



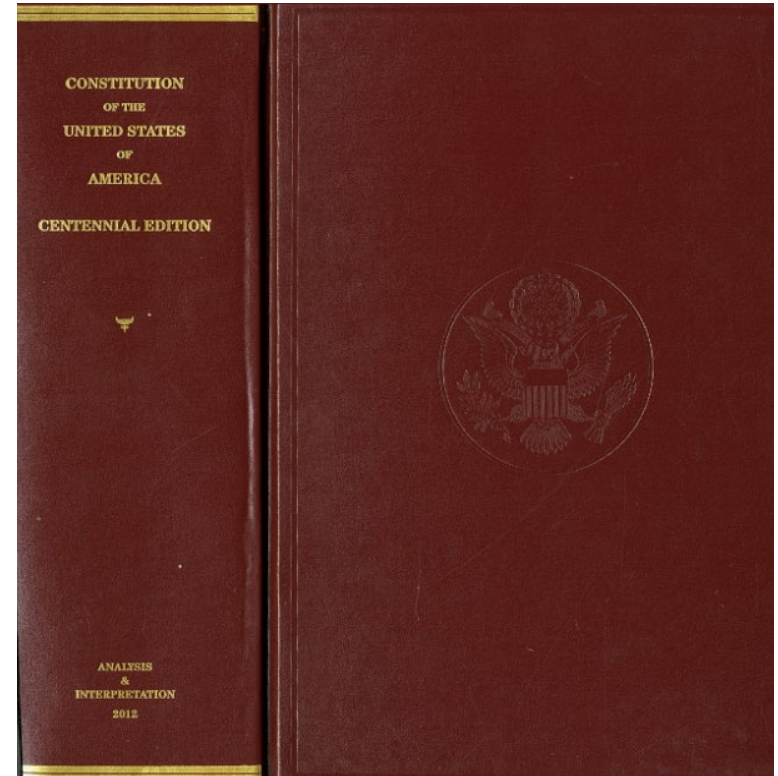
Overview of the Constitution Annotated Online

Barbara Bavis
Bibliographic and Research Instruction Librarian

Public Services Division
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Background

- The Constitution Annotated of the United States of America: Analysis and Interpretation (Constitution Annotated or CONAN) is the only comprehensive, government-sanctioned record of the interpretations of the U.S. Constitution
- Written and published by the Congressional Research Service (CRS)
- Printed every 10 years



Examples: "due process", search AND warrant, "First Amendment"

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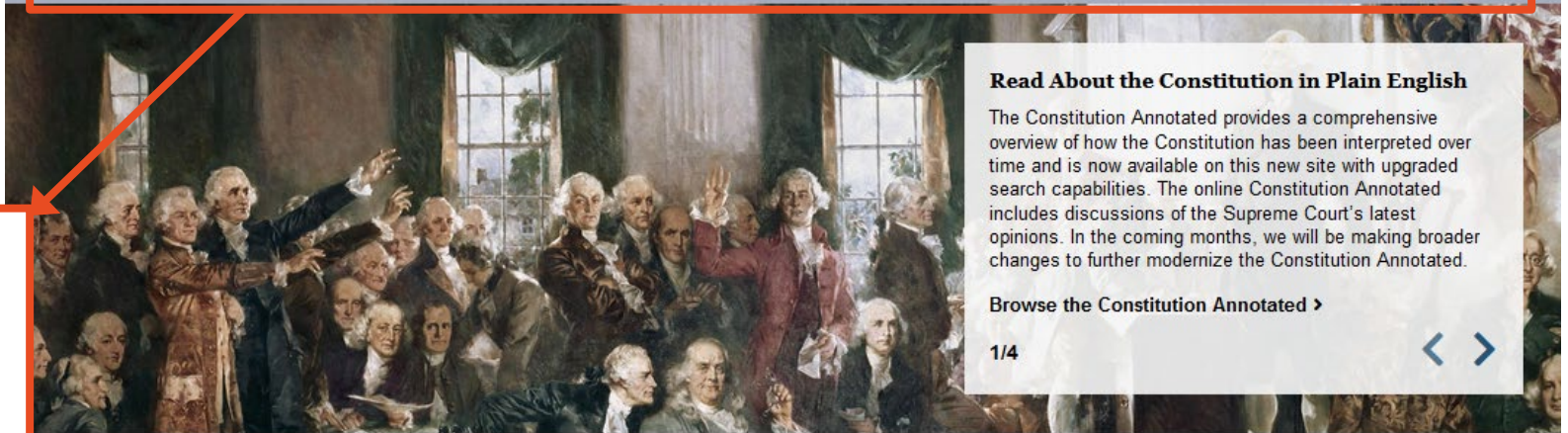
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Examples: "due process", search AND warrant, "First Amendment"



