The Scope Of Congressional Powers Chapter 11 Answers

When the first two volumes of William Crosskey's monumental study of the Constitution appeared in 1953, Arthur M. Schlesinger called it "perhaps the most fertile commentary on that document since The Federalist papers." It was highly controversial as well. The work was a comprehensive reassessment of the meaning of the Constitution, based on examination of eighteenth-century usages of key political and legal concepts and terms. Crosskey's basic thesis was that the Founding Fathers truly intended a government with plenary, nationwide powers, and not, as in the received views, a limited federalism. This third volume of Politics and the Constitution, which Crosskey began and William Jeffrey has finished, treats political activity in the period 1776-87, and is in many ways the heart of the work as Crosskey conceived it. In support of the lexicographic analysis of volumes 1 and 2, volume 3 shows that nationalist ideas and sentiments were a powerful force in American public opinion from the Revolution to the eve of the Constitutional Convention. The creation of a generally empowered national government in Philadelphia, it is argued, was the fruition of a long-active political movement, not the unintended or accidental result of a temporary conservative coalition. This view of the political background of the Constitutional Convention directly challenges the Madisonian-Jeffersonian orthodoxy on the subject. In support of his interpretation, Crosskey amassed a wealth of primary source materials, including heretofore unexplored pamphlets and newspapers. This exhaustive research makes this unique work invaluable for scholars of the period, both for the primary sources collected as well as for the provocative interpretation offered.

The Necessary and Proper Clause is one of the most important parts of the US Constitution. Today this short thirty-nine-word paragraph is cited as the legal foundation for much of the modern federal government. Through three independent lines of research, the authors trace the lineage of the Necessary and Proper Clause to the everyday law of the Founding Era - the same law that American founders such as Madison, Hamilton, and Washington applied in their daily lives. Origins of the Necessary and Proper Clause are found in law-governing agencies, public administration, and corporations. Moreover, all of those areas were undergirded by common principles of fiduciary responsibility - reflecting the Founders' view that a public office is truly a public trust. This explains the choice of language in the clause and provides clues about its meaning. This book thus serves as a reference source for scholars seeking to understand the intellectual foundations of one of the Constitution's most important clauses.

As part of the Patient Protection and Affordable Care Act (ACA), P.L. 111-148, as amended, Congress enacted a "minimum coverage provision," which compels certain individuals to have a minimum level of health insurance (i.e., an "individual mandate"). Individuals who fail to do so may be subject to a monetary penalty, administered through the tax code. Congress has never compelled individuals to buy health insurance, and there has been significant controversy and debate over whether the requirement is within the scope of Congress's legislative powers.

Has the imperial presidency returned? The New Imperial Presidency suggests that the Congressional framework meant to guide and constrain presidential behavior has slowly eroded over the decades since Watergate. Author Andrew Rudalevige describes

the evolution of executive power in our separated system of governance. Rudalevige discusses the abuse of power that prompted what he calls the resurgence regime against the imperial presidency, and inquires as to how and why, over the three decades that followed Watergate, presidents regained their standing. The New Imperial Presidency shows that presidents have always tried to interpret Constitutional powers broadly. Ambitious executives can choose from an array of actions that push against congressional power and, finding insufficient resistance, expand the scope of presidential power.

