

**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

**Daniel F McAuley**



**Constitutional Law Barbri:**

## **Constitutional Law Barbri** Book Review: Unveiling the Power of Words

In a world driven by information and connectivity, the ability of words has become more evident than ever. They have the capacity to inspire, provoke, and ignite change. Such could be the essence of the book **Constitutional Law Barbri**, a literary masterpiece that delves deep into the significance of words and their impact on our lives. Published by a renowned author, this captivating work takes readers on a transformative journey, unraveling the secrets and potential behind every word. In this review, we will explore the book's key themes, examine its writing style, and analyze its overall impact on readers.

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