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OR	any of these terms	express OR implied	Find essays that contain either the word express or the word implied
" "	exact phrase	"search and seizure"	Find essays that contain the exact phrase, including spaces and punctuation, "search and seizure"
()	group these terms	(witness OR testimony) AND (plead OR fifth)	Find essays that contain the word witness or the word testimony and contain the word plead or the word fifth
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Footnotes:

. . . (1886). See . See Thomas v. Collins, 323 U.S. 516, 530 (1945) (It was not by accident or coincidence that the rights to **freedom** in speech and **press** were coupled in a single guaranty with the rights of the people peaceably to assemble and to petition for redress of grievances. All these, though not identical, are inseparable.). De Jonge v. Oregon, 299 U.S. 353, 364 (1937). Thomas, 323 U.S. at 532, 539. . .

freedom (29) press (12)

2. First Amendment

Amdt1.9.1 Overview of Freedom of the Press

First Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the **freedom** of speech, or of the **press**; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. Some have raised the question of whether the Free Speech Clause and the Free. . .

Footnotes:

See, e.g., Associated **Press** v. NLRB, 301 U.S. 103, 130 (1937) (ruling that applying an antitrust law to the Associated **Press** did not violate either the **freedom** of speech or of the **press**); see also ; . Houchins v. KQED, 438 U.S. 1, 17 (1978) (concurring opinion). Justice Potter Stewart initiated the debate in a speech, subsequently reprinted as Potter Stewart, Or of the **Press**, 26 Hastings L. J. . .

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Artl.S8.C3.7.3 Early Dormant Commerce Clause Jurisprudence

Article I, Section 8, Clause 3: The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; . . . The Supreme Court first described the principles that would become the **dormant Commerce Clause** doctrine in 1824. In *Gibbons v. Ogden*, the Court struck down New York's grant of a . . .

Footnotes:

. . . *Minnesota Rate Cases*, 230 U.S. at 396; see also *W. Union Tel. Co. v. Kansas ex rel. Coleman*, 216 U.S. 1, 37 (1910) (invalidating a Kansas state fee on Western Union for the benefit of in-state schools). See James M. McGoldrick, Jr., *The Dormant Commerce Clause: The Origin Story and the Considerable Uncertainties—1824 to 1945*, 52 *Creighton L. Rev.* 243, 276–284 (2019) (surveying the Courts varying. . .

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Artl.S8.C3.7.11.2 Early Dormant Commerce Clause Jurisprudence and State Taxation

Article I, Section 8, Clause 3: The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; . . . The Supreme Courts **Dormant Commerce Clause** jurisprudence dealing with how state taxing power relates to interstate commerce developed gradually with the Court. . .

