The "fiction" remains a mainstay of our jurisprudence.[131] It accounts for a great deal of the litigation brought by individuals to challenge the carrying out of state policies. Suits against state officers alleging that they are acting pursuant to an unconstitutional statute are the standard device by which to test the validity of state legislation in federal courts prior to enforcement and thus interpretation in the state courts.[132] Similarly, suits to restrain state officials from taking certain actions in contravention of federal statutes[133] or to compel the undertaking of affirmative obligations imposed by the Constitution or federal laws[134] are common.

For years, moreover, the accepted rule was that suits prosecuted against state officers in federal courts upon grounds that they are acting in excess of state statutory authority[135] or that they are not doing something required by state law[136] are not precluded by the Eleventh Amendment or its emanations of sovereign immunity,

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[131] *E.g.*, Ray v. Atlantic Richfield Co., 435 U.S. 151, 156 n.6 (1978) (rejecting request of state officials being sued to restrain enforcement of state statute as preempted by federal law that *Young* be overruled); Florida Dep't of State v. Treasure Salvors, 458 U.S. 670, 685 (1982).

[132] *See*, *e.g.*, Home Tel. & Tel. Co. v. City of Los Angeles, 227 U.S. 278 (1913); Truax v. Raich, 239 U.S. 33 (1915); Cavanaugh v. Looney, 248 U.S. 453 (1919); Terrace v. Thompson, 263 U.S. 197 (1923); Hygrade Provision Co. v. Sherman, 266 U.S. 497 (1925); Massachusetts State Grange v. Benton, 272 U.S. 525 (1926); Hawks v. Hamill, 288 U.S. 52 (1933). *See also* Graham v. Richardson, 403 U.S. 365 (1971) (enjoining state welfare officials from denying welfare benefits to otherwise qualified recipients because they were aliens); Goldberg v. Kelly, 397 U.S. 254 (1970) (enjoining city welfare officials from following state procedures for termination of benefits); Milliken v. Bradley, 433 U.S. 267 (1977) (imposing half the costs of mandated compensatory education programs upon state through order directed to governor and other officials). On injunctions against governors, *see* Continental Baking Co. v. Woodring, 286 U.S. 352 (1932); Sterling v. Constantin, 287 U.S. 378 (1932). Applicable to suits under this doctrine are principles of judicial restraint—constitutional, statutory, and prudential—discussed under Article III.

[133] *E.g.*, Edelman v. Jordan, 415 U.S. 651, 664–68 (1974); Ray v. Atlantic Richfield Co., 435 U.S. 151 (1978).

[134] *E.g.*, Milliken v. Bradley, 433 U.S. 267 (1977); Edelman v. Jordan, 415 U.S. 651, 664–68 (1974); Quern v. Jordan, 440 U.S. 332, 346–49 (1979).

[135] *E.g.*, Pennoyer v. McConnaughy, 140 U.S. 1 (1891); Scully v. Bird, 209 U.S. 481 (1908); Atchison, T. & S. F. Ry. v. O'Connor, 223 U.S. 280 (1912); Greene v. Louisville & Interurban R.R., 244 U.S. 499 (1977); Louisville & Nashville R.R. v. Greene, 244 U.S. 522 (1917). Property held by state officials on behalf of the state under claimed state authority may be recovered in suits against the officials, although the court may not conclusively resolve the state's claims against it in such a suit. South Carolina v. Wesley, 155 U.S. 542 (1895); Tindal v. Wesley, 167 U.S. 204 (1897); Hopkins v. Clemson College, 221 U.S. 636 (1911). *See also* Florida Dep't of State v. Treasure Salvors, 458 U.S. 670 (1982), in which the eight Justices who agreed that the Eleventh Amendment applied divided 4-to-4 over the proper interpretation.

[136] *E.g.*, Rolston v. Missouri Fund Comm'rs, 120 U.S. 390 (1887); Atchison, T. & S. F. Ry. v. O'Connor, 223 U.S. 280 (1912); Johnson v. Lankford, 245 U.S. 541, 545 (1918); Lankford v. Platte Iron Works Co., 235 U.S. 461, 471 (1915); Davis v. Wallace, 257 U.S. 478, 482–85 (1922); Glenn v. Field Packing Co., 290 U.S. 177, 178 (1933); Lee v. Bickell, 292 U.S. 415, 425 (1934).