

**ROCKEFELLER COLLEGE  
STATE UNIVERSITY OF NEW YORK AT ALBANY**

**AMERICAN FEDERALISM SEMINAR**

Autumn 2011

Mr. Zimmerman

**I. SEMINAR DESCRIPTION**

The seminar examines the constitutional, political, and theoretical dimensions of the United States federal system, including the tensions between the planes of government, interstate relations, and the problem-solving capabilities of the federal system. Particular emphasis is placed upon the formal powers of each plane of government, the limitations upon these powers, the shifting power relationships between Congress and State Legislatures, and the adequacies of federalism theories in terms of explaining National-State Relations, Interstate Relations, and State-Local Relations in states with constitutional devolution of powers to general purpose local governments.

The major focus of the seminar is the political significance of the increasing Congressional use of preemption to restructure National-State-Local relations by removing regulatory powers from the state and the local governments.

**II. READING ASSIGNMENTS**

Joseph F. Zimmerman, *Congressional Preemption: Regulatory Federalism* (Albany: State University of New York Press, 2005).

Joseph F. Zimmerman, *Interstate Disputes: The Supreme Court's Original Jurisdiction* (Albany: State University of New York Press, 2006).

Joseph F. Zimmerman, *Interstate Economic Relations* (Albany: State University of New York Press, 2004).

*The Federalist Papers*. New York: New American Library, 1961.

Ketcham, Ralph, ed., *The Anti-Federalist Papers and the Constitutional Convention Debates* (New York: New American Library, 1986).

Although not required, **students are encouraged to read:**

Joseph F. Zimmerman, *Horizontal Federalism: Interstate Relations* (Albany: State University of New York Press, 2011).

Joseph F. Zimmerman, *Regulating the Business of Insurance in a Federal System* (Albany: State University of New York Press, 2010).

Joseph F. Zimmerman, *Congress: Facilitator of State Action* (Albany: State University of New York Press, 2010).

Joseph F. Zimmerman, et al. *Every Vote Equal: A State-Based Plan for electing the President by National Popular Vote*, 2<sup>nd</sup> ed. (Los Altos, California: National Popular Vote Press, 2009)

Joseph F. Zimmerman, *Contemporary American Federalism*, 2<sup>nd</sup> ed. (Albany: State University of New York Press, 2008).

Joseph F. Zimmerman, *The Silence of Congress: State Taxation of Interstate Commerce*. Albany: State University of New York Press, 2007.

Joseph F. Zimmerman, *Interstate Cooperation: Compacts and Administrative Agreements* (Westport, CT: Praeger Publishers, 2002).

Joseph F. Zimmerman, *State-Local Relations: A Partnership Approach*, 2<sup>nd</sup> ed. (Westport, CT: Praeger Publishers, 1995).

Joseph F. Zimmerman, *Curbing Unethical Behavior in Government* (Westport, CT: Greenwood Press, 1994).

Theodore J. Lowi, *The End of the Republican Era* (Norman: University of Oklahoma Press, 1995).

David B. Walker, *The Rebirth of Federalism*, 2<sup>nd</sup> ed. (Chatham, NJ: Chatham House Publishers Incorporated, 2000).

Students are encouraged to purchase a copy of *the Bluebook: A Uniform System of Citations*, 19<sup>th</sup> ed. (Cambridge, MA: Harvard Law Review Association, 2010).

In addition, students must read and write a “Reaction Report” on each of three books with an **asterisk** listed on the attached bibliography. **Two books on National-State Relations and one book on State-Local Relations must be selected.**

Each “Reaction Report” should be short (four pages maximum), and focus upon areas of agreement and disagreement. A “Reaction Report” should not be simply a summary of the book. Criticisms may include the author’s bias, conclusions, and methodology. For an example of a reaction report, see the attached review of *Welfare and Freedom American Style*.

“Reaction Reports” are due according to the following schedule: October 3, 2011, October 24, 2011, and November 14, 2011 (See the book review on page 7)/

### **III. FINAL EXAMINATION**

The last meeting of the seminar—December 12, 2011—is devoted to a final examination. No other written examination will be given. See the 2009 final examination on page 6.

#### **IV. RESEARCH PAPER**

Each student, except students registered for RPOS 520R, is expected to complete and submit two copies of a well-written and documented research on a congressional preemption act by November 28, 2011.

A short Prospectus (three pages maximum) is due on September 19, 2011, and should describe briefly the research topic and the methodology (library research, questionnaires, interviews, data analysis, etc.) to be employed.