Footnotes:

Case of the State Freight Tax, 82 U.S. (15 Wall.) 232 (1873). *Id.* at 275. *Id.* at 275–76, 279. *Id.* at 281–82. 53 U.S. (12 How.) 299

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Examples: "due process", search AND warrant, "First Amendment"



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The Supreme Court's **Dormant Commerce Clause** jurisprudence dealing with how state taxing power relates to interstate commerce developed gradually with the Court first striking down a state tax as violating the Commerce Clause in 1873 in the *State Freight Tax Case*.¹ In the *State Freight Tax Case*, the Court considered the validity of a Pennsylvania statute that required every company transporting freight within the state, with certain exceptions, to pay a tax at specified rates on each ton of freight carried by it. The Court's reasoning was forthright: Transportation of freight constitutes commerce.² A tax upon freight transported from one state to another effects a regulation of interstate commerce.³ Hence, a state law imposing a tax upon freight, taken up within the state and transported out of it or taken up outside the state and transported into it, violates the Commerce Clause.⁴

Relying on the doctrine established in *Cooley v. Board of Wardens*,⁵ the Supreme Court stated:

[W]henver the subjects over which a power to regulate commerce is asserted are in their nature national or admit of one uniform system or plan of regulation, they may justly be said to be of such a nature as to require exclusive legislation by Congress. Surely transportation of passengers or merchandise through a State, or from one state to another, is of this nature. It is of national importance that over that subject there should be but one regulating power, for if one State can directly tax persons or property passing through it, or tax them indirectly by levying a tax upon their transportation, every other may, and thus commercial intercourse between States remote from each

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Examples: "due process", search AND warrant, "First Amendment"



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Continental Congress and Adoption of the Articles of Confederation In June 1774, the Virginia and Massachusetts assemblies independently proposed an intercolonial meeting of delegates from the several. . .

2. Introduction

Intro.6.2 Weaknesses in the Articles of Confederation

Weaknesses in the Articles of Confederation Weaknesses inherent in the Articles of Confederation became apparent before the Revolution out of which that instrument was born had been concluded. Even be. . .

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Intro.6.3 Constitutional Convention

Constitutional Convention Virginia, recognizing the need for an agreement with Maryland respecting the navigation and jurisdiction

Essay Text

ArtI.S8.C3.7.11.2 Early Dormant Commerce Clause Jurisprudence and State Taxation

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Essay Footnotes

the risk of multiple taxation. But in some cases, the Court continued to suggest that interstate commerce may not be taxed at all, even by a properly apportioned levy, and reasserted the direct-indirect tax distinction.¹⁷ Following a series of cases that suggested difficulty in applying the Court's precedents,¹⁸ the Court adopted the modern standard which is discussed in the essay Modern **Dormant Commerce Clause** Jurisprudence on State Taxation Generally.¹⁹

Footnotes

1. [▲ Case of the State Freight Tax, 82 U.S. \(15 Wall.\) 232 \(1873\) ☑](#).
2. [▲ *Id.* at 275.](#)
3. [▲ *Id.* at 275–76, 279.](#)
4. [▲ *Id.* at 281–82.](#)
5. [▲ 13 U.S. \(12 How.\) 299 \(1851\) ☑](#). While the issue of exclusive federal power and the separate issue of the **Dormant Commerce Clause** was present in the [License Cases, 46 U.S. \(5 How.\) 504 \(1847\) ☑](#) and the [Passenger Cases, 48 U.S. \(7 How.\) 283 \(1849\) ☑](#) the Court did not establish a definitive rule. Chief Justice Roger Taney viewed the Commerce Clause only as a grant of power to Congress, containing no constraint upon the states, and the Court's role was to void state laws in contravention of federal legislation. [License Cases, 46 U.S. \(5 How.\) 504, 573 \(1847\) ☑](#); [Passenger Cases, 48 U.S. \(7 How.\) 283, 464 \(1849\) ☑](#).

