

THE C,P,C *OF AS, BS, AND CS*

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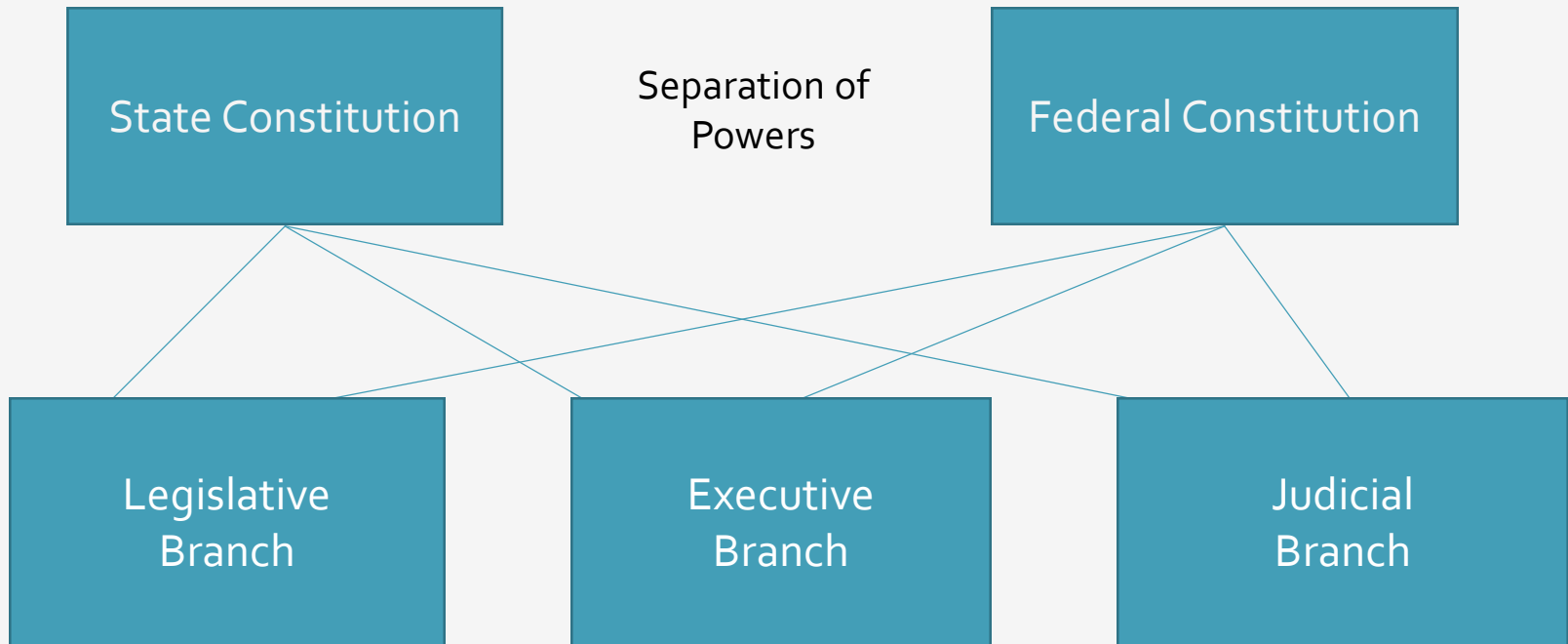
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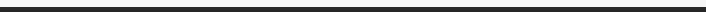
C,P,C

- CREATION
 - POWER
 - CONSTRAINTS ON POWER
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INTRODUCTION: *STATE AND FEDERAL CONSTITUTIONS*



CREATION



CREATION:

CONSTITUTIONAL AND STATUTORY



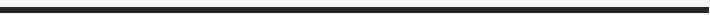
Constitutional Creation:

Article 5, Section 1 of the Oklahoma Constitution: The Legislative authority of the State shall be vested in a Legislature, consisting of a Senate and a House of Representatives; but the people reserve to themselves the power to propose laws and amendments to the Constitution and to enact or reject the same at the polls independent of the Legislature, and also reserve power at the polls at their own option to approve or reject at the polls any act of the Legislature.

Statutory Creation:

Article 5, Section 36 of the Oklahoma Constitution: The authority of the Legislature shall extend to all rightful subjects of legislation, and any specific grant of authority in this Constitution, upon any subject whatsoever, shall not work a restriction, limitation, or exclusion of such authority upon the same or any other subject or subjects whatsoever.

POWER



POWER:

FROM WHAT SOURCE DOES AN A,B,C DERIVE ITS POWER?



- The constitutional or statutory provisions creating the agency will specify the “powers and duties” of the agency, board, or commission.
 - For a legislatively-created A,B,C, the Legislature can legislatively amend the powers and duties of the agency, board, or commission.
 - For a constitutionally-created A,B,C, the examination is more complicated, but one could argue that it should be examined within the context of our tripartite system of government.
 - But, ultimately, this is an agency-by-agency determination.
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CONSTRAINTS ON POWER



CONSTRAINTS ON POWER



The Administrative Procedures Act (“APA”) serves as one means of serving as a check on agency power.

The APA provides a procedural framework for (1) agency rulemaking and (2) agency action.

Oklahoma’s APA has three component parts:

- *beginning provisions which, among other things, designate Articles and specify exemptions;
 - *Article I governing agency rulemaking; and
 - *Article II governing agency action.
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*Thank
You*

