

THE RULE OF LAW AND THE CONSTITUTIONAL ALLOCATION OF ELECTION AUTHORITY TO THE STATES

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Abstract: *The Elections Clause establishes a constitutional framework that assigns primary responsibility for regulating federal elections to the states while preserving Congress's authority to make or alter those regulations when necessary. This allocation reflects more than a compromise of federalism. It embodies a structural commitment within the rule of law that treats state administration as the constitutional baseline and federal intervention as a supervisory power exercised when justified by present necessity. Although Congress possesses paramount authority when acting under the Elections Clause, the Supreme Court has made clear that substantial departures from the traditional balance between the states and the national government require contemporary justification and must respect principles such as equal sovereignty and equal protection. Properly understood, the Constitution anticipates cooperative regulation rather than complete federalization of election administration. The Elections Clause therefore preserves a presumption of state authority that may be displaced only through clearly authorized and constitutionally justified federal legislation consistent with the structural limits that govern the federal system.*

I. The Constitutional Question of Who Controls Federal Elections

The Constitution establishes a carefully calibrated allocation of authority over federal elections that reflects both structural design and institutional restraint. Article I, Section 4 assigns to the states the initial responsibility to prescribe the times, places, and manner of holding elections for Members of Congress while reserving to Congress the authority to make or alter those regulations when necessary. This allocation is neither incidental nor provisional. It reflects a deliberate constitutional judgment that election administration should begin at the state level within a framework that preserves federal supervisory authority sufficient to protect the integrity of the national electoral system.

Only by recognizing the dual nature of this arrangement can the Elections Clause be understood consistently with the broader structure of the Constitution. Courts have repeatedly described the Clause as creating a default pre-

sumption of state regulation subject to a powerful federal check rather than a regime of concurrent or interchangeable authority. The states therefore operate as primary regulators in the ordinary course, while Congress retains authority to intervene when constitutional conditions justify displacement of state rules governing federal elections.

Disputes concerning the proper scope of federal election authority frequently arise from an incomplete appreciation of this constitutional baseline. When Congress exercises its authority under the Elections Clause, federal law becomes supreme and supersedes inconsistent state regulations. Yet the existence of paramount federal authority when exercised does not eliminate the structural presumption that the states serve as the initial regulators of federal election procedure. The constitutional question is therefore not whether Congress possesses authority in this field, but how that authority operates within a framework that begins with state responsibility.

Experience with federal election legislation demonstrates that departures from the traditional balance between the states and the national government are treated by the Supreme Court as extraordinary measures requiring contemporary justification. The Court has explained that substantial federal intrusion into state election processes represents a significant alteration of the ordinary constitutional relationship between the states and the Federal Government and therefore must be supported by current needs rather than historical assumptions. This principle reflects the rule of law requirement that structural reallocations of authority be justified rather than presumed.

When the Elections Clause is interpreted in light of these structural considerations, it becomes apparent that the Constitution anticipates cooperative regulation rather than exclusive federal control of election administration. The states retain primary responsibility for prescribing election procedures, subject to congressional authority to make or alter those procedures where necessary to secure constitutional compliance and electoral integrity. Properly understood, the Clause preserves a constitutional presumption of state authority that may be displaced only through clearly authorized and adequately justified

federal action consistent with the rule of law.

II. The Elections Clause and the Constitutional Presumption of State Regulatory Authority

The Elections Clause establishes the textual foundation for the allocation of authority over federal elections and reflects a deliberate constitutional judgment that the states serve as the initial regulators of congressional election procedure. Article I, Section 4 provides that the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, while preserving for Congress the authority at any time to make or alter such regulations. This language creates a constitutional structure in which state regulation operates as the starting point of election administration rather than as a subordinate or provisional arrangement dependent upon federal permission.

Courts interpreting the Elections Clause have consistently recognized that the provision establishes a default presumption of state authority subject to congressional override rather than a regime of concurrent or interchangeable regulatory control. Federal courts have described this allocation as preserving state responsibility in the ordinary course while maintaining a powerful federal check capable of superseding inconsistent state regulations when Congress elects to exercise its authority. The constitutional structure therefore preserves both state initiative and federal supremacy without collapsing the distinction between the two roles.