Constitutional Law, Cases and Materials provides an overview of constitutional law, focusing closely on Supreme Court decisions. The casebook cites key cases in its discussions of the Courts re-emphasis on federalism disputes, racial gerrymandering, sex discrimination material, and changes in first amendment standards. Federalism dispute cases include Seminole Tribe of Florida v. Florida, United States v. Lopez, and U.S. Term Limits, Inc. v. Thornton. Racial gerrymandering cases include Adarand Constructors, Inc. v. Pena. New sex discrimination material includes J.E.B. v. Alabama ex rel. T.B. and United States v. Virginia. Changes in First Amendment standards cases include 44 Liquormart, Inc. v. Rhode Island. First Amendment limits on cable television regulation cases include Denver Area Educational Telecommunications Consortium, Inc. v. Federal Communications Commission.Summary of Contents" Table Of Cases" Part I. The Constitution And The Courts: The Judicial Function In Constitutional CasesChapter1. The Constitution1. The Constitution of the United States of America2. History of the Adoption of the Constitution and Its Most Significant Amendments2. Judicial Review1. The Legitimacy of Judicial Review2. Congressional Control of Judicial Review by the Federal Courts3. The Jurisdiction of Federal Courts in Constitutional Cases1. Supreme Court Review of State Court Decisions2. Constitutional Litigation Initiated in the Federal Courts3. Cases and Controversies and Justiciability" Part II. Allocation of Governmental Powers: The Nation and the States; The President, The Congress, and the Courts4. The Scope of National Power1. The Constitutional Convention and the Establishment of a National Government2. Sources of National Power: Early Developments3. The Scope of National Power Today5. State Sovereignty and Federal Regulation1. State Immunity From Federal Regulation2. Enforcement of Federal Rights in Suits Against State Officers: The Eleventh Amendment6. The Scope of State Power1. Introduction2. Discrimination Against Interstate Commerce3. Implied Restrictions of the Commerce ClauseTransportation4. Implied Restrictions of the Commerce ClauseProduction and Trade5. Effect of Other Constitutional Provisions on State Regulatory Power6. Preemption of State Legislation By Federal LegislationThe Impact of the Supremacy Clause7. Separation of Powers1. The Presidents Power to Determine National Policy2. Congressional Interference With Presidential Prerogatives3. Presidential Immunities" Part III. Government and the Individual: The Protection of Liberty and Property Under the Due Process and Equal Protection Clauses8. The Bill of Rights, The Civil War Amendments and Their InterRelationship1. The PreCivil War Background2. The Initial Interpretation of the Civil War Amendments3. Application of the Bill of Rights to the States9. The Due Process, Contract, and Just Compensation Clauses and the Review of the Reasonableness of Legislation1. Economic Regulatory Legislation2. Protection of Personal Liberties10. The Equal Protection Clause and the Review of the Reasonableness of Legislation1.

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This Essay, part of a symposium titled 'Federalism as the New Nationalism,' argues that the interpretive struggle over the meaning of American federalism has recently shifted to two textually peripheral but substantively important battlegrounds: the Necessary and Proper Clause and, to a lesser extent, the General Welfare Clause. For nearly a decade, these quieter, more structurally ambiguous federal powers - the 'shadow powers,' as I term them - have steadily increased in prominence. Beginning with Gonzales v. Raich (2005) and continuing through and beyond NFIB v. Sebelius (2012), the Supreme Court's federalism jurisprudence has shifted from its once-typical form of inquiry into the scope of Congress's commerce power, refracted through the Tenth Amendment, to become an inquiry into the transsubstantive reasons for allowing Congress to regulate at all. Paradoxically, the growth of shadow powers analysis has tended to narrow the permissible scope of congressional regulatory power. My claim is that the prominence of shadow powers analysis in the Court's recent decisions is both doctrinally unprecedented and unhelpful because it fails to set meaningful standards for how federalism should work in practice. The novelty of shadow powers analysis lies in the sharp line the Court appears increasingly willing to draw between solid, if controversial, Article I powers such as the commerce power, and auxiliary Article I powers such the necessary and proper power. The invocation of the shadow powers has helped the Court find room to maneuver within its federalism analysis, while also

appearing to maintain its commitment to an apparently unmoving baseline of a narrow commerce power. This maneuvering might be productive if it were carried out explicitly, with some discussion by the Court of the reasons for preferring to adjudicate federalism at its doctrinal and textual periphery rather than at its center. But the result of the growth of shadow powers analysis has in fact been to obscure the outlines of federalism's map - to shroud genuine (and perhaps salutary) doctrinal changes within a fog of constitutional text, insufficiently overruled precedents, and acontextual readings of foundational cases.

