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Interpreting the Tenth Amendment

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FYI, I have no legal training but I am highly educated and have read the Constitution numerous times searching for the answer to my question.

The tenth amendment limits the powers of the federal government to those specifically enumerated in the Constitution. I can find no authority enumerated in the Constitution for a majority of what the federal government does. Can some of you enlighten me as to how they gained that authority? Understand that in order to convince me that the federal government has the authority, you're going to have to show me where it is in the Constituion. I'm not arguing wheter or not they're "good and necessary", just whether or not they're Consttutional.

A partial list of the programs/departments (some I like and some I don't) for which I cannot find the authority in the Constitution:

1. **Department of the Interior**
2. **Department of Agriculture**
3. **Department of Labor**
4. **Department of Health and Human Services**
5. **Department of Housing and Urban Development**
6. **Department of Transportation**
7. **Department of Energy**
8. **Department of Education**
9. **Environmental Protection Agency**
10. **OSHA**
11. **Social Security**
12. **Medicare/Medicaid**
13. **"Obamacare"**
14. **National Parks**
15. **NASA**
16. **FDA**
17. **NIH**

- 18. **WIC**
- 19. **Farm Subsidies**
- 20. **Oil Subsidies**
- 21. **Federal Minimum Wage**
- 22. many more too numerous to list

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Chaan Tutlam · 2 hours ago 🔒

At the time of the framing of the constitution, the framers could not envisage what circumstances would arise in the future and what that would mean for the powers of Congress. The list under article 1 section 8 of the constitution is not an "exhaustive" list where the federal government cant do anything other the listed powers. The list is rather "illustrative". I THINK.

So, many of the things the federal government does is not listed specifically, but rather its an interpretation from the power to provide "for the general welfare of the United States" under sec.8 of art. 1. I THINK

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Albert Strong · 2 hours ago 🔒

David:

Your list is too much of a shotgun blast. There are many answers to your list of question programs, departments and agencies.

. Having Read Amer's books, you probably will not find the answers to most of these in the lectures. Many of these have been taken to court and the justification can be found in the Caselaw. While your list is current programs and departments, your question is as old as the republic and can be dated back easily to the Federal Bank question first debated between Madison and Hamilton and the answer changed over the years and several Generations (see Jackson administration in particular) until it is finally settled in modern times (Wilson until now) in favor of the federal power.

As for the Cabinet departments, I believe Amer discussed this point as something specified as an enumerated Congressional power to decide. I can review but you should too. I wasnt concerned and let that go. we should watch it again maybe?

Finally your title suggest this a thread to discuss the 10th Amendment. We have not reached that part of the course yet. It might be better to follow up after that lecture helps us along a little.

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[+ Comment](#)David Fey · 2 hours ago 

I understand that the Founders could not foresee all the future needs that would need to be addressed so they allowed for changing the Constitution by amendment, not by executive, legislative, or judicial action. That is the genius of the Founders. It seems pretty clear to me that the Bill of Rights was to limit the power of the federal government; the powers of the federal government were specifically limited to those enumerated by the Constitution while the rights of the people were not limited to those enumerated.

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[+ Comment](#)Anonymous · an hour ago 

This goes to the core of the competing doctrines when it comes to the interpretation of the constitution.

For an eloquent defense of the "living constitution view" that apparently the professor endorses to a certain degree, see this <http://www.law.uchicago.edu/alumni/magazine/fall10/strauss> .

For an equally eloquent defense of its opposite, "originalist view", see this http://www.amazon.com/Reading-Law-Interpretation-Legal-Texts/dp/031427555X/ref=la_B001I9N9XW_1_3/188... .

Legal interpretation not being "science", ie, being mostly about different opinions and ideology, what remains is the ideology of the sitting US Supreme Court justices. As they stand today, there are 4 mostly originalists (though Roberts took a living constitution approach to save Obamacare) and 4 living constitution people. Anthony Kennedy is originalist for economic matters (he was in the majority of Citizens United) but living constitution for social matters (abortion, gay marriage, etc).

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Anthony Gary Brown

Signature Track

· 33 minutes ago 

A good starting point is Article I, Section 8. This gives Congress a list of specific areas of legitimacy, one of the very first of which is to "provide for the common Defence and general Welfare of the United States". And the final Art I:8 power is "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Give 'em an inch.....

Gary B.

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