In [Cooley ☑](#), the Court, upholding a state law that required ships to engage a local pilot when entering or leaving the port of Philadelphia, enunciated a doctrine of *partial* federal exclusivity. According to Justice Benjamin Curtis's opinion, the state act was valid on the basis of a distinction between those subjects of commerce that "imperatively demand a single uniform rule" operating throughout the country and those that "as imperatively" demand "that diversity which alone can meet the local necessities of navigation," that is to say, of commerce. As to the former, the Court held Congress's power to be "exclusive"; as to the latter, it held that the states enjoyed a power of "concurrent legislation." 48 U.S. at 317–20. The Philadelphia pilotage requirement was of the latter kind. *Id.*
6. [▲ *Case of the State Freight Tax*, 82 U.S. at 279–80.](#)
7. [▲ *State Tax on Railway Gross Receipts*, 82 U.S. \(15 Wall.\) 284 \(1872\) ☑](#).
8. [▲ *Id.* at 293.](#)
9. [▲ *Id.* at 294.](#) This case was overruled 14 years later, when the Court voided substantially the same tax in [Philadelphia Steamship Co. v. Pennsylvania, 122 U.S. 326 \(1887\) ☑](#).
10. [▲ See *The Minnesota Rate Cases \(Simpson v. Shepard\)*, 230 U.S. 352, 398–412 \(1913\) ☑](#) (reviewing and summarizing at length both taxation and regulation cases). See also [Missouri ex rel. Barrett v. Kan. Nat. Gas Co., 265 U.S. 298, 307 \(1924\) ☑](#).

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Passenger Cases.—Smith v. Turner.

motion of Mr. Inge, of counsel for the defendants in error, to dismiss this writ of error for the want of jurisdiction. On consideration whereof, it is now here ordered and adjudged by this court, that this cause be and the same is hereby dismissed for the want of jurisdiction.

GEORGE SMITH, PLAINTIFF IN ERROR, v. WILLIAM TURNER, HEALTH-COMMISSIONER OF THE PORT OF NEW YORK.

JAMES NORRIS, PLAINTIFF IN ERROR, v. THE CITY OF BOSTON.

States of the States of New York and Massachusetts, imposing taxes upon alien passengers arriving in the ports of those States, declared to be contrary to the Constitution and laws of the United States, and therefore null and void. Inasmuch as there was no opinion of the court, as a court, the reporter refers the reader to the opinions of the judges for an explanation of the statutes and the points in which they conflicted with the Constitution and laws of the United States.

THESE were kindred cases, and were argued together. They were both brought up to this court by writs of error issued under the twenty-fifth section of the Judiciary Act; the case of Smith v. Turner being brought from the Court for the Trial of Impeachments and Correction of Errors of the State of New York, and the case of Norris v. The City of Boston from the Supreme Judicial Court of Massachusetts. The opinions of the justices of this court connect the two cases so closely, that the same course will be pursued in reporting them which was adopted in the License Cases. Many of the arguments of counsel relate indiscriminately to both. A statement of each case will, therefore, be made separately, and the arguments and opinions be placed in their appropriate class, as far as practicable.

SMITH v. TURNER.

In the first volume of the Revised Statutes of New York, pages 445, 446, title 4, will be found the law of the State whose constitutionality was brought into question in this case. The law relates to the marine hospital, then established upon Staten Island, and under the superintendence of a physician and certain commissioners of health.

Other Notes About Citation Links

Examples: "due process", search AND warrant, "First Amendment"



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Fourteenth Amendment Equal Protection and Other Rights

[Amdt14.1](#) Overview of Fourteenth Amendment, Equal Protection and Rights of Citizens

[Amdt14.2](#) State Action Doctrine

Section 1 Rights

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

[Amdt14.S1.1](#) Citizenship

[Amdt14.S1.1.1](#) Historical Background on Citizenship Clause

[Amdt14.S1.1.2](#) Citizenship Clause Doctrine

[Amdt14.S1.1.3](#) Loss of Citizenship

[Amdt14.S1.2](#) Privileges or Immunities

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Examples: "due process", search AND warrant, "First Amendment"