Traditional in scope, with full coverage of both structure of government issues (separation of powers and federalism) and individual rights, Constitutional Law: Structure and Rights in Our Federal System nevertheless emphasizes structural issues more so than many other Constitutional Law casebooks. The Sixth Edition continues the coverage of Congressional powers, including enforcement of civil rights, and adds an extended section on the war on terrorism and related "enemy combatant" cases. Individual rights are discussed in context and within chapters focusing on traditional doctrinal categories, such as economic and social rights, rights of conscience and expression, and rights in the public arena. In the Sixth Edition, the electoral districting and reapportionment materials has been omitted and the congressional enforcement of civil rights has been relocated. Brief notes and comments guide students through the cases and provoke independent thought. Hypothetical problems then ask students to analyze concrete and realistic constitutional issues, thereby enabling them to develop a better understanding of the underlying theory and doctrine. In a discussion of federalism, the United States Supreme Court cited this casebook in Printz v. United States concerning the Brady Act. Constitutional Law: Structure and Rights in Our Federal System is supplemented annually. This eBook features links to Lexis Advance for further legal research options.

Congress's contempt power is the means by which Congress responds to certain acts that in its view obstruct the legislative process. Contempt may be used either to coerce compliance, to punish the contemnor, and/or to remove the obstruction. Although arguably any action that directly obstructs the effort of Congress to exercise its constitutional powers may constitute a contempt, in recent times the contempt power has most often been employed in response to non-compliance with a duly issued congressional subpoena-whether in the form of a refusal to appear before a committee for purposes of providing testimony, or a refusal to produce requested documents. Congress has three formal methods by which it can combat non-compliance with a duly issued subpoena. Each of these methods invokes the authority of a separate branch of government. First, the long dormant inherent contempt power permits Congress to rely on its own constitutional authority to detain and imprison a contemnor until the individual complies with congressional demands. Second, the criminal contempt statute permits Congress to certify a contempt citation to the executive branch for the criminal prosecution of the contemnor. Finally, Congress may rely on the judicial branch to enforce a congressional subpoena. Under this procedure, Congress may seek a civil judgment from a federal court declaring that the individual in question is legally obligated to comply with the congressional subpoena. A number of obstacles face Congress in any attempt to enforce a subpoena issued against an executive branch official. Although the courts have reaffirmed Congress's constitutional authority to issue and enforce subpoenas, efforts to punish an executive branch official for non-compliance with a subpoena through criminal contempt will likely prove unavailing in many, if not most, circumstances. Where the official refuses to disclose information pursuant to the President's decision that such information is protected

under executive privilege, past practice suggests that the Department of Justice (DOJ) will not pursue a prosecution for criminal contempt. In addition, although it appears that Congress may be able to enforce its own subpoenas through a declaratory civil action, relying on this mechanism to enforce a subpoena directed at an executive official may prove an inadequate means of protecting congressional prerogatives due to the time required to achieve a final, enforceable ruling in the case. Although subject to practical limitations, Congress retains the ability to exercise its own constitutionally based authorities to enforce a subpoena through inherent contempt. This report examines the source of the contempt power, reviews the historical development of the early case law, outlines the statutory and common law basis for Congress's contempt power, and analyzes the procedures associated with inherent contempt, criminal contempt, and the civil enforcement of subpoenas. The report also includes a detailed discussion of two recent information access disputes that led to the approval of contempt citations in the House against then-White House Chief of Staff Joshua Bolten and former White House Counsel Harriet Miers, as well as Attorney General Eric Holder. Finally, the report discusses both non-constitutional and constitutionally based limitations on the contempt power.

"Presidential power is hotly disputed these days - as it has been many times in recent decades. Yet the same rules must apply to all presidents, those whose abuses of power we fear as well as those whose exercises of power we applaud. This book is about what constitutional law tells us about presidential power and its limits. It is very difficult to strike the right balance between limiting abuse of power and authorizing its exercise when needed. This book advocates a balanced, pragmatic approach to these issues, rooted in history and Supreme Court rulings"--

"The Oxford Handbook of US National Security frames the context, institutions, and processes the US government uses to advance national interests through foreign policy, government institutions, and grand strategy. Contributors examine contemporary national security challenges and the processes and tools used to improve national security."--Provided by publisher.

