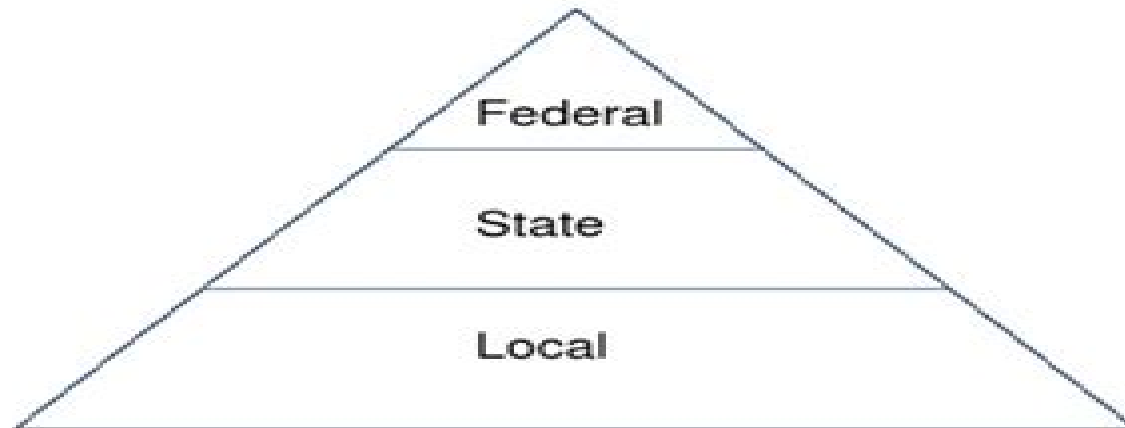


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William Berlin Jean Craven,1984 **Life and Liberty** Philip Roden,1987 The Divided States of America Donald F.

Kettl,2020-03-10 As James Madison led America s effort to write its Constitution he made two great inventions the separation of powers and federalism The first is more famous but the second was most essential because without federalism there could have been no United States of America Federalism has always been about setting the balance of power between the federal government and the states and that s revolved around deciding just how much inequality the country was prepared to accept in exchange for making piece among often warring states Through the course of its history the country has moved through a series of phases some of which put more power into the hands of the federal government and some rested more power in the states Sometimes this rebalancing led to armed conflict The Civil War of course almost split the nation permanently apart And sometimes it led to political battles By the end of the 1960s however the country seemed to have settled into a quiet agreement that inequality was a prime national concern that the federal government had the responsibility for addressing it through its own policies and that the states would serve as administrative agents of that policy But as that agreement seemed set federalism drifted from national debate just as the states began using their administrative role to push in very different directions The result has been a rising tide of inequality with the great invention that helped create the nation increasingly driving it apart **Federalism, State Sovereignty, and the Constitution** Kenneth R. Thomas,American Law

Division,2003 The ratification of the Constitution to a significant extent defined the lines of authority between the state and federal governments Over recent years the Supreme Court has decided a number of cases which address this historical relationship This report discusses state and federal legislative power generally and focuses on a number of these federalism cases Issues addressed include congressional power under the Commerce Clause and the Fourteenth Amendment constitutional limits on congressional powers such as the Tenth Amendment and state sovereign immunity under the Eleventh Amendment The report does not however address the much larger policy issue of when it is appropriate as opposed to constitutionally permissible for federal powers to be exercised Federalism, State Sovereignty, and the Constitution Kenneth R. Thomas,2011 This is a print on demand edition of a hard to find publication The lines of authority between states

and the federal government are to a significant extent defined by the U.S. Constitution and relevant case law. In recent years, however, the Supreme Court has decided a number of cases that would seem to re-evaluate this historical relationship. This report discusses state and federal legislative power, focusing on a number of these federalism cases. The report does not, however, address the larger policy issue of when it is appropriate as opposed to constitutionally permissible to exercise federal powers.

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Federalism-Based Limitations on Congressional Power

Congressional Service, 2018-10-10

The U.S. Constitution establishes a system of dual sovereignty between the states and the federal government, with each state having its own government endowed with all the functions essential to separate and independent existence. Although the Supremacy Clause of the Constitution designates the Laws of the United States as the supreme Law of the Land, other provisions of the Constitution as well as legal principles undergirding those provisions nonetheless prohibit the national government from enacting certain types of laws that impinge upon state sovereignty. The various principles that delineate the proper boundaries between the powers of the federal and state governments are collectively known as federalism. Federalism-based restrictions that the Constitution imposes on the national government's ability to enact legislation may inform Congress's work in any number of areas of law in which the states and the federal government dually operate. There are two central ways in which the Constitution imposes federalism-based limitations on Congress's powers. First, Congress's powers are restricted by and to the terms of express grants of power in the Constitution, which thereby establish internal constraints on the federal government's authority. The Constitution explicitly grants Congress a limited set of carefully defined enumerated powers while reserving most other legislative powers to the states. As a result, Congress may not enact any legislation that exceeds the scope of its limited enumerated powers. That said, Congress's enumerated powers nevertheless do authorize the federal government to enact legislation that may significantly influence the scope of power exercised by the states. For instance, subject to certain restrictions, Congress may utilize its taxing and spending powers to encourage states to undertake certain types of actions that Congress might otherwise lack the constitutional authority to

