political processes.[167] "[T]he fundamental limitation that the constitutional scheme imposes on the Commerce Clause to protect the 'States as States' is one of process rather than one of result."[168] While continuing to recognize that "Congress's authority under the Commerce Clause must reflect [the] position . . . that the States occupy a special and specific position in our constitutional system," the Court held that application of Fair Labor Standards Act minimum wage and overtime provisions to state employment does not require identification of these "affirmative limits."[169] Thus, arguably, the Court has not totally abandoned the *National League of Cities* premise that there are limits on the extent to which federal regulation may burden states as states. Rather, it has stipulated that any such limits on exercise of federal power must be premised on a failure of the political processes to protect state interests, and "must be tailored to compensate for [such] failings . . . rather than to dictate a 'sacred province of state autonomy.'"[170]

Further indication of what must be alleged in order to establish affirmative limits to commerce power regulation was provided in *South Carolina v. Baker*.[171] The Court expansively interpreted *Garcia* as meaning that there must be an allegation of "some extraordinary defects in the national political process" before the Court will intervene.[172] A claim that Congress acted on incomplete information will not suffice, the Court noting that South Carolina had "not even alleged that it was deprived of any right to participate in the national political process or that it was singled out in a way that left it politically isolated and powerless."[173] Thus, the general rule is that "limits on Congress's authority to regulate state activities . . . are structural, not substantive—*i.e.*, that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity."[174]

Dissenting in *Garcia*, Justice Rehnquist predicted that the doctrine propounded by the dissenters and by those Justices in *Na-*

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[167] "Apart from the limitation on federal authority inherent in the delegated nature of Congress's Article I powers, the principal means chosen by the Framers to ensure the role of the States in the federal system lies in the structure of the Federal Government itself." 469 U.S. at 550. The Court cited as prime examples the role of states in selecting the President, and the equal representation of states in the Senate. Id. at 551.

[168] 469 U.S. at 554.

[169] 469 U.S. at 556.

[170] 469 U.S. at 554.

[171] 485 U.S. 505 (1988).

[172] 485 U.S. at 512.

[173] 485 U.S. at 513.

[174] 485 U.S. at 512.