

# Residual State Sovereignty: the American Case

## How Sovereignty Claims Affect the U.S. State-Federal Partnership



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### Introduction

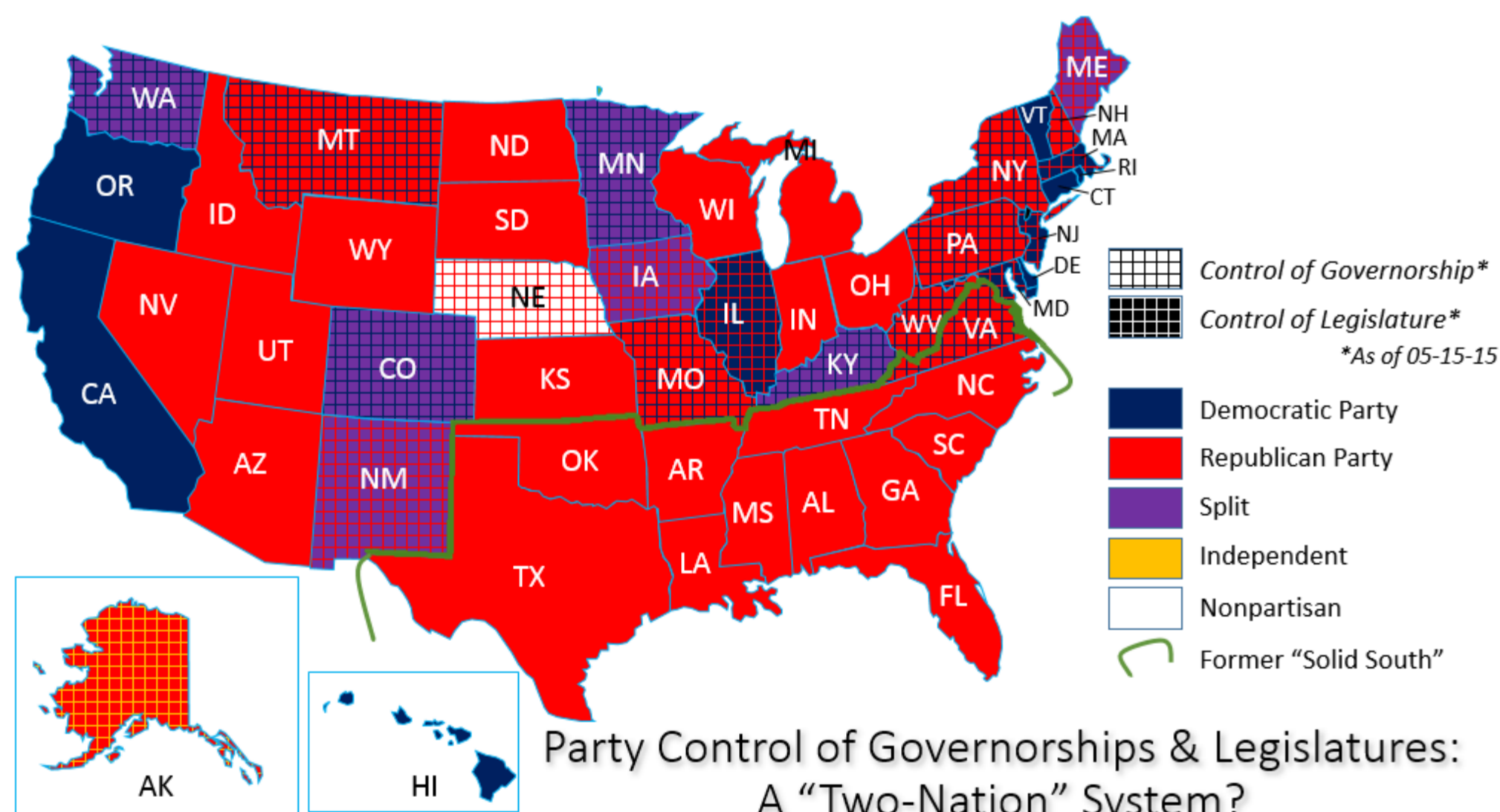
- The American system of federalism is **“inherently unstable,”**<sup>1</sup> swinging from centralization to devolution.
- State sovereignty is a **balance of “self-rule and shared-rule,”**<sup>2</sup> a constitutional principle of federalism.
- Sovereignty is also a **continuously evolving paradigm**, a growing subject of claims within polities around the world.
- A matter of constitutional law, “sovereignty studies”<sup>3</sup> must not underestimate **ideological & socio-economic factors.**<sup>4</sup>

### Aim

Our study was designed to assess the **degree of state autonomy within the American state-federal partnership** by researching how **elected officials’ perceptions of state powers** impact the contemporary **doctrine of sovereignty.**

### Hypotheses

- 1) **Strong state legislatorships & governorships** have significant impacts upon the **doctrine of sovereignty.**
- 2) **Post-Civil War social, political and constitutional legacy** could be a potential **variable in modern political cultures:** perceptions of sovereignty could divide the **“North”** from a new **“bloc”** made of the **old “Solid South”** and **new conservative states** where **state sovereignty may be used as a form of partisan resistance.**



- 3) **History** may offer **precedents** for contemporary state sovereignty claims.

### Methodology

- **Correlational:** To investigate causality between regional political cultures and pro-state sovereignty initiatives.

