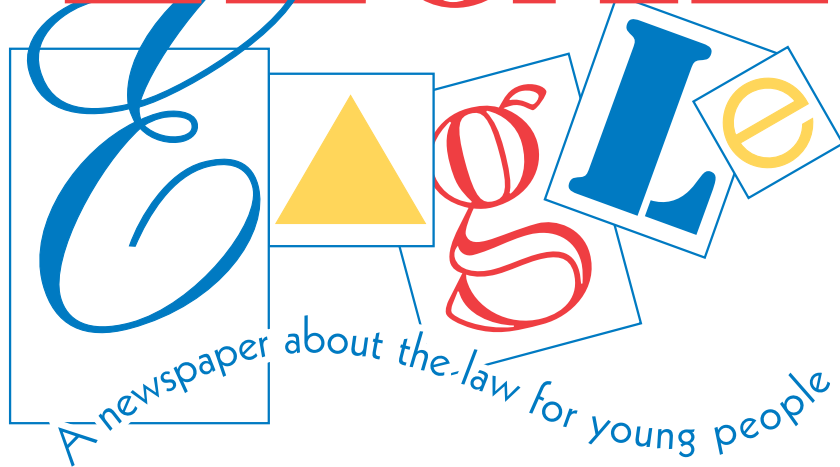


# LEGAL



WINTER 2012

## No More Life Sentences for Juvenile Non-Homicide Offenders

by Barbara Sheehan

When an adult is convicted of a serious crime, like armed robbery, he or she faces harsh consequences, possibly even life in prison. What if this same crime is committed by a juvenile, someone under the age of 18? Should he or she be subjected to the same punishment?



### The ruling is...

In *Graham v. Florida*, the U.S. Supreme Court considered this question in a groundbreaking case involving a Florida teen named Terrance Jamar Graham, who was arrested for a number of

CONTINUED ON PAGE 6

## United States Still Finding its Way on Climate Change

by Cheryl Baisden

In the past year, the United States has experienced a devastating hurricane, sweeping clusters of violent tornadoes, torrential rains that washed away communities and severe droughts that turned farmland into dust devils. Some people say the wild weather is all Mother Nature's doing; others point an accusing finger at Mankind. At its core, the debate over changes in our climate, sometimes called global warming, focuses not only on what is causing



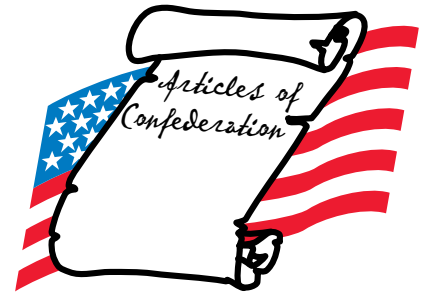
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## States' Rights Controversial Since 1789

Phyllis Raybin Emert

The question of states' rights has been a divisive issue since the founding of this country and is taking center stage again with the upcoming presidential election.

Some argue that the federal government is too big, complaining that taxes are too high and the government spends too much. While U.S. citizens expect certain federal services such as Social Security, Medicare and a military to keep them safe, many believe that decisions about health care, marriage and privacy, should be made at the state and/or local level.



### If at first you don't succeed....

The Founding Fathers' first attempt at governing the country took the form of the Articles of Confederation, which was **ratified** by all 13 colonies in 1781. Under the Articles of Confederation, the U.S. Congress had no power to tax or regulate trade; there was no national judicial system; and no executive branch of government. The states were **autonomous** and not always united, making the central government weak. Some states actually made agreements with foreign countries, printed their own money and had their own armies.

By contrast, the U.S. Constitution promoted a strong central government supported by the states. The Founders gave the U.S. Congress the right to impose and collect taxes, regulate trade, coin money,

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This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

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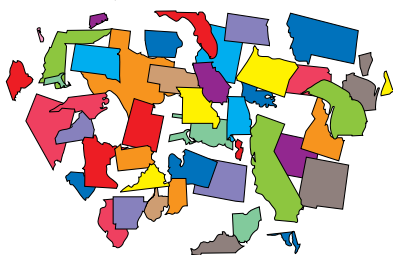
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## States' Rights CONTINUED FROM PAGE 1

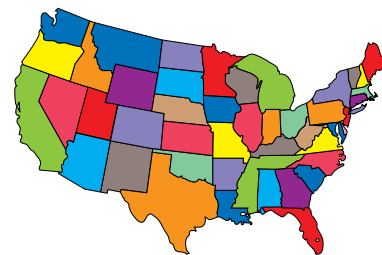
create post offices, establish a court system and raise an army and a navy. By 1788, nine states had ratified the U.S. Constitution and it officially replaced the Articles of Confederation in 1789.

