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The Nation, the States, and Liberty

In the 1780s, James Madison believed that the greatest threat to liberty came from the individual states, not from Congress. Accordingly, he favored allowing Congress to veto state laws.

*"A constitutional negative [veto] on the laws of the **States** seems equally necessary to secure individuals against encroachments [limitations] on their rights."*

—JAMES MADISON TO THOMAS JEFFERSON, 24 OCTOBER, 1787

*"No **state** shall violate the equal rights of conscience..."*

—JAMES MADISON

1. Restate each of Madison's ideas in your own words.
2. How did Madison's proposal for protecting individual liberties above differ from the language used in the final version of the First Amendment?

Congress shall make no law respecting the establishment of religion, or the free exercise thereof...

3. Restate in your own words each of these excerpts from the Fourteenth Amendment.

*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the **State** wherein they reside.*

*[No **State**] shall deprive any person of life, liberty, or property, without due process of law.*

*[No **State** shall] deny to any person within its jurisdiction the equal protection of the laws.*

As a result of incorporation, individuals who are unhappy with how states protect their liberties can bring suit in federal courts. Does it matter whether the state governments or the federal government has the power to protect our rights?