

Lecture IX

CONSTITUTIONAL INTERPRETATION

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	1. IMPLIED POWERS:	

The Black's law dictionary provides implied power as, "A political power that is not enumerated but that nonetheless exists because it is needed to carry out an express power."¹

The Constitution was framed for not only to meet demands of the period of the immediate vicinity, nor it is a code which provides certain acts which can or cannot be done for the execution of powers by a State.² The constitution determines the powers but does not define or describe. So, if the Constitution does not provide the clause regarding the existence of powers which are incidental to the powers granted in an express way, then, it would be not possible to end that there is an implied grant of above powers because the express powers would practically become inoperative.

¹ Bryan A. Garner, Black's law dictionary, 1288 (9th ed., 2009).

² *McCulloch v. Maryland*, 17 U.S. (4 Wheat) 316.

Constitutional Interpretation 1994 Supplement

**Yoav Peled, Noah Lewin-Epstein, Guy
Mundlak, Jean Cohen**

Constitutional Interpretation 1994 Supplement:

Books in Print Supplement, 1994 **Democratic Citizenship and War** Yoav Peled, Noah Lewin-Epstein, Guy Mundlak, Jean Cohen, 2014-06-03 This edited volume explores the theoretical and practical implications of war and terror situations for citizenship in democratic states Citizenship is a key concept in Western political thought for defining the individual's relations with society The specific nature of these rights duties and contributions as well the relations between them are determined by the citizenship discourses that prevail in each society In wartime including low intensity wars democratic societies face different challenges than the ones facing them during peacetime in areas such as human rights the status of minorities the state's obligations to its citizens and the meaning of social solidarity War situations can affect not only the scope of citizenship as an institution but also the relations between the prevailing discourses of citizenship and between different groups of citizens Since 9 11 and the declaration of the war on terror many democracies have been grappling with issues rising out of the interface between citizenship and war This volume examines the effects of war on various aspects of citizenship practice including immigration and naturalization the welfare state individual liberties gender relations multiculturalism social solidarity and state civil society relations This book will be of great interest to students of military studies political science IR and security studies in general Bowker's Law Books and Serials in Print, 1998

Constitutional Context Kathleen S. Sullivan, 2007-03-15 Publisher Description *United States Code Annotated* United States, 2006 **Constitutional Commentary**, 2000 **Law Books Published**, 1994 Law Making Under the Trade Constitution: A Study in Legislating by the World Trade Organization Gail Evans, 2000-01-01 This work lays the foundation for an empirical understanding of the WTO constitution as a response to the logic of intellectual property law It concludes that the WTO and its institutions must find ways of conforming to the democratic principles of accountability transparency and representation **Peterman v. Department of Natural Resources, 446 MICH 177 (1994)**, 1994 95972

West's Federal Supplement, 2002 Cases decided in the United States district courts United States Court of International Trade and rulings of the Judicial Panel on Multidistrict Litigation **Federal Practice and Procedure: Jurisdiction and related matters** Charles Alan Wright, 1969 Rules of criminal procedure Rules of civil procedure Jurisdiction and related matters Federal practice deskbook Rules of evidence Judicial review of administrative action

American Constitutional Law Louis Fisher, 2005 **Legal Information Buyer's Guide and Reference Manual** Kendall F. Svengalis, Rhode Island Law Press, 2008 Chinese Law Jianfu Chen, 2023-09-25 Law in particular its actual functioning in any given society is above all a part of the culture of that society a part of its historical political social and intellectual creation If a black letter approach towards law in the West is under increasing criticism it is particularly unhelpful if not misleading in understanding Chinese law its nature and developments Rather to understand Chinese law its nature and developments we need to examine the Chinese legal traditions the prevailing political and economic situations

