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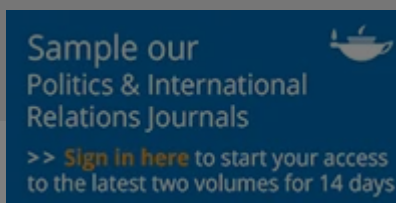
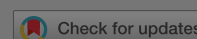
Articles

Waivers, Federalism, and the Rule of Law

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Notes

1. 567 U.S.____ (2012), 132 S.Ct 2566.
2. 132 S. Ct. at 2602.
3. I rely, here, on the analysis provided in Eloise Pasachoff, Conditional Spending After NFIB v. Sebelius: The Example of Federal Education Law, 62 Am. U. L. Rev. 577 (2013) 593.
4. Elizabeth Weeks Leonard, Crafting a Narrative for the Red State Option, 102 Ky. L.J. 381 (2013), 397.
5. Ibid. PPACA, Pub. L. No. 111-148,§ 2401,124 Stat.119, 297-301 (2010).
6. Ibid.
7. Pasachoff at 659. I should note that Pasachoff is expressing skepticism concerning these arguments that the NFIB decision will result in federal programs being deemed coercive by the courts.
8. Pasachoff at 616. Waivers are granted pursuant to NCLB tit. IX, § 9401, 20 U.S.C. § 7861(2006).
9. Pasas
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17. *Ibid.*, 818, citing Lois Schworer, *The Declaration of Rights, 1689* (Baltimore, MD: John Hopkins University Press, 1981), 9-18.
18. Aristotle, *Politics*, trans. Benjamin Jowett (New York: Cosimo, Inc., 2008), 140.
19. Alexander Hamilton, John Jay, and James Madison, *The Federalist: The Gideon Edition*, eds. George W. Carey and James McClellan (Indianapolis: Liberty Fund, 2000), 352-3 (emphasis in original).
20. *Ibid.*, 351-52.
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31. Ibid.
32. Ann Marie Marciarille, Let Fifty Flowers Bloom: Health Care Federalism after National Federation of Independent Business v. Sebelius, 81 UMKC L. Rev. 313 (2012) 337.
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36. Ibid., 279.
37. Philip Hamburger, "Are Health Care Waivers Unconstitutional?" <http://www.nationalreview.com/articles/259101/are-health-care-waivers-unconstitutional-philip-hamburger>.

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