

邁向整合的崎嶇路 ——美國最高法院對聯邦權限的緊縮*

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摘要

一九九七年六月，美國最高法院作成 *Printz v. United States* 判決，認定根據美國憲法，聯邦政府不能要求州政府協助執行聯邦法律。本文探討此一判決，從歷史實踐、規範結構及判決先例來分析多數與少數意見。本文認為，最高法院在本案對於聯邦權限加以緊縮，加上其自九〇年代初期開始極力捍衛各州自主權限的趨勢，事實上已改寫了美國自新政以降一個傾向強大聯邦政府的憲政實態。不過，在後 *Printz* 時代，雖然最高法院的保守組合會繼續對聯邦權限採保留的基本態度，但也會適度給予聯邦政府一定的立法與管制權限，以求衡平可行的發展。

關鍵詞：聯邦原則、州自主權、二元主權、全球化

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**The Uneasy Road to Integration
—Narrowing the Scope of Federal Powers
by the U.S. Supreme Court**

Wen-Chen Chang

Abstract

In June 1997, the U.S. Supreme Court rendered *Printz v. United States*, ruling that in accordance with federal principles prescribed in the Constitution, the federal government lacked the power to commandeer local government officials to help enforce federal laws. This article aims at analyzing the ruling of *Printz* and the disputes between majority and dissenting opinions from three perspectives: historical practice, constitutional structure and precedence. The author argues that in *Printz*, the U.S. Supreme Court narrowed the scope of federal powers significantly, and that this decision, in addition to other cases rendered by the Court since the 1990s, has transformed the federal structure inclined to federal powers developed since the New Deal of the 1930s. A constitutional change has occurred and the current federal structure has swung back to the local government side. However, in the post-*Printz* era, while the Court would continue narrowing the scope of federal powers, facing the challenge of human rights protection and a more globalized world, the Court must strike a balance between federal and local powers and leave the federal government some room to face future challenges.

Key Words: federalism, state sovereignty, dual sovereignty, globalization