

Midterm

The Framers carefully incorporated a system of checks and balances within the government by establishing three co-equal branches of government: the Legislative, Executive, and Judicial. The power is separated between the three branches of government to avoid one particular branch from becoming dominant over the other branches. The respective powers and functions of each branch of government are addressed in the Articles of the United States Constitution.

Article I of the Constitution establishes the Legislative both the House and the Senate and the necessary qualifications of representatives (U.S. Const. art. I, §§ 1-2). Article I sets forth the procedure for how bills become law (U.S. Const. art I, § 7, cl. 3). Article I also lays out the specific enumerated powers of Congress (U.S. Const. art I, § 8).

Article II of the Constitution establishes Executive branch of government. Article II specifically provides that the Executive power is vested in a President (U.S. Const. art II, § 1, cl. 1). Article II also provides for the method for selecting the President, which is through the Electoral College (U.S. Const. art II, § 1, cl. 2). Most importantly, Article II provides for the specific powers of the President (U.S. Const. art II, § 2).

Article III of the Constitution establishes the Judicial branch of the government. Article III vests the judicial power of the United states in one Supreme Court and gives Congress the power to create inferior courts as needed (U.S. Const. art. III, § 1). Article III provides for the jurisdiction of the federal courts and the limitations on the types of cases that the federal courts are empowered to hear (U.S. Const. art. III, § 2).

In a federalist system, both the federal and state governments have respective powers. While some areas are reserved exclusively for the federal government to regulate, many issues are left up to the states. In the modern business market, millions of business transactions take place across state lines. Congress has the express authority to “regulate Commerce...among the several states” (U.S. Const. art I, § 8, cl. 3). Known as the Commerce Clause, the power of Congress to regulate interstate commerce has been interpreted extremely broadly. The practical significance of Congress’ Commerce power is that most business transactions will be subject to both state and federal regulations. In

today's world, nearly every commercial activity has some impact on interstate commerce, which would bring the activity within the reach of Congressional regulation.

Even activities that are purely local in nature have been construed to have an economic effect on interstate commerce, and therefore can be regulated by Congress pursuant to the Commerce Clause. Arguably, this unfettered authority under the Commerce Clause is an unwelcome and unwarranted intrusion into state sovereignty. By taking the Commerce Clause powers to the extreme, virtually every activity could theoretically be subject to Congressional regulation. Such a result runs afoul of the purpose of federalism and the right of the states to address local concerns as the states see fit. While there are certain issues that assume a national character that require federal intervention or regulation, many problems are local in nature and are best left up to state-by-state regulation. As an increasing number of business deals are taking place without regard to state borders and boundaries, a much narrower interpretation of the Commerce Clause should follow suit to avoid Congress overshadowing virtually every state law and regulation.

Works Cited

U.S. Const. art I. Web. 8 Mar. 2016.

U.S. Const. art II. Web. 8 Mar. 2016.

U.S. Const. art. III. Web. 8 Mar. 2016.