Each research paper must examine the origin of a minimum standards preemption bill enacted into law by Congress, reasons advanced in favor of and in opposition to enactment of the bill, major provisions of the statute, major provisions of implementing administrative regulations, amendments to the law, and effectiveness of the statute in achieving its stipulated goals. Listed below are minimum standards preemption acts providing for delegation of regulatory primacy to states:

*Water Quality Act of 1965*, 79 Stat. 903, 33 U.S.C. §1151.  
*Air Quality Act of 1967*, 81 Stat. 485, 42 U.S.C. §1857.  
*Clean Air Amendments of 1970*, 84 Stat. 1676, 42 U.S.C. §1857.  
*Water Quality Improvement Act of 1970*, 84 Stat. 91, 33 U.S.C. §1152.  
*Water Pollution Control Act Amendments of 1972*, 86 Stat. 816, 33 U.S.C. §1151.  
*Safe Drinking Water Act of 1974*, 88 Stat. 1676, 42 U.S.C. §300.  
*Clean Water Act of 1977*, 84 Stat. 1676, 42 U.S.C. §1857.  
*Surface Mining and Reclamation Act of 1977*, 91 Stat. 445, 30 U.S.C. §1201.  
*Safe Drinking Water Act Amendments of 1977*, 91 Stat. 1393, 42 U.S.C. §300-f.  
*Safe Drinking Water Act Amendments of 1986*, 100 Stat. 1613, 42 U.S.C. §300.  
*Surface Mining Control and Reclamation Act Amendments of 1986*, 100 Stat. 3341,  
300 U.S.C. §1201.  
*Water Quality Act of 1987*, 101 Stat. 7, 33 U.S.C. §1251.  
*Clean Air Act Amendments of 1990*, 104 Stat. 2931, 16 U.S.C. §3501.

Care should be exercised in writing the paper to ensure that answers are provided to the following questions: Where? When? For Whom? By Whom? How? What?

A research paper MUST BE BASED UPON “PRIMARY SOURCES OF INFORMATION; *i.e.*, the original document or publication containing the information and personal interviews. A “secondary” source should be utilized only when the “primary” source is unavailable in the Capital District since a “secondary” source may contain typographical errors and/or contain material taken out of context. The New York State Library is one of the largest libraries in the United States and a “primary” source should be available in this Library if the source is unavailable in the University Library. The latter’s Inter-Library Loan Office usually can obtain a book from another library within a few days, and electronically can supply copies of most journal articles if you provide a complete citation for each requested article.

If you experience difficulty in locating materials, please contact Rockefeller College Bibliographer Richard Irving in the Dewey Graduate Library in Hawley Hall. Telephone: (518) 442-3698. E-Mail: [rirving@uamail.albany.edu](mailto:rirving@uamail.albany.edu)

**NOTES.** Documentation is important in a research paper, but over-documentation should be avoided. A complete citation must be provided for every direct and indirect quotation of a statement made by another individual. Citations must be provided for all constitutional provisions, statutes, administrative rules and regulations, court decisions, and opinions of Attorneys General and State Comptrollers or Auditors. In addition, a citation must be provided for information that is not general knowledge.

Notes must be placed at the **FOOT OF THE PAGE** of the research paper and must follow the style listed below.

1. The first reference to a work must be a full citation. Subsequent citations must be by the author's surname and an abridged but unambiguous form of title and the precise page number(s).
2. *Ibid.* may be used only when it affects a significant space saving.
3. *Op. Cit.* and *Loc. Cit.* must not be used.
4. A definite scheme of abbreviations may be used in the notes for sources cited repeatedly provided a list of abbreviations is provided.
5. Provide the name, address, and page numbers of Internet sources if available.
6. A citation to data obtained by interview should include the name of the interviewee, his/her title, the place of the interview, and the date of the interview. If subsequent references are made to the same interviewee, a statement may be included after the first citation that this source "hereinafter will be referred to as Smith Interview."
7. Exact page references must be cited.

**BIBLIOGRAPHY.** Your paper must include a bibliography, a list of internet sources with the names of the organizations, and a list of interviews if you conducted interviews. Each must be typed on a separate page with the headings **BIBLIOGRAPHY**, **LIST OF INTERNET SOURCES**, and **LIST OF INTERVIEWS**.

Depending on your sources of information, the bibliographic entries should be placed under the following categories: **Books and Monographs**, **Public Documents**, **Articles**, and **Unpublished Materials**. Each work cited in a note must be included in the Bibliography. Other works consulted but not cited must be included in the Bibliography. Please note that bibliographic entries are alphabetized by authors' surnames; *i.e.*, Smith, Robert A. For journals, include the volume number of each issue listed.