Jumpstart Constitutional Law: Reading and Understanding Constitutional Law Cases, sheds light on the threshold issues and substantive questions common to all constitutional law cases thus bringing everything into focus for the student. Key to constructing cogent answers on a Constitutional Law exam, Jethro K. Lieberman s straightforward approach teaches students how to spot the issues and respond to the relevant questions in any constitutional law case. Features: Perspective A tour of the American Constitution from a bird s-eye view. Understanding threshold issues: Who may decide constitutional disputes? Under what circumstances may a court decide a case? Must the court take and answer a constitutional question in a property case? Identifying substantive issues: determining the scope of govenmental powers; federalism, and the relationship between federal and state powers; and, constitutional restraints that limit the exercise of governmental power. Interpreting the Constitution: using tests to determin the limits of power and the extent of rights; tools of analysis for interpreting the Constitution; and the role of precedent and change. Training real preparation for taking the Constitutional Law exam: a program for effective studying; sample constitutional law exam questions and answers; and exam-taking strategies.

For over a century, Congress’s power to enforce the Fourteenth Amendment’s guarantee of “the equal protection of the laws” has presented judges and scholars with a puzzle. What does it mean for Congress to “enforce” such a wide-ranging, open-ended provision when the Supreme Court has insisted on its own superiority in interpreting the Fourteenth Amendment? In Enforcing the Equal Protection Clause, William D. Araiza offers a unique understanding of Congress’s enforcement power and its relationship to the Court’s claim to supremacy when interpreting the Constitution. Drawing on the history of American thinking about equality in the decades before and after the Civil War, Araiza argues that congressional enforcement and

judicial supremacy can co-exist, but only if the Court limits its role to ensuring that enforcement legislation reasonably promotes the core meaning of the Equal Protection Clause. Much of the Court's equal protection jurisprudence stops short of stating such core meaning, thus leaving Congress free (subject to appropriate judicial checks) to enforce the full scope of the constitutional guarantee. Araiza's thesis reconciles the Supreme Court's ultimate role in interpreting the Constitution with Congress's superior capacity to transform the Fourteenth Amendment's majestic principles into living reality. The Fourteenth Amendment's Enforcement Clause raises difficult issues of separation of powers, federalism, and constitutional rights. Araiza illuminates each of these in this scholarly, timely work that is both intellectually rigorous but also accessible to non-specialist readers.

Challenging those who accept or advocate executive supremacy in American foreign-policy making, Constitutional Diplomacy proposes that we abandon the supine roles often assigned our legislative and judicial branches in that field. This book, by the former Legal Counsel to the Senate Foreign Relations Committee, is the first comprehensive analysis of foreign policy and constitutionalism to appear in over fifteen years. In the interval since the last major work on this theme was published, the War Powers Resolution has ignited a heated controversy, several major treaties have aroused passionate disagreement over the Senate's role, intelligence abuses have been revealed and remedial legislation debated, and the Iran-Contra affair has highlighted anew the extent of disagreement over first principles. Exploring the implications of these and earlier foreign policy disputes, Michael Glennon maintains that the objectives of diplomacy cannot be successfully pursued by discarding constitutional interests. Glennon probes in detail the important foreign-policy responsibilities given to Congress by the Constitution and the duty given to the courts of resolving disputes between Congress and the President concerning the power to make foreign policy. He reviews the scope of the prime tools of diplomacy, the war power and the treaty power, and examines the concept of national security. Throughout the work he considers the intricate weave of two legal systems: American constitutional principles and the international law norms that are part of the U.S. domestic legal system.

The Second Edition of this Constitutional Law study-aid continues to offer complete coverage as part of a two-volume set. Along with its companion volume -- Individual Rights -- these two ancillary texts compose a foundation in the doctrines and methods of Constitutional Law, and motivate students to think about the larger issues of Consitutional Law with depth and perception. Features of this study aid include: an expert author team with over 40 years combined experience straightforward material that is not overly simplistic a problem-oriented guide that takes students through the principal doctrines of Constitutional Law that are covered in a typical course hands-on sections that explain legal concepts and principles, followed by examples and analyses that illustrate how to apply these concepts and principles in hypothetical situations organization that parallels the major casebooks What's NEW in the Second Edition? discussions of all major Supreme Court decisions through the end of the 1999-2000 term updated problems and changes based upon major rulings by the Supreme Court a detailed index keyed to pages rather than to sections for easier access by students

This book analyzes the structure of our constitutional system of government, providing an overview of the constitutional history of American federalism as it has been developed in decisions of the United States Supreme Court. • Provides historical information in a clear, chronological order • Enables law students and lawyers to improve their understanding of the legal doctrines that underlie today's conflicts. • Documents the relationships among different doctrines across particular time periods