The Supreme Court has likewise explained that the dominant purpose of the Elections Clause was to empower Congress to override state election rules when necessary rather than to restrict the methods by which states enact legislation governing elections in the first instance. This understanding confirms that the Clause was designed to preserve state autonomy within a framework that ensures federal capacity to respond when state regulation proves inadequate to protect the integrity of federal elections. The allocation therefore reflects a structural presumption that state institutions remain responsible for the routine administration of election procedures unless and until Congress determines that intervention is required.

The constitutional presumption of state regulatory authority is reinforced by the recognition that states retain autonomy to structure their own governmental processes for election administration within the bounds imposed by federal constitutional requirements. The Supreme Court has confirmed that the Elections Clause does not dictate the internal mechanisms through which states regulate elections and does not exempt state legislatures from the ordinary constraints imposed by state law. Instead, the Clause preserves a system in which state authority operates within a constitutional framework that includes both federal oversight and judicial review while maintaining the

states' central role in election administration.

This allocation of authority reflects a constitutional design that anticipates cooperation between state and federal institutions rather than displacement of one level of government by the other. The Elections Clause establishes a presumption that election procedures originate at the state level, subject to congressional authority to make or alter those procedures when constitutionally justified. Properly understood, the Clause preserves a structural balance in which state regulatory authority remains the constitutional baseline and federal intervention operates as a supervisory mechanism designed to ensure the continued integrity and uniform legitimacy of federal elections.

III. Congressional Authority Under the Elections Clause as Paramount but Structurally Conditioned

The Elections Clause expressly preserves for Congress the authority at any time to make or alter regulations governing the times, places, and manner of holding elections for Members of Congress. The Supreme Court has long recognized that when Congress exercises this authority, federal law supersedes inconsistent state regulations and becomes controlling as a matter of constitutional supremacy. This authority reflects the Constitution's recognition that the national government must possess sufficient capacity to secure the integrity and continuity of federal elections even when state regulation proves inadequate or inconsistent with constitutional requirements.

Federal courts have consistently described Congress's authority under the Elections Clause as paramount when properly exercised. The Supreme Court explained in *Ex parte Siebold* that the authority of Congress over the subject of federal election regulation is paramount within its constitutional sphere, and modern courts have reaffirmed that federal regulations enacted pursuant to the Clause necessarily supersede conflicting state procedures. This understanding confirms that the Constitution does not leave the conduct of federal elections exclusively to the states, but instead preserves a supervisory national authority capable of ensuring uniformity and compliance with constitutional guarantees where necessary.

At the same time, recognition of Congress's paramount authority does not eliminate the structural presumption that states serve as the initial regulators of election administration. The Elections Clause establishes a constitutional sequence rather than a hierarchy of routine control. States prescribe election procedures in the first instance, and Congress retains authority to intervene where circumstances justify displacement of those procedures. The constitutional structure therefore preserves both the supremacy of federal regulation when enacted and the baseline role of the states in the ordinary administration of elections.

The Supreme Court has further recognized that the dominant purpose of the Elections Clause was to empower Congress to override state election rules when necessary rather than to restrict the manner in which states enact legislation governing election procedures. This understanding reinforces the conclusion that congressional authority operates as a corrective mechanism designed to ensure the effective functioning of federal elections rather than as a substitute for routine state administration. The Clause thus reflects a deliberate allocation of authority that preserves national oversight without displacing state responsibility except where constitutional conditions warrant intervention.

Properly understood, congressional authority under the Elections Clause operates within a constitutional framework that preserves both supremacy and restraint. Congress retains the power to make or alter state election regulations whenever necessary to protect federal electoral integrity, but that authority exists within a structure that begins with state responsibility and anticipates cooperative regulation rather than exclusive federal control. The Clause therefore reflects a constitutional design in which paramount authority and structural limitation operate together to preserve the legitimacy of federal election administration within the rule of law.

IV. Extraordinary Federal Intervention and the Constitutional Balance Between the States and the National Government

The Supreme Court has repeatedly recognized that federal legislation altering the traditional allocation of authority between the states and the national government must be evaluated in light of the constitutional structure that preserves a meaningful role for the states in the administration of elections. Although the Elections Clause grants Congress authority to make or alter state regulations governing the times, places, and manner of congressional elections, the exercise of that authority operates within a constitutional framework that treats substantial departures from the ordinary federal state relationship as extraordinary measures requiring justification. This principle reflects the rule of law requirement that structural reallocations of authority be supported by demonstrated necessity rather than assumed as a matter of legislative discretion.