The **List of Interviews** must include the name and title of the interviewee, place of interviews, and date of interview. The **List of Internet Sources** must include the address and name of the source.

#### **V. OFFICE HOURS**

Office hours are Mondays 1:15-2:30 p.m., and Wednesdays and Fridays from noon to 2:30 p.m. in Richardson Hall, Room 288, on the downtown campus. Other office hours may be scheduled by appointment.

My office telephone number is 442-5378. If you are unable to reach me at my office, you may be able to contact me at my home (439-9440) or you may leave a voice mail message. Messages can be left in my mail box located on the first floor of Milne Hall. Facsimile: 442-5298. Electronic Mail: [zimmer@albany.edu](mailto:zimmer@albany.edu)

**Add the final examination on this page**

**Add the Book Review on this Page**

## SAMPLE NOTE AND BIBLIOGRAPHIC ENTRIES

### NOTES

- <sup>1</sup> *Ocean Dumping Ban Act of 1988*, 102 Stat. 4139, 33 U.S.C.A. § 1401A
- <sup>2</sup> Gaillard Hunt, ed., *The Writings of James Madison* (New York: G.P. Putnam's Sons, 1906), pp. 332-33.
- <sup>3</sup> Joseph F. Zimmerman, *Interstate Relations: The Neglected Dimension of Federalism* (Westport, CT: Praeger Publishers, 1996).
- <sup>4</sup> Edward S. Corwin, "The Passing of Dual Federalism," *Virginia Law Review*, February 1950, pp. 1-24.
- <sup>5</sup> *Chisholm v. Georgia*, 2 Dallas 219 at 435, 2 U.S. 219 at 435 (1793).
- <sup>6</sup> Hunt, ed., *The Writings of James Madison*, pp. 332-33.
- <sup>7</sup> *Ibid.*, p. 334.
- <sup>8</sup> Joseph F. Zimmerman and Sharon Lawrence, *Federal Statutory Preemption of State and Local Authority: History, Inventory, and Issues* (Washington, DC: United States Advisory Commission on Intergovernmental Relations, 1992).
- <sup>9</sup> *EPA and the States: Environmental Challenges Require a Better Working Relationship* (Washington, DC: United States General Accounting Office, 1995).
- <sup>10</sup> *Hearings before the Subcommittee on Air and Water Pollution of the Committee on Public Works, United States Senate, on S.780* (Washington, DC: United States Government Printing Office, 1967).

### SAMPLE BIBLIOGRAPHY

#### BOOKS AND PAMPHLETS

- Ackerman, Bruce A. and William T. Hassler. *Clean Coal/Dirty Air*. New Haven: Yale University Press, 1981.
- Anderson, William. *Intergovernmental Relations in Review*. Minneapolis: University of Minnesota Press, 1960.
- Calhoun, John C. *Disquisition on Government*. New York: Political Science Classics, 1947.



Lowi, Theodore J. *The End of Liberalism: The Second Republic of the United States*, 2nd ed. New York: Norton, 1979.

Melnick, R. Shep. *Regulation and the Courts: The Case of the Clean Air Act*. Washington, DC: The Brookings Institution, 1983.

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Zimmerman, Joseph F. *The Silence of Congress: State Taxation of Interstate Commerce*. Albany: State University of New York Press, 2007.

## **PUBLIC DOCUMENTS**

*Air Pollution: Environmental Protection Agency's Inspections of Stationary Sources*. Washington, DC: United States General Accounting Office, 1985.

Cuciti, Peggy L. *Federal Constraints on State and Local Government*. Washington, DC: Congressional Budget Office, 1979.

*Federal Mandate Relief for State, Local, and Tribal Governments*. Washington, DC: U.S. Advisory Commission on Intergovernmental Relations, 1996.

*The Future of Federalism in the 1980s*. Washington, DC: United States Advisory Commission on Intergovernmental Relations, 1981.

*The Role of OSHA—Approved State Plans in the National OSHA Program*. Washington, D.C.: Occupational Safety and Health Administration, 2001.

*Voluntary Silent Prayer Constitutional Amendment: Report of the Committee on the Judiciary, United States Senate on S.J. Res. 2*. Washington, DC: United States Government Printing Office, 1985.

Zimmerman, Joseph F. *Measuring Local Discretionary Authority*. Washington, DC: U.S. Advisory Commission on Intergovernmental Relations, 1981.

