AMERICAN CONSTITUTIONALISM

VOLUME I: STRUCTURES OF GOVERNMENT

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Supplementary Material

Chapter 11: The Contemporary Era – Constitutional Authority and Judicial Power

**Armstrong v. Exceptional Child Center, \_ U.S. \_** (2015)

*The federal Medicaid program that provides medical services for the poor works through supplying federal funds for state-administered programs. Idaho’s federally approved Medicaid plan includes in-home care for some patients. Exceptional Child Center is one such provider of in-home care, and it sued the state of Idaho in federal district court. The center contended that the state failed to reimburse providers at the rates required by federal statute. The district court ruled against the state, agreeing that the state was not meeting federal requirements, and on appeal the circuit court affirmed that ruling. State officials appealed to the U.S. Supreme Court, which took the case in order to focus not on the substantive issue of whether Idaho was fully compliant with the federal statute but on the prior issue of whether the in-home care providers had a legal right of action that the federal courts could hear. The providers contended that the Supremacy Clause of the U.S. Constitution created an implied right of action for private lawsuits aimed at invoking the federal preemption of conflicting state law.*

*In a 5-4 decision, the U.S. Supreme Court held that there was no legal right of action to sustain the suit, reversing the lower courts. All of the justices agreed that the Supremacy Clause did not in itself create a private right of action, but the justices disagreed over whether private individuals could invoke a traditional equity claim in the federal courts in order to prevent state officials from acting in violation of federal law. The majority held that the Medicaid statute implicitly precluded private lawsuits by providing explicit remedies for state misbehavior that relied on the discretion of the U.S. Secretary of Health and Human Services, while the dissent argues that the statutory remedy was not intended to foreclose private suits that might bring the violation before a federal judge.*

JUSTICE SCALIA delivered the opinion of the Court.

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It is apparent that [the Supremacy] Clause creates a rule of decision. Courts “shall” regard the “Constitution,” and all laws “made in Pursuance thereof,” as “the supreme Law of the Land.” They must not give effect to state laws that conflict with federal laws. *Gibbons v. Ogden* (1824). It is equally apparent that the Supremacy Clause is not the “source of any federal rights,” and certainly does not create a cause of action. It instructs courts what to do when state and federal law clash, but is silent regarding who may enforce federal laws in court, and in what circumstances they may do so.

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[I]t is important to read the Supremacy Clause in the context of the Constitution as a whole Article I vests Congress with broad discretion over the manner of implementing its enumerated powers, giving it authority to “make all Laws which shall be necessary and proper for carrying [them] into Execution.” We have said that this confers upon the Legislature “that discretion, with respect to the means by which the powers [the Constitution] confers are to be carried into execution, which will enable that body to perform the high duties assigned to it.” *McCulloch v. Maryland* (1819). . . . If the Supremacy Clause includes a private right of action, then the Constitution *requires* Congress to permit the enforcement of its laws by private actors, significantly curtailing its ability to guide the implementation of federal law. It would be strange indeed to give a clause that makes federal law supreme a reading that *limits* Congress’s power to enforce that law, by imposing mandatory private enforcement – a limitation unheard-of with regard to state legislatures.

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The ability to sue to enjoin unconstitutional actions by state and federal officers is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action, tracing back to England. It is a judge-made remedy, and we have never held or even suggested that, in its application to state officers, it rests upon an implied right of action contained in the Supremacy Clause. That is because, as even the dissent implicitly acknowledges, it does not. . . .

We turn next to respondents’ contention that, quite apart from any cause of action conferred by the Supremacy Clause, this suit can proceed against Idaho in equity.

The power of federal courts of equity to enjoin unlawful executive action is subject to express and implied statutory limitations. . . . In our view the Medicaid Act implicitly precludes private enforcement of Section 30(A), and respondents cannot, by invoking our equitable powers, circumvent Congress’s exclusion of private enforcement.

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*Reversed*.

JUSTICE BREYER, concurring.

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Like all other Members of this Court, I would not characterize the question before us in terms of a Supremacy Clause “cause of action.” Rather, I would ask whether “federal courts may in [these] circumstances grant injunctive relief against state officers who are violating, or planning to violate, federal law.” I believe the answer to this question is no.

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JUSTICE SOTOMAYOR, with whom JUSTICES KENNEDY, GINSBURG, and KAGAN joined, dissenting.

Suits in federal court to restrain state officials from executing laws that assertedly conflict with the Constitution or with a federal statute are not novel. To the contrary, this Court has adjudicated such requests for equitable relief since the early days of the Republic. Nevertheless, today the Court holds that Congress has foreclosed private parties from invoking the equitable powers of the federal courts to require states to comply with Section 30(A) of the Medicaid Act. It does so without pointing to the sorts of detailed remedial scheme we have previously deemed necessary to establish congressional intent to preclude resort to equity. . . . As I cannot agree that these statutory provisions demonstrate the requisite congressional intent to restrict the equitable authority of the federal courts. I respectfully dissent.

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A suit, like this one, that seeks relief against state officials acting pursuant to a state law allegedly preempted by a federal statute falls comfortably within this doctrine [that federal courts can enjoin unconstitutional government action]. A claim that a state law contravenes a federal statute is “basically constitutional in nature, deriving its force from the operation of the Supremacy Clause.” *Douglas v. Seacoast Products, Inc*. (1977), and the application of preempted state law is therefore “unconstitutional.” *Crosby v. National Foreign Trade Council* (2000). We have thus long entertained suits in which a party seeks prospective equitable protection from an injurious and preempted state law without regard to whether the federal statute at issue itself provided a right to bring an action. . . . Indeed, for this reason, we have characterized “the availability of prospective relief of the sort awarded in *Ex parte Young*” as giving “life to the Supremacy Clause.” *Green v. Mansour* (1985).

Thus, even though the Court is correct that is somewhat misleading to speak of “an implied right of action contained in the Supremacy Clause,” that does not mean that parties may not enforce the Supremacy Clause by bringing suit to enjoin preempted state action. As the Court also recognizes, we “have long held that federal courts may in some circumstances grant injunctive relief against state officers who are violating, or planning to violate, federal law.”

Most important for purposes of this case is not the mere existence of this equitable authority, but the fact that it is exceedingly well established – supported, as the Court puts it, by a “long history.” Congress may, if it so chooses, either expressly or implicitly preclude *Ex parte Young* enforcement actions with respect to a particular statute or category of lawsuit. . . . But because Congress is undoubtedly aware of the federal courts’ long-established practice of enjoining preempted state action, it should generally be presumed to contemplate such enforcement unless it affirmatively manifests a contrary intent. . . .

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