

CL. 3—Oath of Office

the United States are the supreme law of the land, and to these every citizen of every State owes obedience, whether in his individual or official capacity.”²⁹⁹

Conflict thus developed early between these two doctrinal lines. But it was the *Siebold* line that prevailed. Enforcement of obligations upon state officials through mandamus or through injunctions was readily available, even when the state itself was immune, through the fiction of *Ex parte Young*,³⁰⁰ under which a state official could be sued in his official capacity but without the immunities attaching to his official capacity. Although the obligations were, for a long period, in their origin based on the United States Constitution, the capacity of Congress to enforce statutory obligations through judicial action was little doubted.³⁰¹ Nonetheless, it was only recently that the Court squarely overruled *Dennison*. “If it seemed clear to the Court in 1861, facing the looming shadow of a Civil War, that ‘the Federal Government, under the Constitution, has no power to impose on a State officer, as such, any duty whatever, and compel him to perform it,’ . . . basic constitutional principles now point as clearly the other way.”³⁰² That case is doubly important, because the Court spoke not only to the Extradition Clause and the federal statute directly enforcing it, but it also enforced a purely statutory right on behalf of a Territory that could not claim for itself rights under the clause.³⁰³

Even as the Court imposes new federalism limits upon Congress’s powers to regulate the states as states, it has reaffirmed the principle that Congress may authorize the federal courts to compel state officials to comply with federal law, statutory as well as constitutional. “[T]he Supremacy Clause makes federal law paramount over the contrary positions of state officials; the power of federal courts to enforce federal law thus presupposes some authority to order state officials to comply.”³⁰⁴

²⁹⁹ 100 U.S. at 392.

³⁰⁰ 209 U.S. 123 (1908). See also *Board of Liquidation v. McComb*, 92 U.S. 531, 541 (1876).

³⁰¹ *Maine v. Thiboutot*, 448 U.S. 1 (1980).

³⁰² *Puerto Rico v. Branstad*, 483 U.S. 219, 227 (1987) (*Dennison* “rests upon a foundation with which time and the currents of constitutional change have dealt much less favorably”).

³⁰³ In including territories in the statute, Congress acted under the Territorial Clause rather than under the Extradition Clause. *New York ex rel. Kopel v. Bingham*, 211 U.S. 468 (1909).

³⁰⁴ *New York v. United States*, 505 U.S. 144, 179 (1992). See also *FERC v. Mississippi*, 456 U.S. 742, 761–765 (1982); *Washington v. Washington State Commercial Passenger Fishing Vessel Ass’n*, 443 U.S. 658, 695 (1979); *Illinois v. City of Milwaukee*, 406 U.S. 91, 106–108 (1972).