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## The Supremacy Clause

Ensuring Constitutional Limits on Federal Authority

### Abstract

This white paper explores the Supremacy Clause in the U.S. Constitution, emphasizing that only laws which are constitutional are supreme. It argues that the 17<sup>th</sup> Amendment has weakened the most effective defense and support of the Supremacy Clause, thus necessitating a return to the original constitutional framework to maintain the balance of power.

### Introduction

The Supremacy Clause, found in Article VI, Clause 2 of the U.S. Constitution, declares that federal laws made pursuant to the Constitution are the “supreme Law of the Land.” This paper examines the founders’ original intent behind the clause, its contemporary interpretations, and the impact of the 17<sup>th</sup> Amendment on its effectiveness.

## The Original Intent of the Supremacy Clause

The Supremacy Clause states:

*“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land.”*

### Founders’ Perspectives

**James Madison** emphasized that only constitutional laws are supreme. In Federalist No. 45, he stated:

“The powers delegated by the proposed Constitution to the federal government are few and defined.”

**Alexander Hamilton** also underscored this limitation in Federalist No. 33:

*“It will not, I presume, have escaped observation, that it expressly confines this supremacy to laws made pursuant to the Constitution.”*

These statements reflect the founders' intent that the federal government should operate within a framework of enumerated powers, ensuring that only laws aligned with the Constitution hold supremacy.

## Contemporary Interpretations and Misinterpretations

### Broad Interpretation of Federal Authority

Modern interpretations often overlook the requirement that federal laws must be “pursuant to the Constitution” to be considered supreme. This has led to significant federal overreach, justified under the Supremacy Clause.

### Judicial Oversight

The Supreme Court plays a crucial role in interpreting the Supremacy Clause. While the Court has sometimes upheld the constitutional limits, it has also allowed for broader interpretations that expand federal power. Examples include cases where the Court has either upheld or struck down federal laws based on their constitutionality, impacting the balance of federal and state authority.

## The 17<sup>th</sup> Amendment and Its Impact

### Original Framework: Senators Appointed by State Legislatures

The original Constitution mandated that state legislatures appoint Senators, ensuring that states had direct representation in federal legislative decisions. **James Madison** in Federalist No. 45 articulated this balance:

“The Senate will be elected absolutely and exclusively by the State legislatures.”

### The 17<sup>th</sup> Amendment: Direct Election of Senators

The 17<sup>th</sup> Amendment, ratified in 1913, changed this process to direct election by the people. This shift weakened state representation and oversight of federal power.

### Consequences of the 17<sup>th</sup> Amendment

The direct election of Senators has led to increased federal power, diluting the states' ability to check federal overreach. This change removed a critical defense and support mechanism for the Supremacy Clause, originally intended to maintain the balance of power.

# Ensuring Constitutional Limits on Federal Authority

## Importance of Adhering to the Constitution

It is crucial to recognize that only laws made in accordance with the Constitution are supreme. \*\*Thomas Jefferson\*\* emphasized this principle:

*“On every question of construction, [let us] carry ourselves back to the time when the Constitution was adopted.”*

## Restoring the Balance of Power

To restore the original intent of the Supremacy Clause, we must reinforce the principle that the Constitution is the ultimate guide for federal laws. This includes challenging federal overreach and upholding state sovereignty.

## Repealing the 17<sup>th</sup> Amendment

Repealing the 17<sup>th</sup> Amendment would restore state representation in the Senate, reinforcing the balance of power. \*\*Patrick Henry\*\* highlighted the importance of the Senate as a safeguard:

*“The Senate, as a branch of the legislature, will be a safeguard against improper measures.”*

## Conclusion

The Supremacy Clause is vital for maintaining constitutional limits on federal authority. Adhering strictly to the Constitution ensures that federal laws do not overstep their bounds. The 17<sup>th</sup> Amendment’s impact on state representation necessitates reconsideration to restore the balance of power. By returning to the original framework, we uphold the founders’ vision of a government that serves the people without overreaching its authority.

## References

- Madison, James. Federalist No. 45
- Hamilton, Alexander. Federalist No. 33
- Jefferson, Thomas. Letter to William Johnson, 1823.
- Henry, Patrick. Speech at the Virginia Ratifying Convention, 1788.
- The U.S. Constitution, Article VI, Clause 2.