INTRODUCTION
TO THE
STUDY OF LAW
Cases and Materials
THIRD EDITION
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THIRD EDITION

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CAROLINA ACADEMIC PRESS
Durham, North Carolina
DEDICATION

For June Mary Zekan Makdisi whose love as a Wife and Mother has embraced, supported, and encouraged us.
PREFACE

This coursebook is designed for use by beginning law students. The first three chapters provide background reading for the summer months preceding law school. The four topics following these chapters provide several assignments for teaching an orientation course. Since different law schools offer orientation courses of varying length, these assignments have been arranged so that a course may be planned to run anywhere from one to six days. Each assignment has been limited to roughly twenty pages to provide sufficient reading material for one class. The assignments focus on the techniques of the case method of study in the areas of Contracts, Property, Torts and Criminal Law. The purpose of the orientation course is not to teach substantive law but to initiate the student into the methods of legal reasoning that are the basic tools of every lawyer.

The first of the three introductory chapters begins with an introduction to the basic law school curriculum and the goals of a legal education. This is fairly light reading to integrate the particular goals an individual student may have within a more holistic framework. Law students, especially during the first year, will read many judicial case opinions. To help place those cases within the context of the judicial system, the remainder of the first chapter will provide a bird’s-eye view of the structure of the court system in the United States and will introduce the appellate process.

Chapter 2 is a longer chapter, intended to introduce the basic concepts of legal reasoning, legal logic and legal decision-making in a concrete fashion, and to explore the more abstract theories on the nature of law and their impact on judicial decision making. The first section of the third chapter focuses on the mechanics of legal reasoning and logic, which law students and practitioners use on a daily basis. The second section extends the discussion of legal reasoning into the thought process behind judicial decisions and takes a look at how the common law changes. The final, and third section examines major theories on the nature of law, and builds upon the concepts in sections one and two by illustrating how the various theories on the nature of law impact judicial decisions.

Chapter 3, the final introductory chapter, is a practical and mental guide for approaching and dealing with the cases that will be the focus of much of the reading during the first year of law school. The first section of this chapter details the case method of study and explains the value of such a study within the context of a common law system such as in the United States. The remaining sections aim to make the first year learning curve less steep by explaining the basic study techniques of reading, annotating, highlighting and briefing cases.

It is important for the student to realize that these materials are designed only to introduce various aspects of the law and the legal system. Some materials are fairly easy reading while others are quite difficult to comprehend in full at this initial stage. A deeper understanding will come with time. For purposes of the orientation course, the student should work to assimilate what he or she can. The orientation is not meant to teach all that law school has to offer. It is designed to provide a foundation on which to begin building an intellectual framework for the study of law.

This third edition adds a number of new readings while at the same time streamlining the existing readings to provide a greater focus on what a student needs to prepare for the unique method of study found in law school. The previous edition split the nature of law and legal reasoning into separate chapters; this edition combines them in order to show their integrated nature. The final chapter continues to introduce the student to the unique case method of study with a selection from the classic Bramble Bush, but this edition has added material to provide further guidance on the mechanics of reading, annotating, and briefing cases.
PREFACE

The Topics at the end of the book have remained mostly the same with a few exceptions. The discussion in the first assignment of Topic 1 has been revised. Topic 3 has been replaced with a new topic in the area of criminal law, which provides practice comparing statutes from different jurisdictions. Also, the second assignment of Topic 4 has been removed because it requires more time and effort to digest than is warranted by an introductory course.

We would like to thank the faculty who used the second edition and provided valuable feedback. Their suggestions, especially on Topic 1, have helped us create a more accurate and useful third edition. Overall, this edition has reduced the length of the book to make it more manageable for summer reading. It has changed headings, reworked some of the existing material in order to make it an easier read, and updated and replaced a number of older articles with more modern material.

It should be noted that section identifiers, such as “A,” “1,” or “i” have been removed from headings within the quoted articles to avoid confusion. Footnotes, with some exceptions, have been omitted from the cases and materials without indication by ellipsis. All footnotes are the editor’s unless indicated otherwise. Case citations, as well as the words “[citations omitted],” within cases are generally omitted without indication by ellipsis, unless the case cite is important for understanding. When a case citation within a case is included, the information following the case name is sometimes omitted. Finally, an ellipsis is used to show the omission of text in a paragraph. If the text that is omitted starts within, or at the end of, a paragraph and extends to include another paragraph or paragraphs, the ellipsis appears only in, or at the end of, the paragraph where the omission begins. If the text that is omitted starts at the beginning of a paragraph and extends to include part of another paragraph, the ellipsis appears only in the paragraph where the omission ends.

The credit for the changes that have been incorporated into this new edition belongs to Michael Makdisi, who has joined John Makdisi as a new author and editor for the book. Michael recently graduated from law school and is a licensed attorney in the state of California. His experience as an honors student at Florida State University, where he was a member of Moot Court and editor-in-chief of the Journal of Land Use and Environmental Law, has provided this book with the unique insights of a recent student fresh from the three years into which the reader of this book is about to enter. Michael spent several months revising the book for the third edition, at the end of which time he was joined by John to do the final edits and a review of the entire book before submission to the publisher. Both authors are pleased to be working together not only as colleagues but also as father and son.
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