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18Gartner Inc. v. Department of Revenue, 11 Wash. App. 2d 765 (2020)	Additional Resources
324 Liquor Corp. v. Duffy, 479 U.S. 335 (1987)	Unconstitutional Laws
44 Liquormart Inc. v. Rhode Island, 517 U.S. 484 (1996)	Amdt1.7.3.1, Amdt1.7.6.2, Amdt21.S2.4, Appx.1.2, Overruled Supreme Court Decisions, Unconstitutional Laws
Aaron v. McKinley, 173 F. Supp. 944 (E.D. Ark. 1959)	ArtII.S2.C1.1.16
Abate v. Mundt, 403 U.S. 182 (1971)	Amdt14.S1.8.6.4
Abbate v. United States, 359 U.S. 187 (1959)	Amdt5.3.3
Abbott Laboratories v. Gardner, 387 U.S. 136 (1967)	ArtIII.S2.C1.7.1, ArtIII.S2.C1.7.3, ArtIII.S2.C1.7.7, ArtIII.S2.C1.7.10
Abbott Laboratories v. Gardner (1967), 387 U.S. 136	ArtIII.S2.C1.7.1
Abbott v. Abbott, 560 U.S. 1 (2010)	ArtIII.S2.C2.1.6

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Examples: "due process", search AND warrant, "First Amendment"



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Hurst v. Florida , No. 14-7505 (U.S. Jan. 12, 2016)	2016	Hildwin v. Florida , 490 U.S. 638 (1989) (per curiam) ↗ ; Spaziano v. Florida , 468 U.S. 447 (1984)	1989 1984
College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board, 527 U.S. 666 (1999) ↗	1999	Parden v. Terminal Railway of Alabama State Docks Department, 377 U.S. 184 (1964) (in part) ↗	1964
Seminole Tribe of Florida v. Florida , 517 U.S. 44 (1996) ↗	1996	Pennsylvania v. Union Gas Co., 491 U.S. 1 (1989) ↗	1989
Taylor v. Louisiana, 419 U.S. 522 (1975) ↗	1975	Hoyt v. Florida , 368 U.S. 57 (1961) (in part) ↗	1961
Williams v. Florida , 399 U.S. 78 (1970) ↗	1970	Thompson v. Utah, 170 U.S. 343 (1898) ↗	1898
Lee v. Florida , 392 U.S. 378 (1968) ↗	1968	Schwartz v. Texas, 344 U.S. 199 (1952) ↗	1952
McLaughlin v. Florida , 379 U.S. 184 (1964) ↗	1964	Pace v. Alabama, 106 U.S. 583 (1883) ↗	1883

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1. [Article III](#) | [Section 2](#) | [Clause 1](#)

ArtIII.S2.C1.14.3 Modern Suits Between States

... be tolerated. And on the other hand equally little could New Jersey be permitted to require New York to give up its power altogether in order that the river might come down to it undiminished. Both States have real and substantial interests in the River that must be reconciled as best they may. In [Florida v. Georgia](#), the Supreme Court issued two opinions concerning how to apportion water from an...

Footnotes:

... 180 U.S. 208 (1901); E.g. [Montana v. Wyoming](#), 563 U.S. 368 (2011); [Texas v. New Mexico and Colorado](#), No. 141, Orig., slip op. at 1 (U.S. Mar. 5, 2018); [Texas v. New Mexico](#), No. 65, Orig., slip op. at 1 (U.S. Dec. 14, 2020). See, e.g., [Florida v. Georgia](#) (2018 [Florida](#)), No. 142, Orig., slip op. at 1 (U.S. June 27, 2018) (This case concerns the proper apportionment of the water of an interstate...

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2. [Eighth Amendment](#)

Amdt8.4.9.6 Role of Jury and Consideration of Evidence

Eighth Amendment: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. In response to the Supreme Courts 1976 decisions on the death penalty...

Footnotes:

[Gregg v. Georgia](#), 428 U.S. 153 (1976) (upholding a statute providing for a bifurcated proceeding separating guilt and sentencing phases, requiring the jury to find at least one of ten statutory aggravating factors before imposing death, and providing for review of death sentences by the Georgia Supreme Court); [Proffitt v. Florida](#), 428 U.S. 242 (1976) (a statute generally similar to Georgias, with...

