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Redefining Federalism: Listening to the States in Shaping ...

Redefining Federalism argues that, by listening more carefully to the states, the Supreme Court could transform its federalism jurisprudence from a source of criticism and polarization to a doctrine that should win broad support across the political spectrum.

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Redefining Federalism Listening To The States In Shaping ...

This Article is a highly abbreviated and slightly modified version of Redefining Federalism: Listening to the States in Shaping "Our Federalism" (Envtl. L. Inst. 2004). I edited Redefining Federalism, and wrote it together with five contributing authors: Jay Austin, Jennifer Bradley, Tim Dowling, Jim Ryan, and Jason Rylander.

Redefining Federalism | Environmental Law Reporter

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called Redefining Federalism: Listening to the States in Shaping "Our Federalism," published in November 2004, by ELI, these briefs contain both an indictment of the Court's current federalism and a road map for a new federalism jurisprudence that restores the vision of the great Justice Louis Brandeis of states and local governments as the labo-

If federalism is about protecting the states, why not listen to them? In the last decade, the Supreme Court has reworked significant areas of constitutional law with the professed purpose of protecting the dignity and authority of the states, while frequently disregarding the states' views as to what federalism is all about. The Court, according to the states, is protecting federalism too much and too little. Too much, in striking down federal law where even the states recognize that a federal role is necessary to address a national problem. Too little, in inappropriately limiting state experimentation. By listening more carefully to the States, the Supreme Court could transform its federalism jurisprudence from a source of criticism and polarization to a doctrine that should win broad support from across the political spectrum. In this important book, six distinguished authors redefine federalism and reaffirm Justice Louis Brandeis's vision of states and localities as the laboratories of democracy.

America builds on the edge of disaster prone areas on seashores and rivers, next to highly flammable forests, and in valuable wetlands. The property rights and the investment-backed expectations of land owners stand as key hurdles to the use of government regulation to mitigate disasters. While the integration of the natural and built environments is the leitmotif of modern planning philosophy, this causes tremendous tension when trying to reduce the economic, social, and human toll of natural disasters. The challenge of public policy is not to decry these cultural and political realities, but to draw upon them and also to challenge them in the service of sensible environmental regulation. *Losing Ground: A Nation on Edge* calls attention to the emerging issues involved in building on the edge of vulnerable places, explores why we do this, and proposes ways to mitigate its impact. This volume contains creative thinking and informative analysis about new approaches to ecosystem management and environmental regulation that localities and states can implement to protect the environment, society, and property rights. This book proudly joins ELI's *Ground Suite* the original critically acclaimed suite of books on land use and environmental law by Professor John Nolon. Show more Show less

Over the last 30 years, we have made great progress in curbing the most obvious pollution largely due to effective enforcement of federal and state environmental statutes. Now, however, there is increasing skepticism of the efficiency and even the constitutionality of our bedrock environmental laws from all branches of the federal government, including the courts. This book is the result of lively debate at the conference *Alternative Grounds: Defending the Environment in an Unwelcome Judicial Climate*, held on November 11, 2004, and co-sponsored by the University of Florida's Levin College of Law and the Environmental Law Institute. Topics ranged from U.S. Supreme Court trends in environmental law jurisprudence, to innovative federal and state constitutional and statutory arguments that defend environmental protections, to federal provisions most vulnerable to attack on federalism, takings, and separation-of-powers grounds. This thought-provoking and insightful collection of essays provides smart, realistic solutions to the profound and complex legal challenges facing defenders of our environmental protections. With contributions by: Richard J. Lazarus, Sean H. Donahue, Paul Boudreaux, William W. Buzbee, Robert L. Glicksman, Alyson C. Flournoy, Christopher H. Schroeder, Douglas T. Kendall, Susan George, J.B. Ruhl, Donald W. Stever, and Mary Jane Angelo.

Within the United States, minority and low-income communities currently bear a disproportionate amount of risk associated with pollution and other harmful environmental practices. The environmental justice movement is working to change this fact, promoting the fair and non-discriminatory treatment of all people with respect to environmental issues, policies, and regulations. This fascinating and timely volume explores the relationship between environmental justice and the government, offering a comprehensive introduction to the legal, economic, and philosophical concerns involved in pursuing environmental justice goals within a federalist system. The authors discuss two case studies in their investigation of the complex interactions between environmental justice and government. These analyses offer a comprehensive view of both the siting and regulation of polluting activities, as well as a discussion of the effects on major natural resources such as clean air and drinking water. In each case, the authors both describe current government responses to the problem and offer specific recommendations regarding what actions should be taken in the future. This authoritative book will make an invaluable addition to courses in environmental law and policy. Professionals and policymakers working in disciplines such as law, economics,

environmental science, philosophy and political science will also find this a comprehensive and critical reference.

This thoughtful book provides an overview of the major developments in the theory and practice of "environmental justice". It illustrates the direction of the evolution of rights of nature and exposes the diverse meanings and practical uses of the conc

In this lively historical examination of American federalism, a leading scholar in the field refutes the widely accepted notion that the founding fathers carefully crafted a constitutional balance of power between the states and the federal government. Edward A. Purcell Jr. bases his argument on close analysis of the Constitution's original structure and the ways that structure both induced and accommodated changes over the centuries. There was no clear agreement among the founding fathers regarding the "true" nature of American federalism, Purcell contends, nor was there a consensus on "correct" lines dividing state and national authority. Furthermore, even had there been some true "original" understanding, the elastic and dynamic nature of the constitutional structure would have made it impossible for subsequent generations to maintain any "original" or permanent balance. The author traces the evolution of federalism through the centuries, focusing particularly on shifting interpretations founded on political interests. He concludes with insights into current issues of federal power and a discussion of the grounds on which legitimate decisions about federal and state power should rest.

The book aims at understanding the current distribution and use of powers over the environment among various layers of government and their consequences on environmental protection, comparing federal, regional and unitary State models and drawing theoretical and practical consequences.

Water, policy and procedure -- Water resource availability in Britain -- Institutions and legislation for resource management -- The catchment approach : ways and means -- Sustaining bulk supply : consumption and interference -- Sustaining bulk supply : possible solutions -- Water quality background issues -- Environmental issues of water quality and quantity -- Towards solutions : land use and technical fixes -- Framing water policies : emerging governance arrangements -- The USA, Australasia and Europe : lessons to be learned?

This important book investigates the environmental legal frameworks, court structures and relevant jurisprudence of nineteen countries, representing legal systems and legal cultures from a diverse array of countries situated across the globe. In doing so, it distils comparative trends, new developments, and best practices in adjudication endeavours, highlighting the benefits and shortcomings of the judicial approach to environmental governance.

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