs of States for schools, roads, and other services which adds new pressures to the Federal government.

State Constitutions frequently have constitutional limitations with regard to indebtedness and spending which makes it difficult for the State and local governments to deal effectively with their problems.

The national government today transfers about \$3 billion a year in grants to States. The States in turn transfer more than \$5 billion a year to local governments. This is an example of the



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cooperative character of our Federal system. This cooperation  
is essential.

It is in my judgment impossible to eliminate tax overlapping  
under present day institutions with many levels of government  
operating in the same geographical area. The independent taxing  
power of the States and of the Federal government are basic in  
sustaining the governmental strength of these units. We should make  
every effort to reduce the inconvenience to the tax payer, but we  
should not interfere with the independence of action of our  
government units.

## Education

Education is primarily a state responsibility, but the national government also has a responsibility in this area which dates back to the Northwest Ordinance of 1785.

The interest of the national government in education is obvious for the school children who receive the education are not only citizens of their States, but citizens of the United States. They move from State to State. If they are educated well, the nation benefits. If they are educated poorly, the nation loses.

As a nation, the United States government has taken an interest in vocational education, in land-grant colleges, in school lunch programs and in school construction. Our great need today is in the area of school construction.

James Madison said: "A popular government, without popular information, or the means of acquiring it, is but a prolongue to a farce or a tragedy, or perhaps both."

The existence of a strong national interest in an educated

citizenry is not incompatible with our tradition of leaving  
with the States the immediate responsibility for general public  
education. The national government has a responsibility to encourage  
and promote education, to act in emergencies, to see that the  
national interests in an educated citizenry is met. The control  
of the school system, however, is best left with the local  
communities and with the States.

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