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College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board, 527 U.S. 666 (1999) ↗	1999	Parden v. Terminal Railway of Alabama State Docks Department, 377 U.S. 184 (1964) (in part) ↗	1964
Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996) ↗	1996	Pennsylvania v. Union Gas Co., 491 U.S. 1 (1989) ↗	1989
Taylor v. Louisiana, 419 U.S. 522 (1975) ↗	1975	Hoyt v. Florida, 368 U.S. 57 (1961) (in part) ↗	1961
Williams v. Florida, 399 U.S. 78 (1970) ↗	1970	Thompson v. Utah, 170 U.S. 343 (1898) ↗	1898
Lee v. Florida, 392 U.S. 378 (1968) ↗	1968	Schwartz v. Texas, 344 U.S. 199 (1952) ↗	1952
McLaughlin v. Florida, 379 U.S. 184 (1964) ↗	1964	Pace v. Alabama, 106 U.S. 583 (1883) ↗	1883

Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court

Examples: "due process", search AND warrant, "First Amendment"



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2021	Carson v. Makin, No. 20-1088 (U.S. June 21, 2022)	Roberts, John G.	Civil Rights; Education	State & Local	Me. Stat. tit. 20-A, § 2951: Maine provision requiring schools participating in a tuition assistance program to be "nonsectarian."	First Amendment	Free Exercise Clause
2021	New York State Rifle & Pistol Ass'n v. Bruen, No. 20-843 (U.S. June 23, 2022)	Thomas, Clarence	Civil Rights	State & Local	N.Y. Penal Law § 400.00(2)(f): a portion of New York's firearms licensing regime that restricts the carrying of certain licensed firearms outside the home to those who can establish "proper cause"	Second Amendment	--
2021	Federal Election Commission v. Ted Cruz for Senate, No. 21-12 (U.S. May 16, 2022)	Roberts, John G.	Elections	Federal	52 U.S.C. § 30116(j): Portion of section 304(a) of Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155 establishing a \$250,000 limit on amount of post-election campaign contributions that can be used to repay a candidate for personal campaign loans made pre-election.	First Amendment	Free Speech Clause
2021	United States v. Washington, No. 21-404 (U.S. June 21, 2022)	Breyer, Stephen G.	Workers' Compensation & Social Security	State & Local	A provision in Washington's workers' compensation law that made it easier for federal contractors to establish their entitlement to workers' compensation, relative to the requirements for other workers.	Article VI	Supremacy Clause

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Examples: "due process", search AND warrant, "First Amendment"



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Justice Name	Supreme Court Term Start	Supreme Court Term End	Appointing President	Notable Opinion(s)
Jackson, Ketanji Brown (Associate Justice)	June 30, 2022	--	Biden, Joseph R.	Chinn v. Shoop, No. 22-508 (U.S. Nov. 7, 2022) (dissenting)
Coney Barrett, Amy (Associate Justice)	October 27, 2020	--	Trump, Donald J.	Fulton v. City of Philadelphia, No. 19-123 (U.S. June 17, 2021) (concurring); Nance v. Ward, No. 21-439 (U.S. June 23, 2022) (dissenting)
Kavanaugh, Brett M. (Associate Justice)	October 6, 2018	--	Trump, Donald J.	Barr v. American Association of Political Consultants, No. 19-631 (U.S. July 6, 2020); Jones v. Mississippi, No. 18-1259 (U.S. Apr. 22, 2021); Edwards v. Vannoy, No. 19-5807 (U.S. May 17, 2021); TransUnion LLC v. Ramirez, No. 20-297 (U.S. June 25, 2021); Dobbs v. Jackson Women's Health Organization, No. 199-1392 (U.S. June 24, 2022) (concurring); Oklahoma v. Castro-Huerta, No. 21-429 (U.S. June 29, 2022)
Gorsuch, Neil M. (Associate Justice)	April 10, 2017	--	Trump, Donald J.	Oil States Energy Services, LLC v. Greene's Energy Group, LLC, No. 16-712 (U.S. Apr. 24, 2018) (dissenting); Ramos v. Louisiana, No. 18-5924 (U.S. Apr. 20, 2020); McGirt v. Oklahoma, No. 18-9526 (U.S. July 9, 2020); Texas v. New Mexico, No. 65, Orig. (U.S. Dec. 14, 2020); Kennedy v. Bremerton School District, No. 21-418 (U.S. June 27, 2022);