The 10th Amendment to the U.S. Constitution addressed the powers reserved to the states. It reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

While the Civil War resulted from a variety of issues and differences among Northern and Southern states, this amendment was cited by the Southern states as a basis to secede from the Union. Today, some political groups point to the 10th Amendment as the source for more states' rights and less power by the central government.



**VS.**



They believed that powers not expressly granted to the federal government should be given to the states. In his book, *Liberty, Order and Justice: An Introduction to the Constitutional Principles of American Government*, Dr. James McClellan wrote that Thomas Jefferson had two rules for the interpretation of the U.S. Constitution. They were to "reserve to the States authority over all matters that affected only their own citizens," and "construe the Constitution as the Founding Fathers would have construed it...not whether the original meaning of the Constitution should be followed, but what the Framers intended."

The U.S. Supreme Court decides issues of constitutionality. Composed of nine appointed members who often have different political experiences and backgrounds, these justices sometimes interpret

### Interpretation is everything

From the beginning, the Founders argued over the interpretation of the U.S. Constitution. The Federalist Party, including George Washington, Alexander Hamilton and John Adams, favored a strong central government that originated from a loose interpretation of the U.S. Constitution's actual and indirect powers. Their thinking was that only if the U.S. Constitution specifically forbade something could it not be done.

Thomas Jefferson, James Madison and other Democratic-Republicans interpreted the U.S. Constitution in a more narrow or strict way.

words and terms differently from one another. Since the Civil War, the U.S. Supreme Court has been divided between strict and loose constructionists. In his book, Dr. McClellan, who is a fellow of the Institute of the United States at the University of London, wrote, "If the powers are defined broadly, the federal government tends to benefit. A narrow definition restricting the scope of a federal power usually works to the advantage of the states."

### Federal laws are dominant

Common states' rights issues include the death penalty, gay marriage and assisted suicide. If a

# The U.S. Constitution—Living or Dead?

There are two schools of thought regarding the U.S. Constitution. The first is that the U.S. Constitution is a living, dynamic document that can change as society continues to evolve in its beliefs on various issues. Some believe that the views of a document written in the 18th century by the men of that time period, although the best and the brightest, may be outdated and unacceptable today. They think that the Founding Fathers purposely wrote the U.S. Constitution in a general but flexible way to allow for changes over time.

The second school of thought is that the U.S. Constitution should be interpreted as it was written and the only changes allowed to the document would be through the difficult and time-consuming amendment process. This group of judicial thinkers looks to the original meaning and intent of the Founders.

## A living document

Legal scholars have argued over the Constitution as a “living document” for hundreds of years. The term is sometimes credited to former U.S. Supreme Court Justice Oliver Wendell Holmes Jr.

In a 1920 decision, Justice Holmes wrote, “It was enough for them [the framers of the Constitution] to realize or to hope that they had created an organism; it has taken a century and has cost their successors much sweat and blood to prove that they created a nation. The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago.” In 1914, Justice Holmes also wrote, “The provisions of the Constitution are not mathematical formulas....they are organic, living institutions.”

Justice Stephen Breyer, who currently sits on the U.S. Supreme Court, agrees with Justice Holmes’ theory and his book, *Making Our Democracy Work: A Judge’s View* is largely about the Constitution as a “living document.” In an interview with National Public Radio, Justice Breyer said, “Much in the Constitution is written in a very general way. Words like freedom of speech do not define themselves, nor does the word liberty. And what they intended, I believe, with these very basic values, is a document that would last hundreds of years. They didn’t foresee automobiles, or television or radio. And yet they wrote words that can apply to those changing circumstances.”

Current U.S. Supreme Court Justices Antonin Scalia and Clarence Thomas disagree with the living document theory. In a *Wall Street Journal* article, Justice Thomas said, “Let me put it this way, there are really only two

ways to interpret the Constitution—try to discern as best we can what the framers intended or make it up. No matter how ingenious, imaginative or artfully put, unless interpretive methodologies are tied to the original intent of the framers, they have no more basis in the Constitution than the latest football scores.”

