

Table of contents

Preface	V
1. Introduction	1
2. Australia	5
a. Doctrine	5
b. Criticism: ignoring purpose in characterisation.....	8
c. Criticism: ignoring context in scope doctrine	17
d. The exception that disproves the rule	21
3. Canada	27
a. Federalism as a core value	27
b. Text and doctrine.....	27
c. The residue	36
d. Characterisation (in the narrow sense)	40
e. The double aspect doctrine	49
4. The United States of America	51
a. Introduction	51
b. Categories of commerce	53
c. The reasoning in <i>Lopez</i>	57
d. Unresolved issues	61
5. Germany	75
a. Introduction	75
b. Text.....	76
c. Scope	77
d. Characterisation (in the narrow sense)	89
6. Austria	95
a. Introduction	95
b. The petrification theory: basic principles	98
c. Intra-systemic development.....	101
d. The petrification theory and originalism	102
e. Illustrations from the case law	106
f. Characterisation (in the narrow sense).....	108

7. India	111
a. Introduction	111
b. Scope	112
c. "Pith and substance" again	116
d. Incidental power	119
e. Pakistan.....	120
8. Works in progress: South Africa, Malaysia and Scotland.....	123
a. South Africa.....	123
b. Malaysia	128
c. Scotland	133
9. Concluding remarks.....	137
Appendix – Basic Constitutional Provisions	145
a. Australia.....	145
b. Canada.....	147
c. United States of America	151
d. Germany	152
e. Austria	155
References	167
Table of cases.....	173
Index.....	181