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## 10th Amendment needed because men aren't angels

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This past year, the federal government has marched further and faster than ever toward control of the economy and our everyday lives. This would dismay our Founding Fathers, whose vision of a carefully limited federal government animated the Constitution.

The most explicit statement of limited government in the U.S. Constitution is the 10th Amendment: "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." Thus, any power that the Constitution does not affirmatively give the federal government, it does not have.

The 10th Amendment embodied a revolutionary concept. Written just a few years after we had won our independence from Britain, the Constitution fundamentally changed the relationship between people and government.

For millennia, the source of power and authority had always been kings and government, and rights were seen as gifts by grace from the monarch. The Constitution inverted that understanding, with sovereignty beginning in the American people — beginning with We the People — and power given to government only to a limited degree.

Indeed, that was the genius of the Constitution — limiting government to protect the liberty of the people. Because the Framers recognized that unchecked government can strip the people of their freedoms, they designed a constitution to prevent that from happening.

As James Madison, the Constitution's primary author, explained:

"If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

Because men are not angels, the Constitution was designed to create an effective national government while preventing the government from overreaching.

Thus, the Constitution "split the atom of sovereignty," as the Supreme Court has put it, separating governmental power between the legislature, the executive and the judiciary, and between the federal government and the 50 states.

History had taught the Framers that those in government almost always try to get more power, and the magic of dividing governmental power into many separate parts is that each part fights hard against the others to prevent them from expanding their power. As a result, government power overall is limited and our freedom is protected.

Keeping as much governmental power at the state and local level yields two additional benefits. It makes government more accountable — it is much easier to express your views to your local city council member than it is to the U.S. Treasury secretary — and it allows the states to adopt differing policies reflecting their distinct views. Thus, the states can be laboratories of democracy, reflecting the values and priorities of their individual citizens.

No one would expect California, Texas, New York and Massachusetts to adopt the identical policies — the views of their citizens are considerably different. And the people can vote with their feet, as reflected in the fact that large numbers of people move to Texas every day, no doubt seeking a more hospitable economic climate.

We would not presume to impose the values of Texans on the citizens of Massachusetts. Yet when the federal government forces a single policy on the entire nation, the result is that everyone must live under a one-size-fits-all national plan. Once centralized in Washington, that national program inevitably grows and grows, far removed from citizen control.

That is why we are working with the Texas Public Policy Foundation to establish the Center for Tenth Amendment Studies. Through research, education and outreach, we intend to build a bulwark for restoring the balance between federal power, the states and the American people.

Hundreds of thousands of Americans at tea parties across the nation are rereading the Constitution and showing a profound interest in the 10th Amendment — and with good reason. If the 10th Amendment is respected — if the Constitution's limits on the federal government are given force — then government power will be restrained. Governmental leaders will be accountable. And our liberty will be preserved.

*Cruz and Brister are senior fellows at the Texas Public Policy Foundation, a nonprofit, free-market research institute based in Austin. Cruz is Texas' former solicitor general and has personally presented more oral arguments before the U.S. Supreme Court than any attorney in Texas. Brister served six years as a justice of the Texas Supreme Court, during which time he authored 122 opinions.*

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