The Court's decision in *Shelby County v. Holder* provides an important articulation of this structural principle in the context of federal election legislation. There the Court explained that the Voting Rights Act's preclearance regime represented an extraordinary departure from the traditional course of relations between the states and the Federal Government because it required states to obtain federal permission before implementing laws that they otherwise possessed authority to enact and execute. The Court emphasized that such departures impose current burdens

and must therefore be justified by current needs rather than historical conditions alone. This reasoning reflects a constitutional understanding that federal intervention into state election processes must remain tied to contemporary necessity rather than structural preference.

The principle articulated in *Shelby County* has particular significance when considering proposals for comprehensive federalization of election administration. Unlike targeted federal legislation addressing specific constitutional violations, complete federal displacement of state election authority would represent a transformation of the constitutional baseline established by the Elections Clause. The Court's recognition that extraordinary federal intervention requires contemporary justification suggests that wholesale federalization would require a correspondingly substantial demonstration of necessity before it could be reconciled with the constitutional structure governing election regulation.

The requirement that extraordinary federal intervention be justified by present conditions reflects a broader constitutional commitment to preserving the ordinary balance between the states and the national government. The Supreme Court has explained that departures from the fundamental principle of equal sovereignty among the states must be sufficiently related to the problems they address and must rest upon a showing of current need. This requirement confirms that federal election legislation must operate within structural limits that preserve the constitutional position of the states even when Congress exercises its authority under the Elections Clause.

When these principles are applied to the Elections Clause framework, they confirm that the Constitution anticipates federal authority sufficient to protect the integrity of federal elections while preserving the ordinary role of the states as primary regulators of election procedure. Federal legislation that alters this allocation must therefore be evaluated not only for its textual authorization but also for its consistency with the structural principles that govern the relationship between the states and the national government. Properly understood, the constitutional balance reflected in the Elections Clause preserves both the supremacy of federal law when enacted and the continuing presumption that election administration begins with the states within a framework defined by the rule of law.

V. Equal Sovereignty and the Structural Limits on Federal Election Regulation

The constitutional allocation of authority over federal elections operates within a framework that preserves the equal sovereignty of the states as a structural principle limiting the scope of federal intervention into state election administration. Although Congress possesses authority under the Elections Clause to make or alter regulations governing the times, places, and manner of congressional elec-

tions, the Supreme Court has made clear that departures from the ordinary constitutional relationship between the states and the national government must respect the principle that the states retain equal dignity within the federal system. This principle reflects the broader rule of law commitment that structural reallocations of authority must be justified by demonstrable necessity rather than implemented as a matter of institutional preference.

The Supreme Court's decision in *Shelby County v. Holder* articulated the continuing importance of equal sovereignty as a constraint on federal election legislation that imposes unequal burdens upon the states. The Court explained that legislation representing a departure from the traditional balance between the states and the national government must be supported by a showing that disparate treatment among states is sufficiently related to the problem addressed by Congress. This requirement reflects the constitutional understanding that federal authority over elections, although substantial, operates within structural limits designed to preserve the integrity of the federal system.

The equal sovereignty principle has particular relevance when considering proposals that would substantially displace state authority over federal election procedures. The preclearance regime examined in *Shelby County* required certain states to obtain federal approval before implementing election laws that other states remained free to enact without similar oversight. The Court concluded that such unequal treatment required current justification tied to contemporary conditions rather than reliance upon historical circumstances alone. This reasoning confirms that federal legislation altering the constitutional allocation of election authority must remain responsive to present conditions and must preserve the structural equality of the states unless Congress demonstrates a sufficient basis for differential treatment.

Comprehensive federalization of election administration would represent a departure even more substantial than the regime examined in *Shelby County* because it would eliminate the presumption of state regulatory authority rather than subjecting that authority to conditional federal supervision. The structural principles articulated by the Court therefore suggest that legislation of this magnitude would require a correspondingly substantial demonstration of necessity grounded in contemporary conditions affecting the administration of federal elections. The Constitution's preservation of equal sovereignty confirms that the allocation of election authority to the states cannot be displaced without careful attention to the structural limits that govern federal intervention.