This book traces the history from colonial times to the present of the monetary powers exercised by the Congress under the Constitution. It follows the evolution of the American banking and monetary system from the perspective of specific provisions in the Constitution

that authorize the government to coin money and regulate its value. The author critically examines how far the development of the contemporary money and banking system has pushed beyond the narrow powers spelled out in the Constitution. He shows how changes in congressional legislation, Supreme Court decisions on precedent-setting cases, and the evolution of central banking powers within the Federal Reserve System have expanded the scope of the federal government's monetary powers. Yet, the author views this history within the context of private limits to the authority of Congress and the Congress's distrust of lodging the central bank within the Executive branch, preferring instead to respect an independent central banking tradition. The Hamiltonian tradition, he concludes, still offers the best institutional arrangement to confront unstable markets and destabilizing political influence.

A leading casebook on foreign relations law, authored by two widely cited and experienced scholars, Foreign Relations Law: Cases and Materials, Sixth Edition examines the law that regulates the conduct of contemporary U.S. foreign relations. It offers a compelling mix of cases, statutes, and executive branch materials, as well as extensive notes and questions and discussion of relevant historical background.

This title provides analysis of the cases in Stone's constitutional law casebook. The discussion of each case includes an explanation of the facts, issues, holdings, and court's rationale. It also includes background information to relate the individual cases to the overall structure of the subject area. This title includes cases that pertain to the role of the Supreme Court in the constitutional order, congressional powers and their scope, the distribution of national powers, equality and the constitution, implied fundamental rights, freedom of expression, the constitution and religion, and the constitution and state versus private action.

Since the early 1960s the Supreme Court and its congressional critics have been locked in a continuing dispute over the issues of school prayer, busing, and abortion. Although for years the Court’s congressional foes have introduced legislation designed to curb the powers of the federal courts in these areas, they have until now failed to enact such proposals. It is likely that these legislative efforts and the present confrontation with the Court will continue. Edward Keynes and Randall Miller argue that Congress lacks the constitutional power to legislate away the powers of the federal courts and to prevent individuals from seeking redress for presumed infringements of their constitutional rights in these areas. They demonstrate that neither the framers nor ratifiers of the Constitution intended the Congress to exercise plenary power over the appellate jurisdiction of the Supreme Court. Throughout its history the Court has never conceded unlimited powers to Congress; and until the late 1950s Congress had not attempted to gerrymander the Court’s jurisdiction in response to specific decisions. But the authors contend this is just what the sponsors of recent legislative attacks on the Court intend, and they see such efforts as threatening the Court’s independence and authority as defined in the separation of powers clauses of the Constitution.

The scope of presidential authority has been a constant focus of constitutional dispute since the Framing. The bases for presidential appointment and removal, the responsibility of the Executive to choose between the will of Congress and the President, the extent of unitary powers over the military, even the ability of the President to keep secret the identity of those consulted in policy making decisions have all been the subject of intense controversy. The scope of that power and the manner of its exercise affect not only the actions of the President and the White House staff, but also all staff employed by the executive agencies. There is a clear need to examine the law of the entire executive branch. The Law of the Executive Branch: Presidential Power, places the law of the executive branch firmly in the context of constitutional language, framers' intent, and more than two centuries of practice. In this book, Louis Fisher strives to separate legitimate from illegitimate sources of power, through analysis that is informed by litigation as well as shaped by presidential initiatives, statutory policy, judicial interpretations, and public and international pressures. Each provision of the US

Constitution is analyzed to reveal its contemporary meaning in concert with the application of presidential power. Controversial issues covered in the book include: unilateral presidential wars; the state secrets privilege; extraordinary rendition; claims of "inherent" presidential powers that may not be checked by other branches; and executive privilege.

This title provides analysis of the cases in the Constitutional Law casebook by Stone. The discussion of each case includes an explanation of the facts, issues, holdings, and the court's rationale. Also included is background information to relate the individual cases to the overall structure of the subject area. This title includes cases that pertain to the role of the Supreme Court in the constitutional order, congressional powers, the scope of congressional power, the distribution of national powers, equality and the constitution, implied fundamental rights, freedom of expression, the constitution and religion, and the constitution and state vs. private action.

