



## The Modes of Constitutional Analysis: Structuralism (Part 7)

January 13, 2022

This Legal Sidebar Post is the seventh in a nine-part series that discusses certain “methods” or “modes” of analysis that the Supreme Court has employed to determine the meaning of a provision within the Constitution. (For additional background on this topic and citations to relevant sources, please see CRS Report R45129, *Modes of Constitutional Interpretation*.)

One of the most common modes of constitutional interpretation is based on the Constitution’s structure. Drawing inferences from the Constitution’s design gives rise to some of the most important relationships the Constitution establishes—the relationships among the three branches of the federal government (commonly called *separation of powers* or *checks and balances*); the relationship between the federal and state governments (known as *federalism*); and the relationship between the government and the people. Two basic approaches seek to make sense of these relationships.

The first, known as *formalism*, *posits* that the Constitution sets forth all the ways in which federal power may be shared, allocated, or distributed. This approach focuses on the structural divisions in the Constitution with the idea that close adherence to these rules is required to achieve the preservation of liberty. An example of the use of this form of structuralism as a mode of interpretation is found in *Immigration and Naturalization Service v. Chadha*. In that case, the Court held that one house of Congress could not by resolution unilaterally curtail the executive branch’s statutory authority to allow a deportable alien to remain in the United States. The Court examined the Constitution’s structure and noted that, under the Bicameralism and Presentment Clauses in Article I, Sections 1 and 7, laws with subject matter that is “legislative in character or effect” require passage by a majority in both houses and presentment to the President for his signature or veto. The Court wrote: “It emerges clearly that the prescription for legislative action in [Article I, Sections 1 and 7 of the Constitution] represents the Framers’ decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.” Viewing the exercise of the one-house veto in *Chadha* to be of a legislative nature, the Court concluded that the structural relationships the Constitution established between the legislative and executive branches forbid the “one-House legislative veto.” As demonstrated in *Chadha*, a formalist approach to separation-of-powers questions rejects not only looking to post-ratification historical practices as a guide for determining constitutional meaning, but also eschews balancing tests that weigh the degree of interference with one branch’s powers.

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# Constitutional Analysis

**United States**



## **Constitutional Analysis:**

**Constitutional Analysis in a Nutshell** Thomas Baker, 2025-01-08 This authoritative text provides a framework for understanding individual liberty and governmental power and the institutional role played by the Supreme Court of the United States The comprehensive coverage in this new and improved edition includes all the major topics judicial review commerce clause and state powers federalism separation of powers congressional and executive powers and individual civil rights and civil liberties It includes diagrams that aid understanding of the fundamentals of our system of government A chapter samples all the academic literature on the subject in condensed form An appendix summarizes the case law found in all the casebooks in a straightforward manner to provide an overview and to aid in review for the final examination Extremely accessible and comprehensive this is a paperback course in American Constitutional Law your own personal tutor

**The Constitution of the United States of America, Analysis and Interpretation, Centennial Edition, Analysis of Cases Decided by the Supreme Court of the United States to June 28, 2012** United States, 2013 Centennial edition Popularly known as the Constitution Annotated or CONAN encompasses the U S Constitution and analysis and interpretation of the U S Constitution with in text annotations of cases decided by the Supreme Court of the United States The analysis is provided by the Congressional Research Service CRS in the Library of Congress This is the 100th anniversary edition of a publication first released in 1913 at the direction of the U S Senate Since then it has been published as a bound edition every 10 years with updates issued every two years that address new constitutional law cases Audience Federal lawmakers libraries law firms constitutional scholars

**Constitutional Analysis in a Nutshell** Jerre Stockton Williams, 1979 A succinct exposition of the law to which a student or lawyer can turn for reliable guidance Back cover

**An Economic Analysis of the Constitutional Restrictions Upon Municipal Indebtedness in Illinois** Ward Leslie Bishop, 1928 *An Economic Analysis of the Constitutional Restrictions Upon Public Indebtedness in the United States* Horace Secrist, 1914

**A History and Analysis of the constitution of the United States, with a full account of the Confederations which preceded it ... Second edition** Nathaniel C. TOWLE, 1873

**The System of the Constitution** Adrian Vermeule, 2011-12-30 Adrian Vermeule analyses constitutionalism through the lens of systems theory originally developed in biology computer science political science and other disciplines *State Constitutional Law*, 1990