Properly understood, the principle of equal sovereignty reinforces the conclusion that the Elections Clause establishes a constitutional framework in which state authority serves as the ordinary foundation of election administra-

tion while federal intervention operates as a mechanism for ensuring constitutional compliance when justified by present necessity. The rule of law principles reflected in the Constitution therefore support an interpretation of the Elections Clause that preserves both congressional authority and the continuing structural role of the states within the federal electoral system.

VI. Equal Protection Requirements and the Need for Nonarbitrary Election Standards

Federal and state regulation of election procedures must operate within the constraints imposed by the Equal Protection Clause, which requires that the fundamental right to vote be protected against arbitrary or standardless administration. The Supreme Court has explained that election procedures must satisfy the minimum requirement of nonarbitrary treatment necessary to secure the equal weight and dignity of each vote. This principle confirms that both state and federal election systems must be governed by sufficiently clear standards to ensure consistent application across jurisdictions and voters.

At the same time, the Court has recognized that reasonable variation among jurisdictions does not itself violate equal protection where such variation is supported by legitimate purposes and structured by identifiable standards. Election administration therefore may accommodate differences among local jurisdictions without departing from constitutional requirements, provided those differences do not result in arbitrary or unequal treatment of voters. This understanding reinforces the constitutional framework in which state administration of elections operates as the baseline structure subject to federal oversight designed to ensure compliance with equal protection principles.

VII. State Autonomy in the Design of Election Administration Processes

The constitutional allocation of authority under the Elections Clause preserves meaningful state autonomy in the design and implementation of election administration processes, even as those processes remain subject to federal constitutional constraints. The Supreme Court has explained that the dominant purpose of the Elections Clause was to empower Congress to override state election rules when necessary rather than to restrict the methods by which states enact legislation governing elections in the first instance. This understanding confirms that the Constitution anticipates state initiative as the ordinary mechanism through which election procedures are established and maintained.

Consistent with this framework, the Court has recognized that states retain autonomy to structure their own governmental processes for regulating elections within the limits imposed by federal constitutional requirements. The Elections Clause does not exempt state legislatures from the

ordinary constraints of state law, nor does it prescribe the institutional form through which states must exercise their regulatory authority. Instead, the constitutional structure preserves a system in which state institutions remain responsible for the routine administration of elections while federal courts retain authority to ensure compliance with constitutional guarantees. This arrangement reflects a cooperative regulatory framework that preserves state responsibility as the constitutional baseline while maintaining federal oversight sufficient to secure the integrity of federal elections.

VIII. The Requirement of Clear Congressional Authorization Before Altering the Federal State Balance

The Supreme Court has long recognized that legislation altering the ordinary constitutional balance between the states and the national government must rest upon unmistakably clear congressional authorization. This principle reflects the structural understanding that the Constitution preserves a meaningful role for the states within the federal system and that substantial reallocations of authority cannot be presumed from ambiguous statutory language. When Congress exercises its authority under the Elections Clause in a manner that significantly displaces state responsibility for election administration, that exercise of authority must therefore be expressed with clarity sufficient to demonstrate that the alteration of the constitutional balance was deliberate rather than incidental.

The requirement of clear congressional authorization confirms that comprehensive federalization of election administration cannot arise through incremental or indirect statutory interpretation. Instead, legislation that substantially alters the traditional allocation of authority reflected in the Elections Clause must demonstrate an unmistakable intention to displace state regulatory responsibility. This interpretive principle preserves the constitutional structure in which state authority operates as the baseline framework for election administration while allowing Congress to intervene when it clearly determines that such intervention is necessary to secure the integrity of federal elections within the rule of law.

IX. Contemporary Judicial Decisions Confirm the Continuing Dual Structure of Election Regulation

Recent judicial decisions confirm that the Elections Clause continues to operate within a framework of cooperative regulation that preserves state authority as the constitutional baseline while recognizing the supremacy of federal law when Congress properly exercises its authority. The Supreme Court's decision in *Moore v. Harper* clarified that state legislatures remain subject to the ordinary constraints imposed by state law when regulating federal elections and that both state courts and federal courts retain authority to ensure compliance with constitutional requirements. This decision confirms that the Elections Clause does not

establish exclusive authority in any single institutional actor but instead preserves a system of shared responsibility governed by constitutional limits.