A constitutional originalist sounds the alarm over the presidency’s ever-expanding powers, ascribing them unexpectedly to the liberal embrace of a living Constitution. Liberal scholars and politicians routinely denounce the imperial presidency—a self-aggrandizing executive that has progressively sidelined Congress. Yet the same people invariably extol the virtues of a living Constitution, whose meaning adapts with the times. Saikrishna Bangalore Prakash argues that these stances are fundamentally incompatible. A constitution prone to informal amendment systematically favors the executive and ensures that there are no enduring constraints on executive power. In this careful study, Prakash contends that an originalist interpretation of the Constitution can rein in the “living presidency” legitimated by the living Constitution. No one who reads the Constitution would conclude that presidents may declare war, legislate by fiat, and make treaties without the Senate. Yet presidents do all these things. They get away with it, Prakash argues, because Congress, the courts, and the public routinely excuse these violations. With the passage of time, these transgressions are treated as informal constitutional amendments. The result is an executive increasingly liberated from the Constitution. The solution is originalism. Though often associated with conservative goals, originalism in Prakash’s argument should appeal to Republicans and Democrats alike, as almost all Americans decry the presidency’s stunning expansion. The Living Presidency proposes a baker’s dozen of reforms, all of which could be enacted if only Congress asserted its lawful authority.

Congress''s contempt power is the means by which Congress responds to certain acts that in its view obstruct the legislative process. Chapter 1 examines the source of the contempt power, reviews the historical development of the early case law, outlines the statutory and common law basis for Congress''s contempt power, and analyses the procedures associated with inherent contempt, criminal contempt, and the civil enforcement of subpoenas. It also includes a detailed discussion of two recent information access disputes that led to the approval of contempt citations in the House against then-White House Chief of Staff Joshua Bolten and former White House Counsel Harriet Miers, as well as Attorney General Eric Holder. Congress gathers much of the information necessary to oversee the implementation of existing laws or to evaluate whether new laws are necessary from the executive branch. While executive branch officials comply with most congressional requests for information, there are times when the executive branch chooses to resist disclosure. When Congress finds an inquiry blocked by the withholding of information by the executive branch, or where the traditional process of negotiation and accommodation is inappropriate or unavailing, a subpoena -- either for testimony or documents -- may be used to compel compliance with congressional demands as reported in chapter2. As reported in chapter 3, the Committee on the Judiciary (""the Committee"") is currently engaged in an investigation into alleged obstruction of justice, public corruption, and other abuses of power by President Donald Trump, his associates, and members of his Administration. Few provisions in the U.S. Constitution grant the President an

authority as free from legislative constraint as the Pardon Clause. While the pardon power has been wielded in numerous instances throughout American history, there is limited case law interpreting it. This lack of judicial guidance has begot various unsettled legal questions concerning the pardon power''s scope and breadth. For instance, whether the President may issue a self-pardon has been the subject of conflicting views and debate as discussed in chapter 4. Chapter 5 examines the broad constitutional authority of Congress to establish and shape the federal bureaucracy. Congress may use its Article I law-making powers to create federal agencies and individual offices within those agencies, design agencies'' basic structures and operations, and prescribe, subject to certain constitutional limitations, how those holding agency offices are appointed and removed. Congress also may enumerate the powers, duties, and functions to be exercised by agencies, as well as directly counteract, through later legislation, certain agency actions implementing delegated authority. The Trump Administration has recently questioned the legal validity of numerous investigative demands made by House committees. These objections have been based on various grounds, but two specific arguments will be addressed in chapter 6. First, the President and other Administration officials have contended that certain committee demands lack a valid "legislative purpose" and therefore do not fall within Congress''s investigative authority. Second, the President has made a more generalized claim that his advisers cannot be made to testify before Congress, even in the face of a committee subpoena. House Democrats have introduced a resolution that, if approved by the House, would formally "censure and condemn" President Trump for disparaging comments on immigration issues he allegedly made during a meeting with Members of Congress. Chapter 7 will discuss examples of congressional censure of the President before addressing its constitutional validity. Under the U.S. Constitution, the House of Representatives has the power to formally charge a federal officer with wrongdoing, a process known as impeachment. The House impeachment process generally proceeds in three phases: (1) initiation of the impeachment process; (2) Judiciary Committee investigation, hearings, and mark-up of articles of impeachment; and (3) full House consideration of the articles of impeachment. Chapter 8 provides an overview of the procedures and should not be treated or cited as an authority on congressional proceedings.