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Overview of Federal Criminal Laws Prohibiting Threats and Harassment of Election Workers	Elections and Voting	Article I, Section 4, cl. 1; Article II, Section 1, cl. 4	2024-04-04
Voting Systems and Federal Law	Elections and Voting	Article I, Section 4, cl. 1; Article II, Section 1, cl. 4	2024-04-01
Congressional Court Watcher: Recent Appellate Decisions of Interest to Lawmakers (March 25–March 31, 2024)	Courts and Tribunals	--	2024-04-01
The United States Courts of Appeals: Background and Circuit Splits from 2023	Courts and Tribunals	Article III	2024-04-01
Freedom of Speech: An Overview	Free Speech	First Amendment	2024-03-29
The First Amendment: Categories of Speech	Free Speech	First Amendment	2024-03-28
The Twenty-Fifth Amendment and Presidential Inability, Part 1: Introduction	Executive Branch	Twenty-Fifth Amendment	2024-03-28

Methodologies for the Tables

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Appx.1.1 Constitution Annotated Tables Generally

The following essays provide background on and explanations of the methodologies used to compile the tables in the Resources section of the *Constitution Annotated* website. These tables include the “Table of Supreme Court Decisions Overruled by Subsequent Decisions;”¹ the “Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court;”² the “Table of Supreme Court Justices;”³ “Beyond the Constitution Annotated: Table of Additional Resources;”⁴ and the “Table of Cases.”⁵ The “Table of Supreme Court Decisions Overruled by Subsequent Decisions;” the “Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court;” the “Table of Supreme Court Justices;” and the “Table of Cases” are included in the 2022 edition of the Constitution Annotated. “Beyond the Constitution Annotated: Table of Additional Resources” is available online.

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Implications for
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1. ^ This table is available online at <https://constitution.congress.gov/resources/decisions-overruled/>
2. ^ This table is available online at <https://constitution.congress.gov/resources/unconstitutional-laws/>
3. ^ This table is available online at <https://constitution.congress.gov/resources/supreme-court-justices/>
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Constitution of the United States

Examples: "due process", search AND warrant, "First Amendment"



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Constitution of the United States

The Preamble

[The Preamble Explained](#)

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I

[Article I Explained](#)

Section 1

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by

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Preamble

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Date Published: 2023-06-16

[Updated Nineteenth Amendment Essays about Women's Suffrage](#)

Date Published: 2023-06-16

[Updated Fourteenth Amendment Essays about Facially Neutral Laws Implicating Suspect Classifications](#)

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[Updated Article II Essays about Qualifications, Succession, and Executive Departments](#)

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- **Intro.5 Ratification of Amendments to the Constitution** is an essay in the Introduction to the Constitution Annotated (**Intro.5**) and is the fifth essay (**Intro.5**) therein.
- **Pre.1.2 Preamble: Historical Background** is an essay in the Preamble to the Constitution (**Pre.1.2**), is in the first group (**Pre.1.2**), and is the second essay (**Pre.1.2**) therein.
- **Artl.S2.C1.1 Organization of the House of Representatives** is an essay annotating Article I (**Artl.S2.C1.1**), Section 2 (**Artl.S2.C1.1**), Clause 1 (**Artl.S2.C1.1**), and is the first essay (**Artl.S2.C1.1**) therein.
- **Amdt5.5.1.1 Takings Clause: Overview** is an essay annotating the Fifth Amendment (**Amdt5.5.1.1**), is in the fifth group (**Amdt5.5.1.1**), in the first group within that (**Amdt5.5.1.1**), and is the first essay (**Amdt5.5.1.1**) therein.
- **Appx.1 Methodologies for the Tables** is an essay in the Appendix to the Constitution Annotated (**Appx.1**) and is the first essay (**Appx.1**) therein.