## **ARTICLES**

Abraham, Henry J. "Limiting Federal Court Jurisdiction: A Self-Inflicted Wound?" *Judicature*. 65 (October 1981): 178-84.

Howard, A.E. Dick. "Garcia and the Values of Federalism: On the Need for a Recurrence to Fundamental Principles." *Georgia Law Review* 19 (Summer 1985): 789-97.

Zimmerman, Joseph F. "The Federal Voting Rights Act and Alternative Election Systems." *William and Mary Law Review*. 19 (Summer 1978): 621-60.

Zimmerman, Joseph F. "Interstate Cooperation: The Roles of the State Attorneys General." *Publius: The Journal of Federalism*. 28 (Winter 1998): 71-89.

Zimmerman, Joseph F. "National-State Relations: Cooperative Federalism in the Twentieth Century." *Publius: The Journal of Federalism* 31, Spring 2001, pp. 15-30.

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Biden, Joseph R., Jr. "The Role of Advice and Consent in Constitutional Interpretation." Presented at the Georgetown University Law Center, November 6, 1985.

Hyde, Albert C. "The Politics of Environmental Decision Making: The Non-decision Issue." Unpublished Ph.D. dissertation, State University of New York at Albany, 1980.

Zimmerman, Joseph F. "A General Theory of American Federalism." Presented at Temple University, Philadelphia, Pennsylvania, March 28, 1990.

Zimmerman, Joseph F. "Federalism in the United States of America." Presented at Moscow State University, Moscow, U.S.S.R., June 4, 1990.

Zimmerman, Joseph F. "The United States Federal System: A Kaleidoscopic View." Presented at a research seminar, Rothermere American Institute, Oxford University, Oxford, England, November 23, 2004.

Zimmerman, Joseph F. "The Supreme court's original Jurisdiction: Interstate Disputes." Presented at the Annual Meeting of the American political Science Association, Washington, D.C., September 2, 2005.

### **SAMPLE INTERNET SOURCE**

Alan Cooper, "Out-of-this World Taxes are Voided: Satellite Devices Levy to be Refunded." *Richmond Times-Dispatch*, April 22, 2002. [www.timesdispatch.com/news/more/MGBON3HS80D.htm](http://www.timesdispatch.com/news/more/MGBON3HS80D.htm)

### **SAMPLE PUBLIC LAW CITATIONS**

<sup>1</sup> *Abelman v. Booth*, 21 Howard 506 at 516, 2 U.S. 506 at 516(1859).

<sup>2</sup> *Adler v. Deegan*, 251 N.Y. 467 at 473, 167 N.E. 705 at 707 (1929).

<sup>3</sup> *Atkins v. Kansas*, 191 U.S. 207 at 220-21, 24 S.Ct. 124 at 127 (1903).

- <sup>4</sup> *Constitution of the State of Florida*, art. V, § 20(4).
- <sup>5</sup> *Constitution of the State of New York*, art. IX, § 1.
- <sup>6</sup> *Gregory v. Ashcroft*, 501 U.S. 452 at 457, 111 S.Ct. 2395 at 2399 (1991).
- <sup>7</sup> *Merriam v. Moddy's Executors*, 25 Iowa 163 at 170 (1868).
- <sup>8</sup> *Opinion of the Justices to the House of Representatives*, 79 R.I. 177, 86 Atl.2d 693 (1952).
- <sup>9</sup> *Rhode Island Laws of 1979*, chap. 298, *General Laws of Rhode Island*, § 45-12-9 (1980).
- <sup>10</sup> *Safe Drinking Water Act of 1974*, 88 Stat. 1676, 42 U.S.C.A. § 300 (1991 and 1997 Supp.).
- <sup>11</sup> *South Carolina v. Dole*, 483 U.S. 203, 107 S.Ct. 2793 (1988).
- <sup>12</sup> *Tax Equity and Fiscal Responsibility Act of 1982*, 96 Stat. 324, 26 U.S.C.A. § 1 (1988).
- <sup>13</sup> *Telemarketing and Consumer Fraud and Abuse Prevention Act of 1994*, 108 U.S.C.A. § 6103 (1995 Supp.).
- <sup>14</sup> *Washington v. Davis*, 426 U.S. 229, 96 S.Ct. 2040 (1976).

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**SELECT BIBLIOGRAPHY**

**I. GENERAL REFERENCE**

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- The Book of the States*. Lexington, Kentucky: The Council of State Governments, published annually.
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