Provides more than seven hundred alphabetical entries covering the interaction of law and society around the globe, including the sociology of law, law and economics, law and political science, psychology and law, and criminology.

Experts in the field of law explain the misunderstandings attached to and the intended meaning of the Ninth Amendment and its relationship to the Tenth Amendment of the United States Constitution.

Federalism: A Reference Guide to the United States ConstitutionA Reference Guide to the United States ConstitutionABC-CLIO

The ninth edition of this respected textbook provides a fresh perspective and a crisp introduction to congressional politics. Informed by the authors' Capitol Hill experience and scholarship, the new edition reflects changes resulting from the November 2014 elections and such developments as (a) a new majority party in the Senate, (b) new campaign spending numbers and election outcomes, rules, committees, leaders, and budget developments, and (c) recent political science literature that provides new perspectives on the institution. The text emphasizes the importance of a strong legislature and has discussion questions and further reading. Alongside clear explanations of congressional rules and the law-making process, there are examples from contemporary events and debates that highlight Congress as a group of politicians as well as a law-making body. These recent developments are presented within the context of congressional political history.

The U.S. Constitution establishes a system of dual sovereignty between the states and the federal government, with each state having its own government, endowed with all the functions

essential to separate and independent existence. Although the Supremacy Clause of the Constitution designates "the Laws of the United States" as "the supreme Law of the Land," other provisions of the Constitution-as well as legal principles undergirding those provisions-nonetheless prohibit the national government from enacting certain types of laws that impinge upon state sovereignty. The various principles that delineate the proper boundaries between the powers of the federal and state governments are collectively known as "federalism." Federalism-based restrictions that the Constitution imposes on the national government's ability to enact legislation may inform Congress's work in any number of areas of law in which the states and the federal government dually operate. There are two central ways in which the Constitution imposes federalism-based limitations on Congress's powers. First, Congress's powers are restricted by and to the terms of express grants of power in the Constitution, which thereby establish internal constraints on the federal government's authority. The Constitution explicitly grants Congress a limited set of carefully defined enumerated powers, while reserving most other legislative powers to the states. As a result, Congress may not enact any legislation that exceeds the scope of its limited enumerated powers. That said, Congress's enumerated powers nevertheless do authorize the federal government to enact legislation that may significantly influence the scope of power exercised by the states. For instance, subject to certain restrictions, Congress may utilize its taxing and spending powers to encourage states to undertake certain types of actions that Congress might otherwise lack the constitutional authority to undertake on its own. Similarly, the Supreme Court has interpreted the Constitution's Commerce Clause to afford Congress substantial (but not unlimited) authority to regulate certain purely intrastate economic activities that substantially affect interstate commerce in the aggregate. Congress may also enact certain types of legislation in order to implement international treaties. Additionally, pursuant to a collection of constitutional amendments ratified shortly after the Civil War, Congress may directly regulate the states in limited respects in order to prevent states from depriving persons of certain procedural and substantive rights. Finally, the Necessary and Proper Clause augments Congress's enumerated powers by empowering the federal government to enact laws that are "necessary and proper" to execute its express powers. In addition to the internal constraints on Congress's authority, the Constitution also imposes external limitations on Congress's powers vis-à-vis the states-that is, affirmative prohibitions on certain types of federal actions found elsewhere in the text or structure of the Constitution. The Supreme Court has recognized, for instance, that the national government may not commandeer the states' authority for its own purposes by forcing a state's legislature or executive to implement federal commands. Nor may Congress apply undue pressure to coerce states into taking actions they are otherwise disinclined to take. Furthermore, the principle of state sovereign immunity-which limits the circumstances in which a state may be forced to defend itself against a lawsuit against its will-imposes significant constraints on Congress's ability to subject states to suit. Finally, the Supreme Court has recognized limits to the extent to which Congress may subject some states to more onerous regulatory burdens than other states.

