

Essay on birds



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The U. S. Constitution enumerates the powers of the Federal government and specifically reserves to the States or the people the powers it does not expressly delegate to the Federal government. Accordingly, the Federal government is a government of enumerated, or limited, powers, and a specified power must authorize each of its acts. Federal supremacy—Although under our Federalist system the States retain significant powers, the Supremacy Clause of the U. S. Constitution provides that within its own sphere, Federal law is supreme and State law must, in case of conflict, yield.

Accordingly, any State constitutional provision or law that conflicts with the U. S. Constitution or valid Federal laws or treaties is unconstitutional and may not be given effect. Under the Supremacy Clause, whenever Congress enacts legislation within its constitutional powers, the Federal action preempts (overrides) any conflicting State legislation.

Even a State regulation that is not obviously in conflict must give way if Congress clearly has intended that its enactment should preempt the field. Judicial review describes the process by which the courts examine governmental actions to determine whether they conform to the U. S. Constitution. If governmental action violates the U. S. Constitution, under judicial review the courts will invalidate that action. Judicial review extends to legislation, acts of the executive branch, and the decisions of inferior courts.

Three distinct and independent branches of government: the executive, legislative, and judicial branches. The doctrine of separation of powers prevents excessive power from concentrating in any group or branch of government. Basically, the legislative branch is granted the power to make

the law, the executive branch to enforce the law, and the judicial branch to interpret the law. ***Administrative Administrative agencies are governmental entities other than courts and legislatures having authority to affect the rights of private parties through their operations.

Such agencies, often referred to as commissions, boards, departments, administrations, government corporations, bureaus, or offices, regulate a vast array of important matters involving national safety, welfare, and convenience. Adjudication: agencies make rules, then investigate and enforce the rules in administrative hearings. * Substantive vs. Procedural Law. Substantive: laws that define and regulate rights and duties. Procedural: laws that establish methods for enforcing and protecting rights. Rulemaking is the process by which an administrative agency enacts or promulgates rules of law.

Under the APA, a rule is the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or process law or policy. Section 551(4). Once promulgated, rules are applicable to all parties. Moreover, the rulemaking process notifies all parties that the agency is considering the impending rule and provides concerned individuals with an opportunity to be heard. Administrative agencies promulgate three types of rules: legislative rules, interpretative rules, and procedural rules. Legislative Rules, often called regulations, are in effect administrative statutes.

Legislative rules are those issued by an agency that is able, under a legislative delegation of power, to make rules having the force and effect of law. For example, the FTC has rulemaking power with which to elaborate

upon its enabling statutes prohibition of unfair or deceptive acts or practices. Legislative rules, which are immediately binding, generally receive greater deference ***Int. Law Public Int'l Law: Governs interactions between states (nations), between states and international bodies (IGOs), and between international bodies themselves Ex. human rights, environmental law Private Int'l Law: Governs the choice of law to apply when there are conflicts in the domestic/national law of different countries that relate to private transactions Ex. contracts, marriage & divorce, child adoption ***Negotiable Instruments Negotiability is a legal concept that makes written instruments more freely transferable and therefore a readily accepted form of payment in substitution for money. There are four types of negotiable instruments: drafts, checks, notes, and certificates of deposit.

The first two contain orders or directions to pay money; the last two involve promises to pay money. A draft involves three parties, each in a distinct capacity. One party, the drawer, orders a second party, the drawee, to pay a fixed amount of money to a third party, the payee. The drawer draws the draft on the drawee. The drawee is ordinarily a person or entity that either is in possession of money belonging to the drawer or owes money to him. A sample draft is reproduced as Figure 26- 2. The same party may appear in more than one capacity; for instance, the drawer may also be the payee.

A check is a specialized form of draft, namely, an order to pay money drawn on a bank and payable on demand. There are parties involved in three distinct capacities: the drawer, who orders the drawee, a bank, to pay the payee on demand. Notes A promissory note is an instrument involving two parties in two capacities. One party, the maker, promises to pay a second

party, the payee, a stated sum of money, either on de-mand or at a stated future date. A certificate of deposit, or CD as it is frequently called, is a specialized form of promise to pay money given by a bank.