Justice Scalia believes in an “enduring” not an “evolving” Constitution. He opposes the view that current society can give different meanings to terms in the Constitution and considers it a fixed document that can only be changed by the amendment process.

In a lecture given at the University of Richmond, Justice Scalia said, “Under the guise of interpreting the Constitution and under the banner of a living Constitution, judges, especially those on the Supreme Court, now wield an enormous amount of political power because they don’t just apply the rules that have been written, they create new rules.” In his book, *A Matter of Interpretation*, Justice Scalia wrote, “By trying to make the Constitution do everything that needs doing from age to age, we shall have caused it to do nothing at all.”

## Jefferson’s thoughts

Thomas Jefferson warned about the judiciary’s power to change the Constitution to its will. When Jefferson became president in 1801, he wrote, “The Constitution on which our union rests, shall be administered by me according to the safe and honest meaning contemplated by the plain understanding of the people of the United States, at the time of its adoption...”

Later in 1816, in a letter to a friend, Jefferson seemed to have changed his mind. He wrote, “I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.”

Should the Constitution be interpreted as a historical document with original meaning and intent, or as a living document that applies to modern society? Scholars and judges agree to disagree.

—Phyllis Raybin Emert



## Climate Change CONTINUED FROM PAGE 1

those changes but also if and how they should be addressed.

While many use the terms global warming and climate change to mean the same thing, global warming refers to an increase in the average temperature of the Earth's surface and is believed to contribute to climate change.

### Climate change 101

Throughout Earth's history, climate changes have taken place—from ice ages to prolonged periods of warming. Usually these dramatic shifts, which affect the temperature, rainfall and wind for extended periods of time, were caused by nature, the result of volcanic eruptions and other natural activity that impacted the way the sun warmed the Earth. Since the start of Industrial Revolution in the late 18th century, however, human activity has also been impacting the environment, according to scientists. Burning fossil fuels like coal and oil, and changing the natural landscape by cutting down trees and clearing land for buildings and roads, has increased the levels of heat-trapping "greenhouse gases" in the atmosphere. These gases keep the heat generated by the Earth from escaping into space, functioning like a greenhouse.

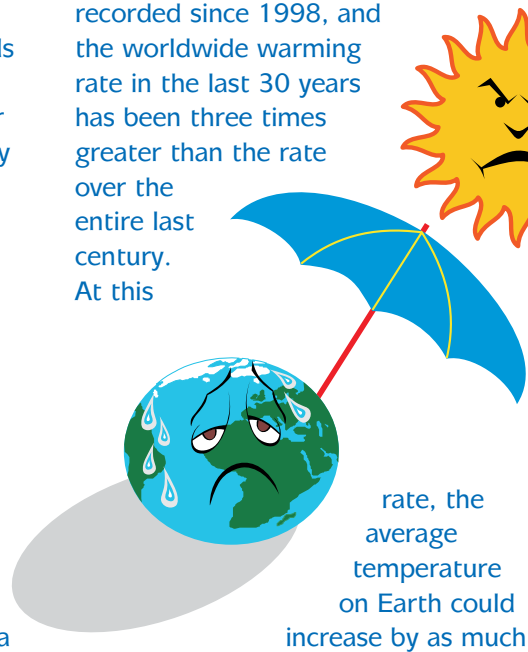
Increasing greenhouse gases makes the planet's surface warmer, which creates more moisture, raising sea levels and causing flooding. This added moisture, in turn, can raise temperatures even higher, causing a vicious cycle. At the same time, other regions experience far drier weather as a result of the warmer temperatures, causing an increase in wildfires and drought. The effects of these climate changes can include habitat losses like melting polar ice caps in the arctic regions, changes in plant and animal life, more dramatic weather conditions, and a rise in climate-related illnesses and diseases.

If it weren't for China, the U.S. would be the

world's main producer of greenhouse gas emissions, with more than 85 percent of the nation's emissions caused by burning fossil fuels to generate electricity and heat, and for transportation.

