

CONSTITUTIONAL LAW OVERVIEW

by Professor Robert Pushaw

I. OVERVIEW OF CONSTITUTIONAL LAW I—GOVERNMENT STRUCTURE

A. ROLE OF FEDERAL COURTS IN INTERPRETING CONSTITUTION

Theme: Founders expected constitutional interpretation to be shared by all three branches. Over past 50 years, however, **Supreme Court has asserted it's the ultimate arbiter of the Constitution**, and that everyone (not merely the parties to a particular case) must follow its interpretation unless Court changes its mind (*Cooper*).

1. Ongoing Controversy

(A) Judicial Activism or Independence of the Judiciary?

Article III makes judges **independent**, especially so they can enforce **Constitution**, even when it's politically unpopular (e.g., allowing offensive free speech, like flag burning). But Framers intended federal courts to invalidate laws only when they "**clearly**" violated Constitution, like suspending habeas corpus when there's no emergency. Gradually, however, Court began to strike down laws that did **NOT** clearly contradict any constitutional provision, but rather with **Court's view** of the best interpretation of that provision. And because Court is independent of political process, and enjoys such prestige, it can create **new constitutional rights under the guise of interpretation**. Such activism can reflect either liberal or conservative ideology. So independence is a two-edged sword.

(B) States' Rights vs. National Uniformity

Supremacy Clause makes plain that **FEDERAL** law trumps **STATE** law when they conflict. Court is final word on federal constitutional law, which must be (1) **superior** to all other law, and (2) **uniform**, so that your rights don't vary depending on what state you're in.

Nonetheless, there's been a persistent notion of "**states' rights**"—states can act on own independent interpretation of Constitution. That's how Southern States justified **secession**, and you would think that this idea would have died after the Civil War. But it didn't (e.g., Southern States' resistance to desegregation). Even today, a **majority** of the Court assert that **federal law** (including the Constitution) generally should be construed **narrowly** to preserve state power—*Lopez* and *Morrison* are examples.

Constitutional Law Barbri

Patrick Vollmar



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BarBri Bar Review ,1995 *Barbri Bar Review* ,2008 **Constitutional Law Spectra**,1998-02 **Constitutional Law - Stone** Geoffrey R. Stone,Spectra,1994-01-01 **Legalines on Constitutional Law,- Keyed to Rotunda** Jonathan Neville,1998 This book provides casebriefs for the important cases in the constitutional law casebook by Rotunda It includes the facts of the case issues holdings and the court s reasoning It also has a summary of the relevant law in order to show how the casebriefs work together with the law This title includes cases pertaining to judicial review the doctrine of implied power state power to regulate commerce commerce clause and federal power executive and legislative branches due process state action equal protection congressional enforcement of civil rights freedom of speech and religion and the Constitution

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Sleeping with a Wall Street Banker Marlene Morgan,2013-09-05 Sleeping With A Wall Street Banker Psychological thriller Lawyer Alice Francis leaves her life in London for a new start with Wall Street banker Jake Logan in New York She learns quickly that Jake is a man consumed by his need to control He loves but on his own terms When Jakes ex girlfriend Jessica finds out about Jakes relationship with Alice Alices life takes a dark turn For all the trappings of success from a Wall Street career Jake is a man tormented by the irrational guilt he carries from his past relationship with Jessica Jessica is unmarried and childless with a biological clock that has all but stopped ticking and Jake is her back up plan Her ultimate goal is to fix Jakes life by blackmailing him in an effort to force him into a horrible relationship that was never meant to be When Alice enters the picture Jessicas plans are turned upside down Mentally unbalanced Jessica resorts to extreme measures If she cant have Jake no one will

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Bad Lawyer Anna Dorn,2021-05-04 Law school was never Anna Dorn s dream It was a profession pushed on her by her parents teachers society whatever It s not the worst thing that can happen to a person as Dorn says law school was pretty cushy and mostly entailed wearing leggings every day to her classes at Berkeley and playing beer pong with her friends at night The hardest part was imagining what it would be like to actually be a lawyer one day But then she d think of Glenn Close on Damages and Reese Witherspoon in Legally Blonde and hoped for the best After graduation however Dorn realized that there was nothing sexy about being a lawyer Between the unflattering suits sucking up to old men and spending her days sequestered in a soul sucking cubicle Dorn quickly learned that being a lawyer wasn t everything Hollywood made it out to be Oh and she sucked at it Not because she wasn t smart enough but because she couldn t get herself to care enough to

play by the rules *Bad Lawyer* is more than just a memoir of Dorn's experiences as a less than stellar lawyer it's about the less than stellar legal reality that exists for all of us in this country hidden just out of sight It's about prosecutors lying and filing inane briefs that lack any semblance of logic or reason it's about defense attorneys sworn to secrecy until the drinks come out and the stories start flying and it's about judges who drink in their chambers sexually harass the younger clerks and shop on eBay instead of listening to homicide testimony More than anything this book aims to counteract the fetishization of the law as a universe based entirely on logic and reason Exposing everything from law school to law in the media and drawing on Dorn's personal experiences as well as her journalistic research *Bad Lawyer* ultimately provides us with a fresh perspective on our justice system and the people in it and gives young lawyers advice going forward into the 21st century

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