

<<行政法>>

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前言

在美国法律教育界与律师实务界，这套“美国法精要”是颇具特色的一套小书。这套书最突出的特点当推它们的简捷明快、深入浅出。每种书均由富有教学经验的法学院教授执笔，在三、四百页的篇幅内集中介绍某一法律部门的基本原理、主要法规和重点案例。由于这些特点，这套丛书受到了无数美国读者的欢迎和喜爱。众多法学院的学生将这套书作为课外的辅助教材，由此掌握美国各主要部门法的精义。执业律师也经常借助这套书，以迅速了解自己尚未熟习的某些部门法，或者温习过去曾经学过的某些课程。相信这套书也能赢得国内读者的欢迎。无论是法律专业的本科生、研究生，还是执业律师或其他人士，都能从这套丛书中获得有关美国法律的大量知识，对自己的学习和工作有所助益。此外，通过阅读原汁原味的英文来学习美国法律也应能提高读者的法律英语水平，促进与美国同行的对话和交流。应原出版者的要求，这套丛书的国内版增加了中文前言，以介绍美国部门法的概况、每种书的内容及原书作者。这些前言作者都是在美国受过专业教育或从事专门研究的中国法律学者甚或专家。相信他们的介绍会对读者有所帮助。

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内容概要

在美国法律教育界与律师实务界, "美国法精要"是颇具特色的一套书, 其特点是简捷明快、深入浅出。美国法学院的学生将其作为课外教材, 由此掌握美国各主要部门法的精义; 执业律师也经常借助这套书, 以迅速了解某些部门法的相关情况。我国的读者通过阅读原汁原味的英文来学习美国法律, 可有效提高法律英语水平, 促进与美国同行的对话与交流。

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章节摘录

Congress tested the limits of the Appointments Clause in 1974 when it passed a statute creating the Federal Election Commission. The statute required that four of the FEC's six voting members would be appointed by the Speaker of the House and the President pro tempore of the Senate. The Supreme Court struck down this legislation in *Buckley v. Valeo*, 424 U.S. 1, 118-43 (1976). The Court explained that the constitutional term “ Officers of the United States, ” identifying those officeholders who must be chosen pursuant to the Appointments Clause, includes all appointees exercising significant authority pursuant to the laws of the United States, such as rulemaking, adjudication, or enforcement functions. Thus the FEC, a typical agency wielding all of those powers, was clearly covered by the clause. The Court noted, however, that it would¹. Still unresolved is whether separation of powers principles also prevent Congress from placing its own agents on the FEC as nonvoting ex officio members. See *FEC v. NRA Political Victory* have reached a different result if the FEC had merely been assigned powers of an investigative and informative nature. (The Civil Rights Commission is an example of such an agency; some of its members are chosen by the President and some by Congress.) A significant limitation on the President's appointment power is found in a proviso to the Appointments Clause itself: “ Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments. ” This proviso came into play in a celebrated case concerning the constitutionality of the Ethics in Government Act. The Act authorizes a federal court of appeals to appoint a special prosecutor, or “ independent counsel, ” to investigate allegations of criminal wrongdoing by high officials of the Executive Branch. The Court upheld the statute, finding that the independent counsel was an “ inferior Officer ” and thus could properly be appointed by one of the “ Courts of Law, ” rather than by the President. *Morrison v. Olson*, 487 U.S. 654 (1988). Without laying down any general test for identifying an inferior officer, the Court concluded that the independent counsel fell within that category because she was removable by the Attorney General (although only under strictly limited conditions) and because her duties were limited to handling a single case and would terminate at the end of that case. *Fund*, 6 F.3d 821 (D.C.Cir.1993) (holding this arrangement unconstitutional), cert. dismissed, 513 U.S. 88 (1994).

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媒体关注与评论

总序总序 许传玺 在美国法律教育界与律师实务界，这套“美国法精要”是颇具特色的一套小书。

这套书最突出的特点当推它们的简捷明快、深入浅出。

每种书均由富有教学经验的法学院教授执笔，在三、四百页的篇幅内集中介绍某一法律部门的基本原理、主要法规和重点案例。

由于这些特点，这套丛书受到了无数美国读者的欢迎和喜爱。

众多法学院的学生将这套书作为课外的辅助教材，由此掌握美国各主要部门法的精义。

执业律师也经常借助这套书，以迅速了解自己尚未熟习的某些部门法，或者温习过去曾经学过的某些课程。

相信这套书也能赢得国内读者的欢迎。

无论是法律专业的本科生、研究生，还是执业律师或其他人士，都能从这套丛书中获得有关美国法律的大量知识，对自己的学习和工作有所助益。

此外，通过阅读原汁原味的英文来学习美国法律也应能提高读者的法律英语水平，促进与美国同行的对话和交流。

应原出版者的要求，这套丛书的国内版增加了中文前言，以介绍美国部门法的概况、每种书的内容及原书作者。

这些前言作者都是在美国受过专业教育或从事专门研究的中国法律学者甚或专家。

相信他们的介绍会对读者有所帮助。

Happy reading!

1999年4月

于哈佛法学院

编辑推荐

在美国法律教育界与律师实务界,“美国法精要”是颇具特色的一套书,其特点是简捷明快、深入浅出。美国法学院的学生将其作为课外教材,由此掌握美国各主要部门法的精义;执业律师也经常借助这套书,以迅速了解某些部门法的相关情况。我国的读者通过阅读原汁原味的英文来学习美国法律,可有效提高法律英语水平,促进与美国同行的对话与交流。

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