### Where we stand today

According to research conducted by the National Oceanic and Atmospheric Administration (NOAA) and the National Aeronautics and Space Administration (NASA), the eight warmest years since data collection began in 1850 have all been recorded since 1998, and the worldwide warming rate in the last 30 years has been three times greater than the rate over the entire last century. At this



rate, the average temperature on Earth could increase by as much as 7.2 degrees by the end of the century and the sea levels could rise by as much as two feet, the research shows.

In a *Washington Post* article, Bill Chameides, dean of the Nicholas School of the Environment at Duke University, and co-author of a recent National Academy of Sciences report on climate change, warned "The full impact of the greenhouse gases that we've already added to the system today won't be felt for 20 or 30 years."

Even though the scientific data points to the effects of human activity on climate change, some people disagree with the findings, believing instead that we are simply experiencing a natural weather cycle.

Generally, according to Woodbridge attorney Hesser McBride, who practices environmental law, the debate over global warming and how it should be handled falls along party lines. "Republicans are criticized for suggesting that global warming is based on junk science and Democrats are criticized for 'manufacturing' a problem that can only be solved by more government oversight and spending," he explained.

A 2010 Pew Research Center poll, in fact, revealed that 79 percent of Democrats believed in global warming, while only 38 percent of Republicans were convinced. While politicians and the public may argue the causes of climate change, the majority of scientists agree. According to a 2010 survey conducted by the National Academy of Sciences, of the more than 1,300 climate scientists polled, 97 to 98 percent agree that humans are contributing to climate change.

### A skeptic comes around

Richard Muller, a physicist from the University of California, Berkeley, once a well-known skeptic of climate change, conducted his own two-year climate change study, analyzing approximately 1.6 billion readings at 39,000 sites. Muller had four criticisms of current climate change research and examined them in his study. Those criticisms were: that "urban heat islands" exaggerated greenhouse warming estimates; that researchers hand-picked data to prove their theories; that certain stations offered unreliable data because of influence from other heat sources; and that researchers inappropriately altered data.

This last criticism referred to an incident in 2009 when nearly 1,000 emails from British climate scientists were stolen and posted on the Internet. Climate change deniers pointed to the incident as proof that the scientists' data was faked. Known as Climategate, the case was investigated; and while the

final report showed that the scientists' emails showed a lack of openness in their findings, there was no evidence of fraud or scientific misconduct.

In November 2011, during his testimony at a congressional briefing, Muller said his team found none of his initial concerns to be true.

"This means that the list of potential biases had not unduly influenced the results that had been published by prior groups," Muller said. While Muller acknowledged, "global warming is real," he would not speculate on how much of that warming is caused by humans, but stated that it is "worth some additional scientific addressing."

Ironically, Muller's study was partially funded by the Koch brothers, who make their money from gas and oil, and have always maintained their belief that global warming is a hoax.

### The political climate

The Clean Air Act of 1970 could be considered the first step toward national climate change legislation in the U.S., noted McBride. At the time of its passage, hopes were high that lawmakers could work together to improve the environment by giving the Environmental Protection Agency (EPA) the power to regulate anything ruled to be an air pollutant.

But since that time, the federal laws that have been passed focusing on climate change have generally involved voluntary rather than mandatory regulations, and politics have hindered the country's ability to establish mandatory regulations. The most recent attempt to legislate global warming began in 2009, when Democrats proposed a bill that would require significant changes in how the U.S. generates electricity, manufactures goods, heats and lights homes and businesses, and transports people and materials. The bill called for emissions to be reduced nationwide to 17 percent below 2005 levels by 2020 and 83 percent below those levels by 2050. It also proposed billions of

dollars in incentives for investing in new "green" technologies.

Some Republicans, like Congressman Fred Upton of Michigan, charged the requirements would drastically increase energy costs and cause major job losses. "I do believe that we need to reduce emissions, but it needs to be done in a commonsense way that takes into account the economic and global realities of the issue," he said during a House Energy and Commerce Committee hearing on the bill in April 2009.

In June 2009, the House of Representatives narrowly passed the bill, by a vote of 219 to 212, after scaling back some of the restrictions in the legislation and adding more incentives for industry, marking the first time either house actually approved a bill designed specifically to curb greenhouse gases. Although

Senator John Kerry, a Democrat from Massachusetts, introduced the measure in the Senate, it never made it to a vote.