Lower federal courts have likewise reaffirmed that federal legislation enacted pursuant to the Elections Clause supersedes inconsistent state procedures while preserving the constitutional presumption that states serve as the initial regulators of election administration. Decisions recognizing federal supremacy in properly enacted election statutes demonstrate that congressional authority remains substantial within its constitutional sphere, yet those decisions operate within a framework that continues to treat election regulation as a cooperative enterprise between the states and the national government rather than as an area of exclusive federal control.

Current litigation addressing the relationship between federal election statutes and state procedural rules further illustrates the continuing relevance of this dual structure. Questions concerning whether federal election day statutes preempt state laws governing the timing of ballot receipt demonstrate that courts continue to evaluate election regulation through the constitutional framework established by the Elections Clause, which assigns states primary responsibility subject to congressional authority to make or alter those regulations when necessary. These developments confirm that the Constitution preserves a regulatory structure grounded in cooperation, supremacy when exercised, and continuing respect for the constitutional role of the states in election administration.

X. Conclusion

The Constitution does not leave the administration of federal elections to accident or improvisation. It assigns responsibility in a manner that reflects both structural foresight and institutional restraint. Article I, Section 4 establishes a framework in which the states prescribe the times, places, and manner of holding elections for Members of Congress in the first instance while preserving for Congress the authority to make or alter those regulations when necessary to secure the integrity of the national electoral system. This allocation reflects a deliberate constitutional judgment that election administration should originate at the state level within a structure that preserves national supervisory authority sufficient to ensure constitutional compliance and electoral legitimacy.

The Supreme Court's election law decisions confirm that this framework remains operative today. Congress possesses paramount authority when it acts pursuant to the Elections Clause, yet the exercise of that authority occurs within a constitutional structure that treats substantial departures from the traditional federal state relationship as extraordinary measures requiring contemporary justification. Federal intervention that alters the constitutional baseline of state regulatory responsibility must therefore

be evaluated not only for its textual authorization but also for its consistency with principles of equal sovereignty, equal protection, and the preservation of the constitutional balance between the states and the national government.

The rule of law requires more than the existence of authority. It requires that authority be exercised within the structural commitments that give it legitimacy. The Elections Clause reflects such a commitment. It preserves the capacity of Congress to protect the integrity of federal elections while maintaining the presumption that election administration begins with the states. That presumption is not a matter of administrative convenience. It is a feature of constitutional design that ensures federal supervision without federal consolidation of the mechanisms by which national political power is obtained.

Recent decisions addressing the relationship between state election procedures and federal oversight confirm that the Constitution continues to anticipate cooperative regulation rather than exclusive control by either sovereign. Courts have reaffirmed both the supremacy of federal law when enacted pursuant to the Elections Clause and the continuing authority of state institutions to structure election administration within constitutional limits. These decisions reflect a constitutional system in which authority is distributed rather than concentrated and in which legitimacy arises from adherence to structure as well as to text

Taken in its proper context, the Elections Clause does not merely authorize regulation. It preserves a constitutional equilibrium. The states regulate in the first instance. Congress retains authority to intervene when necessary. Courts ensure that both sovereigns remain within constitutional bounds. This arrangement reflects a structural safeguard that protects the integrity of federal elections while preserving the balance that the Constitution carefully establishes between the states and the national government.

The Constitution therefore does not treat election administration as a domain to be centralized whenever national interests are invoked. It treats the allocation of authority itself as a component of the rule of law. Federalization remains constitutionally permissible where justified by present necessity and clearly expressed congressional judgment. Yet absent such justification, the constitutional structure continues to presume that the administration of federal elections begins with the states and proceeds under a system of cooperative oversight that preserves both national supremacy when exercised and the enduring role of the states within the federal electoral system.

Postscript: This article is written in appreciation of a distinguished jurist of Western New York whose deep knowledge of election law first awakened the author's interest in the subject at a formative stage and whose example continues to inform the author's approach to constitutional structure and the rule of law.