Party policies on economic reform and tolerance towards political liberalisation and scholarly discussions and debate This is the approach of this book Its aim is to put Chinese law in context to outline the nature and present status of its development and to analyse the meaning of the law within the Chinese context However this monograph does not ignore the practical needs for determining the precise contents of the black letter law either A study of this kind necessarily involves a process of topic selection However to avoid over generalisation and over simplification it also demands a considerable degree of comprehensiveness in coverage For this reason the book covers what the Chinese scholars term fundamental law and basic branches of law while other topics are covered because they are either crucial for the understanding of the law such as legal traditions in China or of practical importance such as foreign investment and trade Chapter One provides an historical background to traditional Chinese legal culture and modern law reforms The historical background of specific topics is examined as the topics are analysed in the following chapters Chapter Two deals with the changing fate of law under Communist rule Its focus is on the underlying factors and justifications for such changes Chapter Three introduces discussions on specific branches of law from public law constitutional law law making administrative law criminal law criminal procedure law to private law civil law family law contracts law on business entities and law on foreign investment and trade Each of these is dealt with in a separate chapter After the analysis of these substantial topics certain conclusions are drawn which attempt to define the nature of Chinese law and its developments in present day China

Developing Library and Information Center Collections G. Edward Evans, 2000 Provides practical information on materials producers and distributors community survey techniques policies materials selection acquisition weeding collection protection and evaluation in order to minimize the variables involved in the selection process Also explores library cooperation copyright and censorship as they affect library collection development As might be expected the fourth edition is heavily inflected by electronic developments and though longer than all previous editions has deleted some material Every chapter is followed by a summary suggested readings and list of relevant websites Annotation c Book News Inc Portland OR *United States Congressional Serial Set Catalog*, 1995 **United States Code Annotated Constitution of the United States Annotated Articles 2 to 7**, 1987 **Subject Guide to Books in Print**, 1997 Law Books in Print: Author index Nicholas Triffin, 1997 **Judges and Unjust Laws** Douglas E. Edlin, 2010-07-22 With keen insight into the common law mind Edlin argues that there are rich resources within the law for judges to ground their opposition to morally outrageous laws and a legal obligation on them to overturn it consequent on the general common law obligation to develop the law Thus seriously unjust laws pose for common law judges a dilemma within the law not just a moral challenge to the law a conflict of obligations not just a crisis of conscience While rooted firmly in the history of common law jurisprudence Edlin offers an entirely fresh perspective on an age old jurisprudential conundrum Edlin s case for his thesis is compelling Gerald J Postema Cary C Boshamer Professor of Philosophy and Professor of Law University of North Carolina at Chapel Hill and author of

Bentham and the Common Law Tradition Douglas Edlin builds a powerful historical conceptual and moral case for the proposition that judges on common law grounds should refuse to enforce unjust legislation This is sure to be controversial in an age in which critics already excoriate judges for excessive activism when conducting constitutional judicial review Edlin s challenge to conventional views is bold and compelling Brian Z Tamanaha Chief Judge Benjamin N Cardozo Professor of Law St John s University and author of Law as a Means to an End Threat to the Rule of Law Professor Edlin s fascinating and well researched distinction between constitutional review and common law review should influence substantially both scholarship on the history of judicial power in the United States and contemporary jurisprudential debates on the appropriate use of that power Mark Graber Professor of Law and Government University of Maryland and author of Dred Scott and the Problem of Constitutional Evil Is a judge legally obligated to enforce an unjust law In Judges and Unjust Laws Douglas E Edlin uses case law analysis legal theory constitutional history and political philosophy to examine the power of judicial review in the common law tradition He finds that common law tradition gives judges a dual mandate to apply the law and to develop it There is no conflict between their official duty and their moral responsibility Consequently judges have the authority perhaps even the obligation to refuse to enforce laws that they determine unjust As Edlin demonstrates exploring the problems posed by unjust laws helps to illuminate the institutional role and responsibilities of common law judges Douglas E Edlin is Associate Professor of Political Science at Dickinson College

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