"The significant controversy," explained McBride, "was economic, since combustion of fossil fuels—which generates greenhouse gases—is the process that drives much of the U.S. economy. There was intense political opposition to the bill on the basis that it would increase energy costs, lead to job losses and disadvantage U.S. energy-intensive industries such as iron, steel, cement, paper, etc., which compete internationally with countries like India and China that were not subject to similar mandates."

### International efforts

Clearly, climate change is a worldwide concern, noted McBride, which is why international summits

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## But We Had Snow in October!

You may be thinking: How can global warming exist when we just had a pretty major snowstorm in October? Climate change deniers ask the same question. Coupled with the particularly harsh winter we had last year, the talk of global warming may have you scratching your head.

Scientists use the term, "climate variability" to explain this phenomenon and they say it works both ways. An article titled, "Can Record Snowstorms and Global Warming Coexist?" on the National Oceanic and Atmospheric Administration's website states, "While some locations experienced bitter cold and blizzards, other locations experienced unusually warm and mild conditions. The contrast in weather between these two locations illustrates why we don't draw long-term, large-scale conclusions about climate from short-lived, local weather patterns."

Dr. Jeff Masters, a cofounder of The Weather Underground, agrees that one weather event does not prove or disprove the existence of global warming. However, in his blog Dr. Masters wrote, "It is quite possible that the dice have been loaded in favor of more intense Nor'easters for the U.S. Mid-Atlantic and Northeast, thanks to the higher levels of moisture present in the air due to warmer global temperatures."

The contention from some scientists is that warmer global temperatures produce more moisture in the air. If that moisture hits even a pocket of cold air, then the potential for intense snowstorms is much higher. —Jodi L. Miller



repeated felonies (including armed robbery) before turning 18. Because his offenses were so serious, he was tried in court as an adult and was sentenced to life in prison without **parole**.

After his sentencing, Graham appealed the decision, claiming that it violated his Eighth Amendment protection against cruel and unusual punishment. The **appeal** made its way to the U.S. Supreme Court. In May 2010, the Court ruled in favor of Graham, setting a new limit on how states are allowed to punish some of the worst juvenile offenders.

### **What is cruel and unusual punishment?**

The actual phrase “cruel and unusual punishment” originated in the English Bill of Rights in 1689 following the harsh treatment of a clergyman and perjurer (a person who lies under oath) named Titus Oates. Oates was accused of making up a conspiracy to kill King Charles II. As part of his punishment, Oates was reportedly placed in a pillory, a framework where one puts his head and hands in holes similar to “stocks,” and was subjected to a day of whipping on a moving cart.

Of course, this type of barbaric punishment would never be allowed in America today. But, what about locking a juvenile offender in prison for life? Is that a fair punishment?

In deciding this question, the U.S. Supreme Court considered a number of factors in the *Graham* case, including Graham’s age at the time he committed his crimes and the fact he was a non-homicide offender. In other words, he was not involved in a crime where someone was killed. In addition, the Court considered its 2005 decision in *Roper v. Simmons*, which banned the death penalty for juvenile offenders, and also whether the punishment for the crime in the *Graham* case was proportional (or fair) in relation to the offense. In Graham’s case, the Court concluded it was not.

### **A divided Court**

In issuing its ruling favoring Graham, the U.S. Supreme Court did not call for Graham’s release from prison; but it said that in non-homicide cases there must be “some realistic opportunity to obtain release before the end of that term.”

In the **majority opinion** of the Court, Justice Anthony M. Kennedy wrote that the Court’s ruling “gives all juvenile non-homicide offenders a chance to demonstrate maturity and reform.

The juvenile should not be deprived of the opportunity to achieve maturity of judgment and self-recognition of human worth and potential.”

The final vote in *Graham* was 6-3; however, that may be misleading since Chief Justice John G. Roberts, while technically voting with the majority about Graham’s specific case, favored a case-by-case approach considering the age of any offender in the future. In his own written opinion, Justice Roberts wrote, “Some crimes are so heinous, and some juvenile offenders so highly **culpable**, that a sentence of life without parole may be entirely justified under the Constitution.”

Justice Kennedy also cited the rarity of these kinds of sentences in the United States. According to Justice Kennedy’s majority opinion, only 129 juvenile offenders in 11 states were serving life without parole sentences for non-homicide crimes. Seventy-seven of those sentences were issued in Florida. He surmised that this “exceedingly rare” sentence demonstrated that “a national consensus has developed against it.”

