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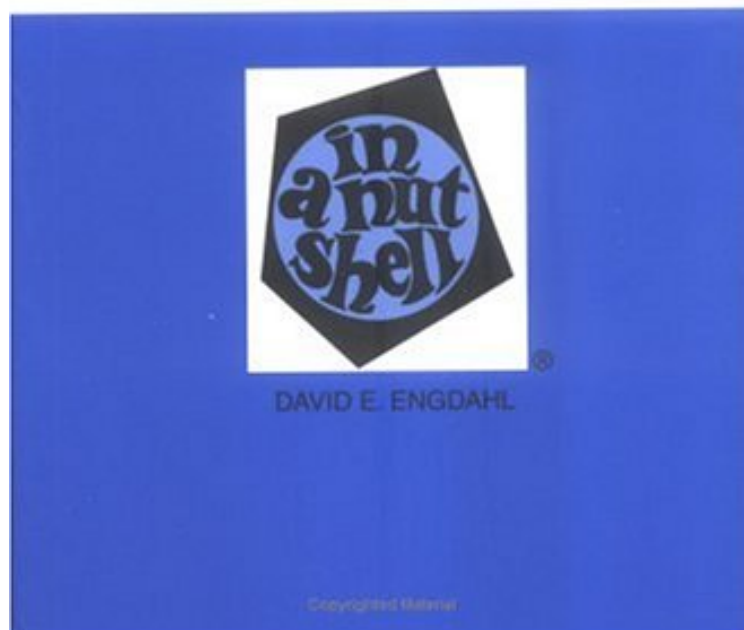
Constitutional Federalism in a Nutshell (Nutshell Series)

David E. Engdahl

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Constitutional Federalism



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David E. Engdahl : Constitutional Federalism in a Nutshell (Nutshell Series) before purchasing it in order to gage whether or not it would be worth my time, and all praised Constitutional Federalism in a Nutshell (Nutshell Series):

0 of 0 people found the following review helpful. Disappointing By John R Messerschmidt This is typical of modern ideas of jurisprudence. When the author dismissed Thomas Jefferson's criticism of using Article 1, Section 8, clause 18 ("necessary and proper") to justify the granting of corporate charters as playing "The House that Jack Built" and approved of John Marshall's "the end justifies the means" opinion in "McCulloch v. Maryland", it poisoned the well,

so to speak. A good grounding in The Constitution of the United States of America can be obtained by reading Raoul Berger. First his "Federalism: The Founders' Design", and then "Government By Judiciary". Both are available at .3 of 3 people found the following review helpful. Essential to a Proper Understanding of Federalism By Cooper This book is an excellent mini-treatise on constitutional federalism, written by one of the finest federalism scholars in the legal academy. It discusses federalism's main themes and issues, and does so in a clear, cogent, and concise manner. All too often, laymen and lawyers alike wrongly refer to federalism as a synonym for "states' rights." Some think it simply a tool in the "conservative" constitutional scholar's arsenal. This reviewer is an attorney who was once a student of Professor David Engdahl, and I can assure you that neither he nor his scholarship supports either of those erroneous notions. Those who have respect for complexity and nuance will have much to appreciate here. Nonetheless, Engdahl rejects the notion of "process federalism," a dubious notion that really isn't federalism at all. He provides a clear overview of the concept of enumerated powers, discussing what is actually meant by the word "powers" in this sense, and also how those powers extend in legislation. His discussion of the Necessary and Proper Clause is as sophisticated as any in the legal academy. Likewise, his understanding of the Commerce Clause is much more logical and textually supportable than those exhibited by any of the justices on the U.S. Supreme Court. Engdahl is also an expert on interstate compacts and federal borrowing and spending powers, giving readers of this work with some impressive scholarship in these areas. He also provides a much better approach to the commandeering immunity concept, as grounded in the Necessary and Proper Clause (rather than the 10th Amendment), and rightly identifies the Ex Parte Young doctrine (a part of 11th Amendment jurisprudence) as a "silly fiction." As noted, this book is written in the form of a small treatise, so it is not something a layperson would pick up and as easily understand. Furthermore, this edition was printed in 1987, and there have been many developments since that time, largely in the guise of the "New Federalism" spawned by U.S. v. Lopez (1995) and recent jurisprudence in the area of state sovereign immunity. (This reviewer recommends Dr. Michael Greve's "Real Federalism" for a discussion of more recent federalism jurisprudence.) None of the more recent developments detract from what is contained in this book, however. This small treatise provides the law students and legal scholars with clear and well-reasoned analysis of the principles of federalism and Supreme Court jurisprudence in that area. It is highly recommended.

Winds of Doctrine and Federalism Law; Starting Point for Federalism Analysis; Doctrine of Enumerated Powers; Necessary and Proper Clause; Enumerated Powers and Extraneous Ends; Preemptive Capability; Congress' Power Over Interstate Commerce; Congress' Power to Tax; Congress' Spending and Borrowing Powers; Exceptions and Qualifications to Enumerated Powers Doctrine: Foreign Affairs and Property Powers; Congress' Enforcement Power; Negative Implications of Federal Power; Preemption; Congressional Enlargement of State Power; Intergovernmental Immunities; Intergovernmental Cooperation.

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