**The Constitution As Political Structure** Martin H. Redish, 1995-01-05 Over the last forty years modern constitutional scholarship has concentrated on an analysis of rights while principles of constitutional law concerning the structure of government have been largely downplayed The irony of this interpretive emphasis is that the body of the Constitution contains relatively little dealing directly with rights Rather it is primarily a blueprint for the establishment of a complex form of federal democratic structure This work emphasizes the central role served by the structural portions of the Constitution Redish argues that these structural values were designed to provide the framework in which our rights based system may flourish and that judicial abandonment of these structural

values threatens the very foundations of American political theory      *The Context of Constitution* Dimitri Ginev, 2006-07-20

This study brings together ideas developed over many years in various lectures in an endeavour to clarify the concept of hermeneutic fore structure of scientific research The starting point of my investigations was the outline of an interpretative approach to the constitution of science's cognitive content In the late 1970s I was preoccupied with a question that nowadays should be formulated as follows Is it possible to claim a validity of the hermeneutic view of the situatedness in a tradition also for the natural sciences I was convinced that the negative answer implies a self-defeating position It states that in order to champion the cultural universality of hermeneutics one has to profess the non-hermeneutic nature of the natural sciences Paradoxically enough this answer presupposes a sharp dividing line between dialogical experience and monological research in culture in order to stress the universality of hermeneutics Long before the period of perestroika in my corner I learned from Joseph Kockelmans Patrick Heelan and Theodore Kisiel how the universalization of hermeneutics can include the natural sciences without ignoring their cognitive specificity Somewhat later in the aftermath of the discussions over the finalization of science I began to confront the view that it would be a kind of trivializing the struggle for a philosophical hermeneutics if the theory-observation nexus is treated as a specific hermeneutic circle No doubt the view is correct I was however dissatisfied with the way of arguing for it      **Supplement to An Analysis of the Constitution of the East-India**

**Company** Peter Auber, 1828      **Law Teachers' Manual of the Analysis of Cases and the Use of Law Books** Raleigh Augustus Daly, 1914      *The Constitution of the United States of America* Mark Tushnet, 2015-08-27 This is the second edition of Professor Tushnet's short critical introduction to the history and current meaning of the United States Constitution It is organised around two themes first the US Constitution is old short and difficult to amend Second the Constitution creates a structure of political opportunities that allows political actors including political parties to pursue the preferred policy goals even to the point of altering the very structure of politics Deploying these themes to examine the structure of the national government federalism judicial review and individual rights the book provides basic information about and deeper insights into the way the US constitutional system has developed and what it means today      *Constitutionalising Secession* David Haljan, 2014-11-01 Constitutionalising Secession proceeds from the question What if anything does the law have to say about a secession crisis But rather than approaching secession through the optic of political or nationalist institutional accommodation this book focuses on the underpinnings to a constitutional order as a law-making community underpinnings laid bare by secession pressures Relying on the corrosive effects of secession it explores the deep structure of a constitutional order and the motive forces creating and sustaining that order A core idea is that the normativity of law is best understood through a constitutional optic as an integrative associative force Constitutionalising Secession critically analyses conceptions of constitutional order implicit in the leading models of secession and takes as a leading case study the judicial and legislative response to secession in Canada The book therefore develops a concept of constitutionalism and law-making

associative constitutionalism to describe their deep structure as a continuing integrative process of association This model of a dynamic process of value formation can address both the association and the disassociation of constitutional systems     A Student's Guide to Basic Constitutional Analysis Russell Galloway,Rose Elizabeth Bird,1996     Constitutional History of the United States from Their Declaration of Independence to the Close of Their Civil War George Ticknor Curtis,1897

**Spectrum Analysis in Its Application to Terrestrial Substances, and the Physical Constitution of the Heavenly Bodies ... Translated from the Second Enlarged and Revised German Edition by J. and C. Lassell. Edited, with Notes by W. Huggins. With ... Plates and Ångström's and Kirchhoff's Maps** Thomas Joseph Heinrich SCHELLEN,1872

**Pennsylvania Records and Briefs: Supreme Court of Pennsylvania** ,2004-08-09 In the Matter of CONDEMNATION BY URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH OF CERTAIN LAND IN THE 22ND WARD OF THE CITY OF PITTSBURGH ALLEGHENY COUNTY PENNYSLVANIA REDEVELOPMENY AREA NO 51 FEDERAL NORTH OF BEING PROPERTY OF NEW GARDEN REALTY CORPORATION A PENNSYLVANIA CORPORATION EXECUTORS SUCCESSORS ASSIGNS OR ANY OTHER PERSONS FOUND TO HAVE ANY INTEREST IN THE PROPERTY     **State Constitutional Law** Robert Forrest Williams,1999     *Washington V. Lane* ,1987

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