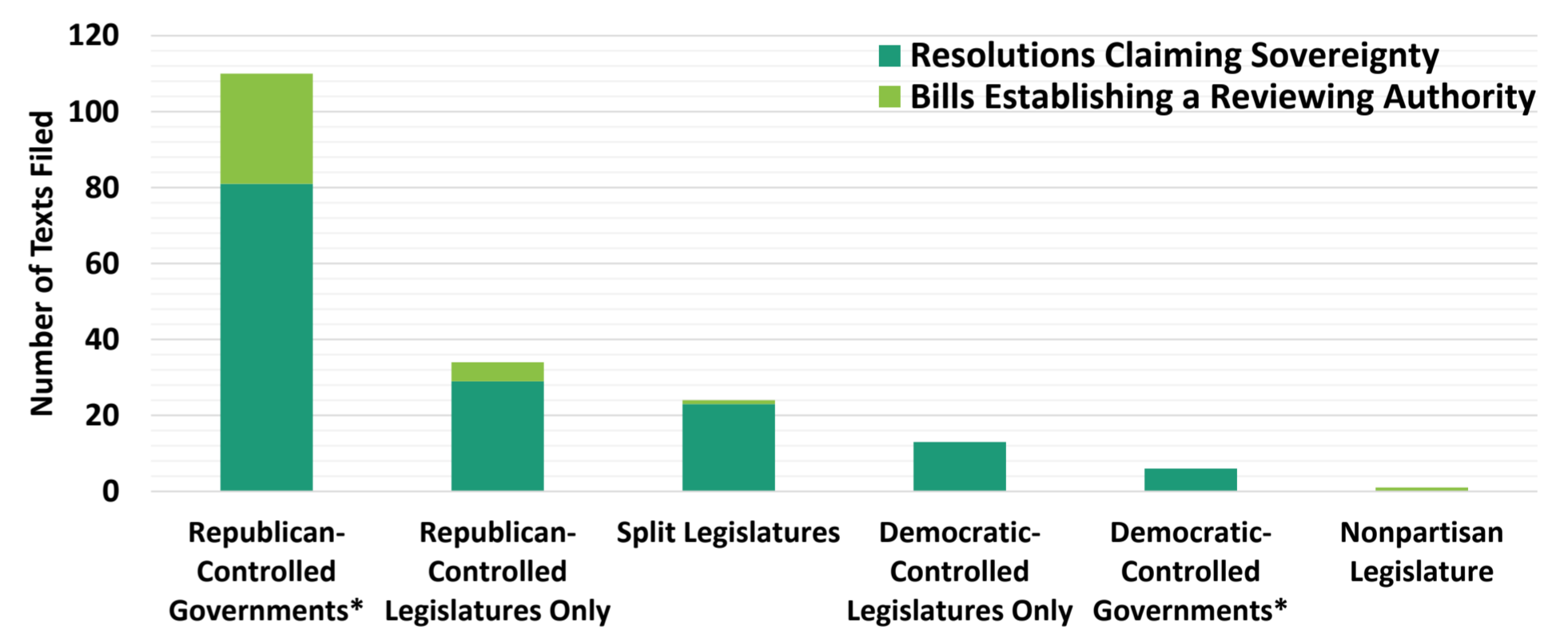
### Test Method

- Preliminary groundwork on bill extraction via keywords run across the fifty state legislatures over the time period of 2009-2015 revealed that **the scope of pro-sovereignty legislations ranges from reaffirming residual powers to declaring a federal law “null and void”, and is therefore virtually unlimited, suggesting a ubiquitous topic.**
- **Search results were therefore narrowed down to two selected criteria:** resolutions claiming state sovereignty and bills creating a reviewing, nullifying authority.

### Findings

- **Since 2009, at least 152 resolutions & 36 bills** have been filed in any one or both chambers of 40 State General Assemblies, which is relatively small in scope. Most legislatures are controlled by the Republican Party (fig. 1).

Fig. 1: Sample of Filed Legislations Reported According to Party Control



\*Full party control of both legislative & executive branches

- Among GOP-controlled legislatures, over **half** of legislations (50,7%) have been filed in the **Southern states** of former “Solid South”. Nationwide, most resolutions and bills are **strongly partisan** in authorship (96% Republican).
- Nonetheless, a **vast majority** (90% of resolutions; over 95% of bills) **have not passed** for lack of enough support, suggesting a **marginal, politically-oriented maneuver.**

### Conclusions

- The **ideological conflict** appears to be **exclusively vertical:** overall legislative initiatives remain sympathetic to a **partnership between the “sister-states”.** Adherence to a **unique American political community** is perceptibly strong.
- **Draft legislations do not represent an elected majority.** Moreover, the **gap** between state and national elections in terms of party winning calls for **deeper field investigation** in order to **correlate state sovereignty with political cultures.**
- **State sovereignty is part of American political history.** In the years of the Creative Federalism (1960s), many legislatures adopted “Convention” resolutions, forcing the Johnson Administration to reflect upon the phenomenon<sup>5</sup>.

<sup>1</sup> P. Riley, “The Origins of Federal Theory in International Rel. Ideas”, *Polity*, 1973, pp. 87-121.

<sup>2</sup> D. J. Elazar, “From Statism to Federalism: A Paradigm Shift”, *Publius* (25:2), 1995, pp. 5-18.

<sup>3</sup> T. A. Aleinikoff, *Semblances of Sovereignty: the Constitution, the State, and American Citizenship*, Cambridge: Harvard U. P., 2002, 306 p.

<sup>4</sup> W. S. Livingston, *Federalism & Constitutional Change*, Westport: Greenwood, 1974, 380 p.

<sup>5</sup> LBJ Presidential Library (Austin, TX), Papers of Lyndon Baines Johnson: President, 1963-1969, States and Territories: EX ST 5/1/67 – 5/24/67, Office of the Attorney General, Memorandum for the President, 5/16/67.