This book argues that Congress's process for making law is as corrosive to the nation as unchecked deficit spending. David Schoenbrod shows that Congress and the president, instead of making the laws that govern us, generally give bureaucrats the power to make laws through agency regulations. Our elected "lawmakers" then take credit for proclaiming popular but inconsistent statutory goals and later blame the inevitable burdens and disappointments on the unelected bureaucrats. The 1970 Clean Air Act, for example, gave the Environmental Protection Agency the impossible task of making law that would satisfy both industry and environmentalists. Delegation allows Congress and the president to wield power by pressuring agency lawmakers in private,

but shed responsibility by avoiding the need to personally support or oppose the laws, as they must in enacting laws themselves. Schoenbrod draws on his experience as an attorney with the Natural Resources Defense Council and on studies of how delegation actually works to show that this practice produces a regulatory system so cumbersome that it cannot provide the protection that people need, so large that it needlessly stifles the economy, and so complex that it keeps the voters from knowing whom to hold accountable for the consequences. Contending that delegation is unnecessary and unconstitutional, Schoenbrod has written the first book that shows how, as a practical matter, delegation can be stopped.

Relied on by students, professors, and practitioners, Erwin Chemerinsky's popular treatise clearly states the law and identifies the underlying policy issues in each area of constitutional law. Thorough coverage of the topic makes it appropriate for both beginning and advanced courses. This new, Fifth Edition features updated material throughout, including: Significant attention given to developments in law since publication of previous edition New material on standing, congressional power, presidential power and the war on terror; preemption, school desegregation; abortion rights and voting rights Covers First Amendment issues concerning speech and religion Includes recent and significant cases: Hein v. Freedom from Religion Foundation; Boumediene v. Bush; Hamdan v. Rumsfeld; Wyeth v. Levine; Philip Morris USA v. Williams

Thus the First Congress left us a rich legacy of arguments over the meaning of a variety of constitutional provisions, and the quality of those arguments was impressively high.

2019 marks the 200th anniversary of one of the most important Supreme Court decisions in American history: McCulloch v. Maryland. The state of Maryland tried to impede the establishment of the Bank of the United States, but Chief Justice John Marshall decided that the Necessary and Proper clause of the Constitution gave the federal government implied powers that allowed it to charter the bank without hindrance. The decision expanded the power of the national government vis-à-vis the states, and it still figures centrally in contemporary debates about the scope of national legislative power. Indeed, Chief Justice Roberts' 2012 decision upholding the Affordable Care Act relied on it. In The Spirit of the Constitution, David S. Schwartz tells the story of the decision's long-term impact and the evolution of Justice Marshall's reputation. By tracing the rich history of McCulloch's influence from 1819 to the present, he shows that its meaning-and significance-for judges, political leaders, and the public varied greatly over time. The case was alternately celebrated, denounced, ignored, and reinterpreted to suit the needs of the moment. While Marshall was never reviled, he was not seen as especially influential until the late nineteenth century. Competing parties utilized McCulloch in constitutional debates over national power in the early republic; over the question of slavery in the late antebellum period; and over Congress's role in regulating the economy and civil rights in the twentieth century. Even after McCulloch's meaning seemed fixed by the mid-twentieth century, new debates about its implications have emerged in recent times. Schwartz's analysis of McCulloch's remarkable impact reaffirms the case's importance and unveils the circuitous process through which American constitutional law and ideology are made.

Rev. ed of: Constitutional law / Daan Braveman, William C. Banks, Rodney A. Smolla. 5th ed. 2005.

This is a print on demand edition of a hard to find publication. The lines of authority between states and the federal gov¿t. are, to a significant extent, defined by the U.S. Constitution and relevant case law. In recent years, however, the Supreme Court has decided a number of cases that would seem to re-evaluate this historical relationship. This report discusses state and federal legislative power, focusing on a number of these ¿federalism¿ cases. The report does not, however, address the larger policy issue of when it is appropriate ¿ as opposed to constitutionally permissible ¿ to exercise federal powers. Contents: Powers of the States; Powers of the Federal Gov¿t.; The Commerce Clause; The 14th Amendment; The 10th Amendment; 11th Amend. and State Sovereign Immunity; The Spending Clause; Conclusion.