undertake on its own Similarly the Supreme Court has interpreted the Constitution s Commerce Clause to afford Congress substantial but not unlimited authority to regulate certain purely intrastate economic activities that substantially affect interstate commerce in the aggregate Congress may also enact certain types of legislation in order to implement international treaties Additionally pursuant to a collection of constitutional amendments ratified shortly after the Civil War Congress may directly regulate the states in limited respects in order to prevent states from depriving persons of certain procedural and substantive rights Finally the Necessary and Proper Clause augments Congress s enumerated powers by empowering the federal government to enact laws that are necessary and proper to execute its express powers In addition to the internal constraints on Congress s authority the Constitution also imposes external limitations on Congress s powers vis vis the states that is affirmative prohibitions on certain types of federal actions found elsewhere in the text or structure of the Constitution The Supreme Court has recognized for instance that the national government may not commandeer the states authority for its own purposes by forcing a state s legislature or executive to implement federal commands Nor may Congress apply undue pressure to coerce states into taking actions they are otherwise disinclined to take Furthermore the principle of state sovereign immunity which limits the circumstances in which a state may be forced to defend itself against a lawsuit against its will imposes significant constraints on Congress s ability to subject states to suit Finally the Supreme Court has recognized limits to the extent to which Congress may subject some states to more onerous regulatory burdens than other states

Federalism, State Sovereignty and the Constitution Kenneth R. Thomas, Library of Congress. Congressional Research Service, 2008

Federalism Re-Constructed Marcia L. McCormick, 2013 The Constitution is designed to protect individual liberty and equality by diffusing power among the three branches of the federal government and between the federal and state governments and by providing a minimum level of protection for individual rights Yet the Supreme Court seems to think that federalism is about protecting states as states rather than balancing governmental power to protect individuals In the name of federalism the Supreme Court has been paring away at Congress power to enact civil rights legislation In doing so it has transformed the Fourteenth Amendment into a vehicle for protecting states rights rather than a vehicle for protecting individual rights This paper analyzes this process and the institutional competence and separation of powers problems that have resulted It proposes that the Court give effect to Congress powers to deter potential constitutional violations by states under the Fourteenth Amendment and to keep in mind that federalism s purpose should be to maximize equality and liberty

Federalism and the Constitution Michael C. Remington, 2002 The ratification of the Constitution was to a significant extent a defining of the lines of authority between the state and federal governments Over recent years the Supreme Court has decided a number of cases that address this historical relationship between the federal government and the states This book discusses state and federal legislative power generally and will focus on a number of these federalism cases Issues addressed include congressional power under Article I and the Fourteenth Amendment limits

on congressional power such as the tenth Amendment and state sovereign immunity under the Eleventh Amendment It also presents significant events during the history of America and defines the so called Dual Federalism Co operative Federalism Creative Federalism and Contemporary Federalism *Administering Federalism in a Democracy* Arthur Whittier Macmahon,1972 **Power Divided** Harry N. Scheiber,Malcolm Feeley,1989 Federalism and the Constitution Kenneth R. Thomas,1999 **Lessons on the Federalist Papers** John J. Patrick,Clair W. Keller,1987 Studying ideas from the Federalist papers provides high school students with an opportunity to examine the first principles of U S civic culture By increasing their knowledge and appreciation of the basic ideas in the Federalist papers students develop civic literacy that is likely to enhance their participation in a free society This volume contains teaching plans for ten lessons 1 Federalists versus Antifederalists 2 What Is The Federalist 3 Limited Government and the Rule of Law in The Federalist Numbers 23 51 53 70 4 Federalism and Republicanism in The Federalist Numbers 9 and 39 5 Separation of Powers with Checks and Balances in The Federalist Numbers 47 48 51 6 Judicial Review in The Federalist Numbers 78 80 81 7 National Security with Liberty in The Federalist Numbers 4 23 41 8 Popular Sovereignty and Free Government in The Federalist Numbers 10 39 51 9 Hamilton Madison and the Bill of Rights and 10 Chronology of Main Events Associated with the Origin and Writing of The Federalist The content and purposes of the lessons their characteristics and how to select and use them are thoroughly explained in the notes to teachers Selected papers from The Federalist are included in the appendix KWL

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