

# Constitutional Law: Principles and Practice

## State Powers and the Constitution

### Chapter 6

# Constitutional Law: Principles and Practice

## Federal Preemption

- A federal law preempts a state law whenever the state law is inconsistent with the federal law.
- Three types of preemption:
  - Express preemption
  - Field preemption
  - Conflict preemption

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## Express Preemption

- Some federal laws contain clauses limiting state laws on the same subject.
- Any state law that violates these limitations or is unconstitutional and preempted by the federal law
- An express preemption clause in a federal law can be modified by a saving clause.
- Even when the Court finds that there is no *express* preemption, it still considers if the state law is otherwise preempted.

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## Field Preemption

- The Supreme Court considers whether Congress intended to usurp total control over the subject matter of the law.
  - If so, the federal law *implicitly* preempts any state law.
- The key factor in deciding if field preemption applies is the intent of Congress in passing the federal law.

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## Conflict Preemption

- The supremacy of federal law is unquestioned, but courts must still determine if a conflict does exist.
  - *Geier v. American Honda Motor Co.*
  - *Williamson v. Mazda Motor of America*

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## Dormant Commerce Clause

- The Interstate Commerce Clause limits the rights of states to regulate.
- The Dormant Commerce Clause is not a total prohibition, but it imposes limits.
- An issue of discriminatory state laws
  - Market participant exception
  - Burden on interstate commerce versus local benefit

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## State Tax Laws and Commerce

- Federal and state governments both have the power to tax.
- Common state taxes include:
  - Income tax
  - Sales tax
  - Real property tax
  - Use tax
  - Excise tax

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## State Laws and Immigration

- Immigration regulation is within the enumerated powers of Congress.
- Border states have recently expressed dissatisfaction with federal enforcement.
  - Immigration Reform and Control Act (IRCA)
  - Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)



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## Other Constitutional Challenges to State Laws

- A state law or tax is unconstitutional when it violates any provision of the Constitution.
- Limits to state power:
  - Bill of attainder
  - Ex post facto law
  - Consent of Congress needed for certain acts
  - Various amendments to the Constitution