For more, see [Intro.1.1 Methodology for the Constitution Annotated: Overview et seq.](#)

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Examples: "due process", search AND warrant, "First Amendment"



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- ▶ Recently, you may have heard references in the news to cases regarding whether certain actions by the government were unconstitutional under the “Takings Clause.” How would you go about using the Constitution Annotated Online website in order to find out more information?

"takings clause"



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1. Introduction

Intro.9.2.13 **DeVillier v. Texas: Is the Fifth Amendment Takings Clause Self-Executing?**

DeVillier v. Texas concerns whether the Constitution allows a property owner to pursue a claim for just compensation under the **Takings Clause** when no federal law specifically authorizes such a suit to be filed. Under the **Fifth Amendments Takings Clause**, which also applies to states through the Due Process Clause of the . . .

Footnotes:

U.S. Const. amend. V (Nor shall private property be taken for public use, without just compensation.). For additional discussion on the **Takings Clause**, see . U.S. Const. amend. V. The Supreme Court has recognized that the Due Process Clause of the Fourteenth Amendment incorporates the **Fifth Amendment Takings Clause** so that the **Takings Clause** applies to the states. See Chi., Burlington & Quincy. . .

takings (25) clause (20)

2. Fifth Amendment

Amdt5.9.7 **Per Se Takings and Exactions**

. . . Rhode Island, the Court forcefully rejected the absolute version of the notice rule. Under such a rule, it said, a State would be allowed, in effect, to put an expiration date on the **Takings Clause**. Whether any role is left for pre-acquisition regulation in the takings analysis, however, the Courts majority opinion did not say, leaving the issue to dueling concurrences from Justice Sandra Day OConnor. . .

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1. Fifth Amendment

Amdt5.9.7 Per Se Takings and Exactions

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Footnotes:

... every landowner which it fails to or cannot protect.). 533 U.S. 606 (2001). Id. at 627. Tahoe-Sierra Pres. Council, Inc. v. Tahoe Regl Planning Agency, 535 U.S. 302, 335 (2002). 483 U.S. 825 (1987). Id. at 837. 512 U.S. 374 (1994). Koontz v. St. Johns River Water Mgmt. Dist., 570 U.S. 595, 606–07 (2013). Sheetz v. El Dorado, No. 22-1074, slip op. at 1 (U.S. Apr. 12, 2024) (The **Takings Clause** does not. . .

takings (16) clause (3)

2. Fifth Amendment

Amdt5.9.3 Property Interests Subject to Takings Clause

Fifth Amendment: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in

Amdt5.9.1 Overview of Takings Clause

Fifth Amendment:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Fifth Amendment provision barring the Government from taking private property for public use absent just compensation has its origin in common law. In his *Commentaries on the Constitution of the United States*, Justice Joseph Story grounded the **Takings Clause** in “natural equity,” describing it as “a principle of universal law” without which “almost all other rights would become utterly worthless.”¹ The Supreme Court has recognized the government’s ability to take property as inherent to its powers, stating “[t]he Fifth Amendment to the Constitution says ‘nor shall private property be taken for public use, without just compensation.’ This is a tacit recognition of a preexisting power to take private property for public use, rather than a grant of new power.”²

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2014	Horne v. Department of Agriculture, 576 U.S. 351 (2015)	Roberts, John G.	Food & Drug	Federal	7 C.F.R. § 989.66: U.S. Department of Agriculture's California Raisin Marketing Order requiring a percentage of a grower's crop be physically set aside in certain years for the account of the Government, free of charge.	Fifth Amendment	Takings Clause
1996	Babbitt v. Youpee , 519 U.S. 234 (1997) 	Ginsburg, Ruth Bader	Federal Indian Law	Federal	25 U.S.C. § 2206: Section 207 of the Indian Land Consolidation Act providing that	Fifth Amendment	Takings Clause

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