Justice Clarence Thomas was among those who disagreed with the majority in *Graham*, suggesting that it was not the Court’s place to decide what acts are deserving of what punishments. As to Justice Kennedy’s “exceedingly rare” argument, Justice Thomas wrote in his **dissenting opinion**, “That a punishment is rarely imposed demonstrates nothing more than a general consensus that it should be just that—rarely imposed. It is not proof that the punishment is one the nation abhors.”

In one of his last **concurring opinions** for the Court before his retirement, former Justice John Paul Stevens wrote, “Society changes. Knowledge accumulates. We learn, sometimes, from our mistakes. Punishments that did not seem cruel and unusual at one time may, in the light of reason and experience, be found cruel and unusual at a later time.”

### **What about in New Jersey?**

Most juvenile cases in New Jersey are handled by the Juvenile Justice System, which is generally more lenient than the adult courts and focuses mostly on rehabilitation, helping juveniles to become law-abiding citizens. Only the most serious juvenile cases, such as those involving **felony** crimes or repeat offenses, are referred to the adult court. Each state has different guidelines on how and when this can be done.

Middlesex County Assistant Prosecutor Ralph Cretella, who has been working with juveniles for about 10 years, says that the following conditions must be met in New Jersey for a juvenile to be tried in adult court: the offending juvenile must be at least 14 years old; a certain serious offense (i.e., murder, sexual assault, or first degree robbery, where some sort of a weapon or at least the threat of a weapon is used)





## No More Life Sentences CONTINUED FROM PAGE 6

must be involved as outlined in the state statute; and the prosecutor must be able to prove that there is **probable cause** that the juvenile was involved in the crime.

Cretella also noted that juveniles who are between the ages of 14 and 16 have an additional opportunity to avoid trial in adult court if they can prove that they can be rehabilitated before the age of 19.

### What does the *Graham* ruling mean?

Because the U.S. Supreme Court is the highest in the nation, its decision on the constitutional issue raised in *Graham* impacts what happens in all states in the country; and it will be referenced by the courts in deciding sentencing cases for years to come. It also impacts certain people who are currently serving prison time, like Florida convict Joe Sullivan, who has been serving a life without parole prison sentence for a non-homicide crime he committed when he was 13 years old. The *Graham* ruling

means that Sullivan may also have a potential opportunity to gain early release from prison someday.

On perhaps an even broader level, the *Graham* ruling sets a tone for how the treatment of juvenile offenders is evolving in the United States along with society. Back in the 1990s, when juvenile crime was at especially high levels, many states enacted laws to allow for harsher punishment of young offenders. More recently, the Court seems to be pulling back on just how far the states can go.

Next up, the U.S. Supreme Court will consider whether juvenile offenders involved in **homicide** cases should be subject to life in prison without parole if the crimes were committed when the offenders were 14 years of age or younger. In November 2011, the U.S. Supreme Court agreed to hear two cases dealing with this issue—*Miller v. Alabama* and *Jackson v. Hobbs*. Do juveniles who commit homicide deserve the same possible second chance that the Court has granted to non-homicide offenders, like Graham? We will have to wait and see. 🛠️

## Climate Change CONTINUED FROM PAGE 5

have been held in the past to develop a broad plan of attack. At a 2009 summit, industrialized nations pledged to make greenhouse emissions reductions in their own countries and provide financial aid to poor countries over the next decade to help them reduce emissions as well.

But, it's "clear with the failure of the U.S. to adopt national climate change legislation that it could not commit to an international agreement requiring mandatory reductions in greenhouse gas emissions. The same predominantly economic hurdles that had halted national climate change legislation would...[prevent] an international agreement," McBride said.

Most recently, in December 2011, representatives from 194 countries, including the United States, gathered in Durban, South Africa, for a United Nations climate conference. This was the 17th such conference held on the subject of climate change since 1992. After a contentious two weeks, few issues were resolved. The attending nations finally agreed to come up

with an international accord by 2015 to limit greenhouse gases, which would be put into effect by 2020. The wording of the accord was a particular



sticking point for many nations and the phrase "outcome with legal force" was settled on instead of "legally binding."

