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Why the Federal Government Cannot Compel Specific State Legislation: Federalism, Preemption, and Anti-Commandeering Principles Unite

The United States Constitution establishes a system of federalism that divides sovereignty between the national government and the states, ensuring neither can encroach upon the other's domain in ways that undermine liberty or accountability.

As the Supreme Court explained in ***Bond v. United States***, "The Framers concluded that allocation of powers between the National Government and the States enhances freedom, first by protecting the integrity of the governments themselves, and second by protecting the people, from whom all governmental powers are derived." ***Bond v. United States***, 564 U.S. 211, 221 (2011).

This federalist structure, rooted in the Tenth Amendment—which reserves to the states or the people all powers not delegated to the federal government—prevents the federal government, including Congress and executive agencies, from compelling states to enact or repeal specific legislation. The anti-commandeering doctrine, intertwined with principles of preemption and separation of powers, reinforces this limit, as articulated in landmark cases such as ***New York v. United States***, ***Printz v. United States***, ***Murphy v. National Collegiate Athletic Ass'n***, and ***Youngstown Sheet & Tube Co. v. Sawyer***. Together, these principles unite to safeguard state autonomy against federal overreach.

The Anti-Commandeering Doctrine: Core Prohibition on Federal Compulsion

At the core of this prohibition is the anti-commandeering doctrine, which bars the federal government from hijacking state legislative or executive processes to serve federal ends.
In ***New York v. United States***, the Court invalidated a federal law requiring states to take title to radioactive waste, declaring: "Congress may not simply 'commandeer the legislative processes of the States by directly compelling them to enact and enforce a federal regulatory program.'" ***New York v. United States***, 505 U.S. 144, 161 (1992) (quoting ***Hodel v. Virginia Surface Mining & Reclamation Assn., Inc.***, 452 U.S. 264, 288 (1981)).
The Court emphasized that "[t]he Constitution has never been understood to confer upon Congress the ability to require the States to govern according to Congress' instructions." ***Id.*** at 162.
This doctrine stems from the Constitution's rejection of the Articles of Confederation's ineffective system of commanding states, opting instead for a federal government that acts directly on individuals. As Justice O'Connor wrote, "Congress may not commandeer state governments into the service of federal regulatory purposes… The Constitution does not empower Congress to subject state governments to this type of instruction." ***Id.*** at 175–176.

Extending this to state executives, ***Printz v. United States*** struck down a federal mandate requiring local officers to conduct background checks, holding: "The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program." ***Printz v. United States***, 521 U.S. 898, 935 (1997).

Justice Scalia reinforced that such commandeering violates federalism by blurring accountability: "Where Congress encourages state regulation rather than compelling it, state governments remain responsive to the local electorate's preferences; state officials remain accountable to the people." ***New York***, 505 U.S. at 168–169.

Application in *Murphy v. NCAA*: Rejecting Disguised Commands

This doctrine's federalist underpinnings were further clarified in ***Murphy v. National Collegiate Athletic Ass'n***, where the Court invalidated a federal ban on states authorizing sports gambling, rejecting the notion that Congress could achieve through prohibition what it could not mandate affirmatively.

"As the Tenth Amendment confirms, all legislative power not conferred on Congress by the Constitution is reserved for the States. Absent from the list of conferred powers is the power to issue direct orders to the governments of the States. The anticommandeering doctrine… simply represents the recognition of this limitation." ***Murphy v. National Collegiate Athletic Ass'n***, 584 U.S. 453, 1477 (2018).

The Court stressed: "We have always understood that even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to compel the States to require or prohibit those acts." ***Id.*** at 1476 (quoting ***New York***, 505 U.S. at 166). Moreover, "Where a federal interest is sufficiently strong to cause Congress to legislate, it must do so directly; it may not conscript state governments as its agents." ***Id.*** (quoting ***New York***, 505 U.S. at 178).

Anti-commandeering thus "promotes political accountability" by preventing the federal government from shifting blame and costs to states, as "the anticommandeering rule prevents Congress from shifting the costs of regulation to the States." ***Id.*** at 1477–1478. In essence, "The anticommandeering rule serves as 'one of the Constitution's structural protections of liberty.'" ***Id.*** at 1477 (quoting ***Printz***, 521 U.S. at 921).

