

CONSTITUTIONAL LAW

I. Federalism and Federal Power Generally

- a. **Federalist system:** the national government and the states coexist.
- b. Federal Government is limited by its enumerated powers (those specifically granted to the Congress (primarily in Article I §8) – they are the power to:
 - i. Lay and collect taxes
 - ii. Provide for the defense of the country
 - iii. Borrow money of the credit of the US
 - iv. **Regulate commerce with foreign nations and among the several states (the COMMERCE CLAUSE)**
 - v. Regulate immigration and bankruptcy
 - vi. Establish post offices
 - vii. Control the issuance of patents and copyrights
 - viii. Declare war
 - ix. DC and the military
 - x. “make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested ...” (THE NECESSARY AND PROPER CLAUSE (McCulloch v. Maryland))
 1. NOTE: there is no general police power granted to the federal government by the Constitution
- c. **Doctrine of Implied Powers:** the federal government may validly exercise power that is ancillary to one of the powers explicitly listed in the Constitution

MCCULLOCH V. MARYLAND (1819)

Facts: MA imposed a tax upon all banks operating in the state that were not chartered by the state. The measure was intended to discriminate against the national bank and its Maryland branch. Maryland then brought suit against the Bank to collect the taxes.

Holding: The SC held the tax constitutionally invalid in McCulloch. Marshall held that particular powers could be implied from the explicit grant of other powers (the enumerated power was that of raising revenue. Relied on the “necessary and proper clause” for justification. **Thus, so long as the means is rationally related to a constitutionally specified object, the means is also constitutional.** Final conclusion was that the act chartering the national bank was valid because it bore a reasonable relationship to various constitutionally enumerated powers of the government.

- d. Standard set forth in McCulloch is **still in force today.** The Courts will not strike down a congressional action so long as Congress has employed a means which is not prohibited by the Constitution and which is rationally related to objectives that are themselves within constitutionally-enumerated powers.

2. COMMERCE CLAUSE:

- a. **Article I §8** of the Constitution gives “*Congress the power to regulate commerce with foreign Nations and among the several states and with the Indian Tribes.*”

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Christian G. Meyer



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Cohen and Danelski's 2005 Supplement to Constitutional Law Civil Liberty and Individual Rights, 5th (University Casebook Series®) William Cohen, David J. Danelski, 2005-08-26 Winner of the 2009 Pulitzer Prize for Drama A powerhouse drama Lynn Nottage's beautiful hideous and unpretentiously important play is a shattering intimate journey into faraway news reports Linda Winer Newsday An intense and gripping new drama the kind of new play we desperately need well informed and unafraid of the world's brutalities Nottage is one of our finest playwrights a smart empathetic and daring storyteller who tells a story an audience won't expect David Cote Time Out New York A rain forest bar and brothel in the brutally war torn Congo is the setting for Lynn Nottage's extraordinary new play The establishment's shrewd matriarch Mama Nadi keeps peace between customers from both sides of the civil war as government soldiers and rebel forces alike choose from her inventory of women many already ruined by rape and torture when they were pressed into prostitution Inspired by interviews she conducted in Africa with Congo refugees Nottage has crafted an engrossing and uncommonly human story with humor and song served alongside its postcolonial and feminist politics in the rich theatrical tradition of Bertolt Brecht's Mother Courage Lynn Nottage's plays include Crumbs from the Table of Joy Fabulation and Intimate Apparel winner of the American Theatre Critics Steinberg New Play Award and the Francesca Primus Prize Her plays have been widely produced with Intimate Apparel receiving more productions than any other play in America during the 2005 2006 season

The Nomination of Elena Kagan to be an Associate Justice of the Supreme Court of the United States United States. Congress. Senate. Committee on the Judiciary, 2010 Cases and Materials on Constitutional Law Daniel A. Farber, William N. Eskridge, Philip P. Frickey, 2003 The authors have tried to provide some historical context for modern doctrine and to give at least a brief treatment of less contentious areas of law They also have tried to show students how these issues pervade constitutional law and to provide students with tools for more intense thinking The authors start with Brown v Board of Education and the historical litigation background of that case to generate greater initial enthusiasm in students

United States Code, 2000 Edition, Supplement 5, V. 4. January 2, 2001 to January 2, 2006 House, *Law, State, and Society in Modern Iran* H. Enayat, 2013-07-17 Using a Historical Institutionalist approach this book sheds light on a relatively understudied dimension of state building in early twentieth century Iran namely the quest for judicial reform and the rule of law from the 1906 Constitutional Revolution to the end of Reza Shah's rule in 1941

United States Code Annotated United States, 2009 *West's New York Supplement*, 2006 **2008 Supplement to the Second Edition of the American Constitutional Order**, 2006 **United States Code, 2006, Supplement 1, January 4, 2007 to January 8, 2008** Congress, 2009-10-22 The United States Code 2006 Edition contains the General and Permanent Laws of the United States Enacted Through the 109th Congress Ending January 3 2007 the Last Law of Which was Signed on January 15 2007

Cases and Materials on Constitutional Law Supplement Daniel A. Farber, Henry J. Fletcher Professor of Law

and Associate Dean for Research Daniel A Farber, William N. Eskridge, Jr., Philip P. Frickey, 2008-08-06 This supplement brings the principal text current with recent developments in the law **Supplement to the Revised Statutes of the State of Wisconsin, 1878, Containing the General Laws from 1879 to 1883** Wisconsin, 1883 **Public Health Reports , The New York Supplement** , 1892 Cases argued and determined in the Court of Appeals Supreme and lower courts of record of New York State with key number annotations varies **Jerusalem** Jay Sekulow, 2018-06-26 In his new book New York Times bestselling author Jay Sekulow presents a political and historical rationale for the existence of Israel as a sovereign nation The State of Israel and its very right to exist is a lynchpin issue not only in the Middle East but is a critical issue to the world at large Whether it is the blatant and stated desire of ISIS Hamas Hezbollah or Iran to wipe Israel from the face of the earth or the more subtle but equally insidious aim to delegitimize Israel s existence through efforts at UNESCO the goal is the same to get rid of Israel Here is the book that defends Israel s right to exist as a sovereign nation As Chief Counsel for the American Center for Law and Justice Jay Sekulow has fought with Israel hand in hand in some of Israel s most strategic international battles Now he has pulled together the definitive and comprehensive look at Israel one of the world s most controversial nations and its importance to us as Americans and as a key focal point to the future of the world He looks at the legal case for its prominence as well as the historical and political rationale for its existence as a sovereign nation and homeland for Jews today and encourages readers to stand with him against the hatred lies and efforts to delegitimize one of the world s oldest nations California. Court of Appeal (2nd Appellate District). Records and Briefs California (State)., **Constitutional Law Supplement** William Cohen, Jonathan D. Varat, Professor of Law Hastings College of the Law Vikram Amar, Vikram Amar, 2007-08 This 2007 casebook supplement to both the Concise and Unabridged Cohen Varat and Amar s Constitutional Law Cases and Materials 12th covers all the major aspects of constitutional law It features edited cases and original text released since the casebook **American Law Reports, Second Series: Later Case Service** , 1965 *Revised Statutes of Nebraska, 1943* Nebraska, 1944 **Survey, Serbia & Montenegro** , 2006
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