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# Constitutional Law (Quick Study: Law)

AMERICA'S #1 LEGAL REFERENCE CHART

## CONSTITUTIONAL LAW

✓ This updated America's most sought reference described by the U.S. Supreme Court during its current term. Abbreviations list A. = Amendment, Art. = Article

EXECUTIVE: ART. II	JUDICIARY: ART. III
<b>PRESIDENTIAL POWERS</b> (Classically described in foreign affairs, there is domestic affairs) <b>• FOREIGN</b> 1. Treaty A. With advice and consent of Senate B. Equal reciprocity with acts of Congress 2. Executive agreements: No consent of Senate yet still operates over state and prior federal law <b>• COMMANDER IN CHIEF OF ARMED FORCES</b> 1. Executive powers A. War power to control troops absent without congressional approval when: i. Maintaining neutrality ii. Protecting frontier abroad iii. Enforcing national security B. War Powers Resolution of 1973 (Limitation on presidential powers) 2. Domestic powers A. Power to control troops is limited i. Strongest if Congress agrees ii. Not as strong if Congress disagrees B. Power to carry out law, not to make law i. Executive order to solve and settle such as unconstitutional structure of congressional committee (Thompson's, Senate) ii. War crimes tribunal at Guantanamo Bay established by the administration (Obama's, Executive Order) iii. Military orders (Obama's, Executive Order) 3. Pardons (Federal crimes only) A. Power to require law, some provisions that may not approve pardons B. Full pardon restores innocence and all rights i. Life ii. Can be withheld by a state to each state iii. One issue was unconstitutional (Obama's, Chief Justice) C. Pardon can't be exercised i. Life term only gives pardon to government spending by providing individual programs ii. Power available prior to the Supreme Court (Clinton's, Chief Justice) 4. Appointment of federal officers A. Top level officers, such as Supreme Court justice and cabinet members, with advice and consent of Senate B. Inferior officers and employees generally appointed without Senate i. Appointment of special prosecutors may be granted to judiciary (Clinton's, Chief Justice) ii. Appellate military judges are inferior officers who must be appointed, subject to Senate approval, unless authorized (Obama's, Chief Justice) <b>• IMPEACHMENT OF PRESIDENT</b> 1. House: Majority to initiate charges 2. Senate: To be convicted 3. Grounds: Treason, bribery, high crimes, and misdemeanors <b>• IMPEACHMENT OF FEDERAL OFFICERS</b> 1. Congress has sole power (Judge, W. L. Stearns, C.S.C.) <b>• CRIMINAL LIABILITY</b> 1. No liability to require federal 2. Only not criminally liable generally <b>• IMMUNITY</b> <b>• CIVIL LIABILITY</b> 1. Absolute immunity of president with regard to official acts but not unofficial conduct (Clinton's, Justice) 2. Qualified immunity of all government officials, unless actions violate clearly established law (Obama's, Supreme Court) 3. No protection for holding like citizens (Obama's, Justice) 4. No qualified immunity for privately employed prison guards (Obama's, Justice) 5. Qualified privilege, with regard to disclosure of confidential information A. Chief of immunity subordinate to need for specific evidence to criminal trial (Obama's, Justice) B. State does not have immunity to require FBI to accept federal funds (Obama's, Justice) <b>• EXECUTIVE PRIVILEGE</b> 1. Qualified privilege, with regard to disclosure of confidential information A. Chief of immunity subordinate to need for specific evidence to criminal trial (Obama's, Justice) B. State does not have immunity to require FBI to accept federal funds (Obama's, Justice)	<b>CASE &amp; CONTROVERSY REQUIREMENT (MUST USE)</b> <b>• NONREVERSIBLE ("MUST USE")</b> 1. Federal system A. Long-term system 2. Original Clause of Art. IV, in which the Supreme Court declares to address the issue of whether a state is creating a republican form of government (Pa. State v. U.S., 1890) 3. Adversely affected and hypothetical or abstract issues are not considered justiciable <b>• STANDING ("MUST USE")</b> 1. Personal stake in the outcome A. Specific injury in fact i. Tangible harm ii. Injury is specific, constitutional violation, or Congress has enacted and spending power affecting taxpayer (Holt v. U.S., 2011) iii. Congress members lack standing to challenge constitutionality of an amendment (Holt v. U.S., 2011) iv. State lacked standing to bring Executive Order case because no particular stake as litigation was asserted and only claimed harm to every citizen (Holt v. U.S., 2011) 2. Newspaper cases: Injury must be caused by a constitutional or statutory violation (e.g., environmental damage, such as dumping of water affecting drinking water) causing a concrete and individualized injury i. Citizen did not have standing to challenge federal statute on grounds that it violated standing to constitutional process and violated its own emergency (Holt v. U.S., 2011) ii. A negligence standard is applied "but for" a violation of the statute, an injury would not have occurred iii. Injury must be within "zone of interests" protected by statute (Holt v. U.S., 2011) iv. First National Bank 1. Prerequisite of law having some on standing to bring suit to appeal court (Holt v. U.S., 2011) 2. Third party standing (Holt v. U.S., 2011) A. Citizen injured by government action of litigation B. Private individual has standing