

Chapter 11: Powers of Congress

Section 1: The Scope of Congressional Powers

Key Terms: expressed power, implied powers, inherent powers, strict constructionist, liberal constructionist, consensus

A. Congressional Power

1. Congress has only those powers delegated to it and not specifically denied to it by the Constitution.

The Constitution has given Congress expressed, implied, and inherent powers.

- Expressed:** Powers specifically mentioned in the Constitution
2.
 - Implied:** Powers not specifically mentioned in the Constitution, but may reasonably deduced from those that are.
 - Inherent:** Powers that are possessed by all national governments

B. Strict Versus Liberal Construction

1. **Strict constructionists** (led by Thomas Jefferson) believed Congress should exercise only its expressed powers and those implied powers absolutely necessary to carry out those expressed powers. The value of government most valued was State government.
2. **Liberal constructionists** believe that the Constitution must be interpreted broadly, with an eye toward change.
 - a. That belief has extended the powers of the Federal Government far beyond the plans of the original Framers of the Constitution.
 - b. Liberal constructionists prevailed largely because wars and economic crises called for national action. The consensus of the American public is that government should have the power to solve national problems.

Chapter 11: Powers of Congress

Section 2: Expressed Powers of Money & Commerce

Key Terms: tax, direct tax, indirect tax, deficit financing, public debt, commerce power, legal tender, bankruptcy

A. The Power to Tax

1. The Purpose of Taxes
 - 90% of all the money needed to run the government comes from taxes.
 - A **tax** is a charge levied by the government on persons or property to meet public needs.
 - Congress may also impose taxes to protect American business (tariffs), and to protect the public health and safety. A license or fee is also a type of tax.
2. Limits on the Taxing Power
 - The Constitution places 4 explicit limits on the power to tax:
 - Congress may tax only for public purposes

American Government Chapter 11 Section 1 The Scope Of Congressional Powers

James E Pfander



American Government Chapter 11 Section 1 The Scope Of Congressional Powers:

Magruder's American Government Guided Reading and Review Workbook Student Edition 2003c William A. McClenaghan, 2002-05-15 High School Hailed as a stellar educational resource for nearly a century Magruder's American Government is updated annually to meet the changing needs of today's high school students and teachers The program's engaging narrative is enhanced with numerous primary sources political cartoons charts graphs and photos making the structure and principals of government accessible and motivating to students of all abilities *2001 Magruder's American Government* William A. McClenaghan, Frank Abbott Magruder, 2001 **Magruder's American Government 1988** William A. McClenaghan, 1988 **Enforcing the Equal Protection Clause** William D. Araiza, 2016 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 **Constitutional Law** Calvin R. Massey, 1997 Created to closely track the content and organization of the principle Constitutional Law casebooks students will find this superior study aid which presents the doctrine in a crystal clear highly accessible format as an invaluable companion to their Constitutional Law casebook *The Law of U.S. Foreign Relations* Sean D. Murphy, Edward T. Swaine, 2023 *The Law of U S Foreign Relations* is a comprehensive and incisive discussion of the rules that govern the conduct of U S relations with foreign countries and international organizations and the rules governing how international law applies within the U S legal system Among other topics this volume examines the constitutional and historical foundations of congressional executive and judicial authority in foreign affairs This includes the constitutional tensions prevalent in legislative efforts to control executive diplomacy as well as the ebb and flow of judicial engagement in transnational disputes with the judiciary often serving as umpire but at times invoking doctrines of abstention

The process of U S adherence to treaties and other international agreements is closely scrutinized as the authors examine how such law as well as customary international law and the law making acts of international organizations can become a source of U S law Individual chapters focus on the special challenges posed by the exercise of war powers by the federal government including during recent incidents of international armed conflict the complex role of the several states in foreign affairs and the imperative to protect individual rights in the transnational sphere Among the contemporary issues discussed are the immunity of foreign heads of State treatment of detainees at Guantamo movement of the U S Embassy in Israel to Jerusalem state level foreign compacts to address climate change bans affecting refugees and asylum seekers and recent interpretations of key statutes such as the Alien Tort Statute the Torture Victim Protection Act and the Foreign Sovereign Immunities Act Handbook of Federal Indian Law Felix S. Cohen, United States. Department of the Interior. Office of the Solicitor, 1942 **Magruder's American Government** Frank Abbott Magruder, William A. McClenaghan, 1994

Enhancing Government Erwin Chemerinsky, 2008-05-22 Federalism the division of power between national and state governments has been a divisive issue throughout American history Conservatives argued in support of federalism and states rights to oppose the end of slavery the New Deal and desegregation In the 1990s the Rehnquist Court used federalism to strike down numerous laws of public good including federal statutes requiring the clean up of nuclear waste and background checks for gun ownership Now the Roberts Court appears poised to use federalism and states rights to limit federal power even further In this book Erwin Chemerinsky passionately argues for a different vision federalism as empowerment He analyzes and criticizes the Supreme Court's recent conservative trend and lays out his own challenge to the Court to approach their decisions with the aim of advancing liberty and enhancing effective governance While the traditional approach has been about limiting federal power an alternative conception would empower every level of government to deal with social problems In Chemerinsky's view federal power should address national problems like environmental protection and violations of civil rights while state power can be strengthened in areas such as consumer privacy and employee protection The challenge for the 21st century is to reinvent American government so that it can effectively deal with enduring social ills and growing threats to personal freedom and civil liberties Increasing the chains on government as the Court and Congress are now doing in the name of federalism is exactly the wrong way to enter the new century But an empowered federalism as Chemerinsky shows will profoundly alter the capabilities and promise of U S government and society *One Supreme Court* James E Pfander, 2009-06-04 In offering a general account of the Court as department head Pfander takes up such important debates in the federal courts literature as Congress's power to strip the federal courts of jurisdiction to review state court decisions its authority to assign decision making authority to state courts and much more

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