"Powerful speeches and carefully worded decisions can't amend the

laws of physics," Alden Meyer, the director of strategy and policy for the Union of Concerned Scientists, said in a statement from Durban. "The atmosphere responds to one thing, and one thing only—emissions. The world's collective level of ambition on emissions reductions must be substantially increased, and soon."

Here at home, in order to keep moving forward in the effort to reduce global warming, President Barack Obama has turned to the EPA and its mandate under the Clean Air Act. On Jan. 2, 2011, the EPA imposed its first regulations related to greenhouse gases, requiring green technology for utilities, refineries and major manufacturers planning to build new facilities or make major renovations. Within the next decade, the EPA will impose regulation of all sources of greenhouse gases, requiring emissions reductions and more efficient operations. 🛠️

federal law were to be adopted on any one of these issues, that law would prevail over any state law. That is due to Article 6 of the U.S. Constitution, referred to as the "Supremacy Clause," which states, "The Constitution, and the laws of the United States, which shall be made in Pursuance thereof;...shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Professor Stephen Loffredo, a constitutional law professor at the City University of New York School of Law, explained, "What this means is that a validly adopted federal law 'preempts' or 'trumps' any conflicting state law [and]...the conflicting state law is invalid. States have no power under our constitutional system to nullify a lawful enactment of Congress.

State legislation that purports to do so is clearly unconstitutional and

has no force or effect." Professor Loffredo contends, "State officials cannot disregard a constitutionally valid federal law" and "the courts—not individual state officials or state legislatures—determine the question of whether a federal statute is consistent with the federal constitution."

Another matter that has become a battleground states' rights issue is health care reform. President Obama signed legislation in March 2010 that overhauled the national health care system and guaranteed access to medical insurance for many uninsured Americans. As of now, 27 states are challenging the constitutionality of this law. Specifically these states are opposed to the requirement that

everyone must either purchase health insurance themselves or enroll in the government plan. Those who do not do so will be fined. These states believe that the federal government has


surpassed its constitutional authority. The constitutional question revolves around whether the Commerce Clause, contained in Article I, Section 8 of the U.S. Constitution and gives Congress the power to regulate interstate commerce, is enough to allow involvement of the federal government. The U.S. Supreme Court agreed to hear the challenge and oral arguments are set for March 2012, with a decision expected sometime in late June.

### Amending the Constitution—states have final say

While federal law is the supreme law of the land, states do have final say in amending the U.S. Constitution. An amendment to the U.S. Constitution can be proposed by a two-thirds vote of both houses of Congress or a request by two-thirds of state legislatures. Once an amendment has been proposed, it can only be approved if three-fourths of

the state legislatures (or a special convention of three-fourths of the states) support it. Therefore, it is the states that have the final say about constitutional amendments.

The passage of an amendment to the U.S. Constitution can sometimes be a lengthy process. In fact, the last Amendment to the U.S. Constitution, the 27th, which was meant to stop legislators from giving themselves pay raises during a congressional session, was first introduced by James Madison in 1789. It took 203 years for three-fourths of the states to ratify the amendment, finally passing it in 1992. It was the 1939 landmark decision of *Coleman v. Miller* that allowed for this possibility. With *Coleman*, the U.S. Supreme Court clarified that if Congress chooses not to specify a deadline in which an amendment to the U.S. Constitution must be ratified, then the amendment remains pending business before the state legislatures.

Whether you believe the states or the federal government should decide certain issues, you need to understand that our system of government was designed as a compromise between the need for centralized government on the one hand, and the original autonomy of the states on the other. 



**appeal**—legal proceeding where a case is brought from a lower court to a higher court to be heard.

**autonomous**—existing independently.

**concurring opinion**—a separate opinion delivered by one or more justices or judges that agrees with the decision of the court but not for the same reasons.

**culpable**—deserving of blame.

**dissenting opinion**—a statement written by a judge or justice that disagrees with the opinion reached by the majority of his or her colleagues.

**felony**—a serious criminal offense usually punished by imprisonment of more than one year.

**homicide**—a murder.

**majority opinion** — a statement written by a judge or justice that reflects the opinion reached by the majority of his or her colleagues.

**parole**—a conditional release from prison which allows a person to serve the remainder of his or her sentence outside of an institution but under state supervision.

**probable cause**—a reasonable belief in certain facts.

**ratified**—approved or endorsed.