to bring suit in federal court on behalf of U.S. but not against state under the habeas clause (Holt v. U.S., 2011) 3. Laches: Plaintiff must have third party standing to bring the claim of future constitutional claim (Holt v. U.S., 2011) 4. Ripeness of case: Plaintiff does not provide cause of action to foreign plaintiff alleging unconstitutional standing (Holt v. U.S., 2011) 5. Plaintiff can state ripeness claim based on strategic manufacture of adverse events, even about national significance of adverse events (Holt v. U.S., 2011) 6. Exception allowing for third party standing includes: i. Special relationship exist with plaintiff and third party (e.g., private school may assert students rights to attend classes in violation of state requiring attendance at public schools) (Holt v. U.S., 2011) ii. Plaintiff has standing to sue for damages on behalf of its members (Holt v. U.S., 2011) iii. Where individual has standing to sue federal Protection and Due Process provisions to discriminate against African Americans in the selection of grand jurors (Holt v. U.S., 2011) iv. Victim representation is not an exception to the general rule that the doctrine of ripeness does not apply to corporate (Holt v. U.S., 2011) <b>• REPEAL ("MUST USE")</b> 1. Ripeness: Plaintiff must have third party standing A. Plaintiff agency decision-maker's duty to adjudicate 2. Challenge to proposed grant to implementation is premature (Holt v. U.S., 2011) 3. Challenging validity of statute prior to violation is not justiciable A. Case cannot be brought to court in judicial review in violation of statute that has a basis for a claim (Holt v. U.S., 2011) 3. This requires court must first render judgment prior to U.S. Supreme Court review (Holt v. U.S., 2011) <b>• "MUST USE" ("MUST USE")</b> 1. Congress must act at all stages of the lawsuit A. Exception: Capable of repetition yet evading review (e.g., Bivens, Ripeness) requires court satisfy that (Holt v. U.S., 2011) 2. This requires court must first render judgment prior to U.S. Supreme Court review (Holt v. U.S., 2011) <b>• JUDICIAL REVIEW</b> 1. When applied, discriminatory statute are nearly always unconstitutional 2. Fundamental rights are those expressed or implied in Constitution 3. Free Exercise Clause A. While beliefs are absolutely protected, conduct gets less protection if the belief or free exercise is "significant" than the Supreme Court applies when reviewing B. Individual's conduct is of general applicability permits over special claims based on religious (Holt v. U.S., 2011) 4. Religious Freedom Restoration Act of 1993 (RFRA) A. To require strict scrutiny of government action B. To require strict scrutiny of government action 5. Religious claim A. Discrimination based on race or ethnicity and intentional discrimination (e.g., race, religion) i. If race is controlling and law does not pertain to a particular function and racial equality applies of political function, then strict scrutiny ii. If Congress is reaching, then strict scrutiny is applied 3. Test: Government must show law is necessary to achieve compelling governmental interest (i.e., "narrowly tailored" means that the law is narrowly tailored and is neither unduly restrictive nor overbroad) <b>• DISCRIMINATION: RACE AND ETHNICITY</b> 1. 14th A. Equal Protection: Gender and Ethnicity 2. Education: District to diversity group must be justified by showing educational state interest (Holt v. U.S., 2011) 3. Test: Classification or regulation must serve important governmental objective and must be substantially related to achievement of that important objective 4. Burden of proof on government 5. Gender: Women's national health activities, a narrow exception (Holt v. U.S., 2011) <b>• NEAR SCRUTINY</b> 1. Discrimination: Government of public law A. Congressional intent must be clear (Holt v. U.S., 2011) 2. Government Clause: Voting power A. National basis applies on decisions made after the Government Clause (Holt v. U.S., 2011) i. Activity regulated has "substantial economic effect" on national economy ii. Activity has such an effect on the "aggregate" of the U.S. or activities regulated substantially affect interstate commerce 3. 14th A. One Person and Equal Protection if no fundamental or quasi-fundamental right involved, no suspect or quasi-suspect class involved A. All citizens suffering similar burdens under identical fundamental rights law receive equal classification and are equal to strong protection of rights (Holt v. U.S., 2011) 4. Age is not a suspect class and state 14th A. interests generally in Age Discrimination in Employment Act (Holt v. U.S., 2011) 5. Burden of proof on government to show that classification is not arbitrary (Holt v. U.S., 2011) 6. Employment who took adverse action based on health age discrimination and a health notice can avoid liability if able to show some action would have been taken even if that not considered protected class (Holt v. U.S., 2011)

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## Synopsis

With the rights of citizens becoming more complex each day, it is important for attorneys in this field to have the latest information at their fingertips •thatâ™s where our updated, 3â“panel guide comes in. Every aspect of constitutional law is analyzed, and cases and statutes are highlighted for easy reference.

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