Executive Agencies Lack Independent Power to Commandeer

These principles extend unequivocally to federal executive agencies, which lack independent authority to compel state legislation or action. Executive power is strictly limited, deriving only from the Constitution itself or validly enacted laws pursuant to it.

As the Court held in ***Youngstown Sheet & Tube Co. v. Sawyer***, "The President's power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself." ***Youngstown Sheet & Tube Co. v. Sawyer***, 343 U.S. 579, 585 (1952).

The Court emphasized that "[i]n the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker." ***Id.*** at 587. Further, "The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times." ***Id.*** at 589.

This separation of powers ensures that executive agencies cannot usurp legislative functions or commandeer states absent explicit constitutional or statutory authorization—and since commandeering violates the Constitution, no valid law can grant such power.

In ***Printz***, the Court applied this to executive commandeering, invalidating provisions that "directly compel state officials to administer a federal regulatory program," noting that such actions "utterly fail to adhere to the design and structure of our constitutional scheme." 521 U.S. at 904.

The Court warned that "[t]he Federal Government's power would be augmented immeasurably and impermissibly if it were able to impress into its service—and at no cost to itself—the police officers of the 50 States." ***Id.*** at 922. Moreover, "Congress cannot circumvent that prohibition by conscripting the States' officers directly." ***Id.*** at 935. Such commands are "fundamentally incompatible with our constitutional system of dual sovereignty." ***Id.***

Preemption vs. Commandeering: A Clear Boundary

These principles unite with preemption doctrine to delineate permissible federal action from unconstitutional compulsion. Preemption allows federal law to displace conflicting state law under the Supremacy Clause, but only when the federal government regulates private actors directly—not when it targets state legislatures or executives.

As ***Murphy*** explained: "Nor does the anti-authorization provision constitute a valid preemption provision. To preempt state law, it must satisfy two requirements. It must represent the exercise of a power conferred on Congress by the Constitution. And… it must be best read as one that regulates private actors." 584 U.S. at 1480 (quoting ***New York***, 505 U.S. at 177).

The Court distinguished: "Every form of preemption is based on a federal law that regulates the conduct of private actors, not the States." ***Id.*** at 1481.

In contrast, a federal command prohibiting state authorization "does not confer any federal rights on private actors… or impose any federal restrictions on private actors," rendering it "a direct command to the States. And that is exactly what the anticommandeering rule does not allow." ***Id.*** at 1481.

This boundary preserves federalism, as ***New York*** noted: "A state law also is pre-empted if it interferes with the methods by which the federal statute was designed to reach [its] goal." 505 U.S. at 103 (quoting ***Int'l Paper Co. v. Ouellette***, 479 U.S. 481, 494 (1987)). Yet preemption cannot mask commandeering; as ***Murphy*** held, "Congress lacks the power to order a state legislature not to enact a law authorizing sports gambling." 584 U.S. at 1485. Executive agencies, bound by these same limits, cannot evade them through regulations or directives.

Conclusion: Safeguarding State Sovereignty and Individual Liberty

Federalism, preemption, and anti-commandeering thus converge to prohibit the federal government—including executive agencies—from compelling specific state legislation. While the federal government may incentivize states—as in ***New York***, where it could "encourage state regulation rather than compelling it"—it crosses into coercion when mandating enactment or repeal. 505 U.S. at 168.

As ***Printz*** affirmed, such compulsion erodes the "division of authority between federal and state governments." 521 U.S. at 922. In ***Murphy***, the Court unified these doctrines: "The basic principle—that Congress cannot issue direct orders to state legislatures—applies in either event." 584 U.S. at 1478.

Executive agencies are similarly constrained, as ***Youngstown*** made clear: "The executive action we have here originates in the individual will of the President, and represents an exercise of authority without law." 343 U.S. at 587.

This framework ensures that states remain sovereign partners, not mere agents, in the constitutional order, protecting individual liberty from centralized overreach.

In conclusion, the Supreme Court's jurisprudence demonstrates that compelling state legislation violates the Constitution's federalist design. As ***New York*** warned, "A choice between two unconstitutionally coercive regulatory techniques is no choice at all." 505 U.S. at 176.

By uniting anti-commandeering with preemption limits and executive constraints, the Court upholds the Tenth Amendment's reservation of powers, affirming that "the Constitution divides authority between federal and state governments for the protection of individuals." ***Murphy***, 584 U.S. at 1477. This enduring principle safeguards democracy against federal dictation, whether from Congress or executive agencies.