CASES AND MATERIALS ON FEDERAL CONSTITUTIONAL LAW

Volume I
Introduction to Interpretive Methods & Introduction to the Federal Judicial Power
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CASES AND MATERIALS ON FEDERAL CONSTITUTIONAL LAW

Volume I
Introduction to Interpretive Methods & Introduction to the Federal Judicial Power

Thomas H. Odom
INTRODUCTION TO THE MODULAR CASEBOOK SERIES

By now you have realized that the course materials assigned by your instructor have a very different form than “traditional” casebooks. The Modular Casebook Series is intentionally designed to break the mold. Course materials consist of one or more separate volumes selected from among a larger and growing set of volumes. Each of those volumes is only about 225 to 250 pages in length so that an instructor may “mix and match” a suitable number of volumes for a course of varying length and focus. Each volume is designed to serve an instructional purpose rather than as a treatise. As a result, the volumes are published in soft cover. Publication of the separate volumes in soft cover also permits course materials to be revised more easily so that they will incorporate recent developments. Moreover, by purchasing only the assigned volumes for a given course students are likely to recognize significant savings over the cost of a traditional casebook.

Traditional casebooks are often massive tomes, sometimes exceeding 1000 or even 1500 pages. Traditional casebooks are lengthy because they attempt to cover the entire breadth of material that might be useful to an instructor for a two-semester course of five or six credits. Even with six credits, different instructors may choose which portions of a traditional casebook do not fit within the time available. As a consequence, traditional casebooks may include a range of materials that would leave hundreds of pages unexplored in any particular six-credit class. For a student in a three or four credit course, such a book is hardly an efficient means for delivering the needed materials. Students purchase much more book than they need, at great expense. And students carry large, heavy books for months at a time.

Traditional casebooks are usually hard cover publications. It seems as though they are constructed so as to last as a reference work throughout decades of practice. In fact, as the presence of annual supplements to most casebooks makes clear, many casebooks are obsolete very shortly after publication. Treatises and hornbooks are designed to serve as reference works; casebooks serve a different purpose. Once again, the traditional format of casebooks seems to impose significant added costs on students without much reason.

The form of traditional casebooks increases the probability that the contents will become obsolete shortly after publication. The publication of lengthy texts in hardcover produces substantial delay between the time the author completes the final draft and the time the book reaches the hands of students. In addition, the broader scope of material addressed in a 1,000 or 1,500 page text means that portions of the text are more likely to be superceded by later developments than any particular narrowly-tailored volume in the Modular Casebook Series. Because individual volumes in the Modular Casebook Series may be revised without requiring revision of other volumes, the materials for any particular course will be less likely to require supplementation.

We hope you enjoy this innovative approach to course materials.
Dedication

For MIG: Friend, mentor, and outstanding role model.
Acknowledgments

I would like to thank Dickinson School of Law and Pennsylvania State University for their financial support. I am indebted to my students whose daily interaction with me and the materials provide the impetus for constant improvement.

The hard work of numerous research assistants is reflected in this collection, notably: Michael Lynch, Justin Pickens, Chris VanLandingham, and Brian McMorrow.

Without the loving support of Janet, this project would not have been completed.

All remaining errors and omissions are my own.
Preface to the First Edition

Technological improvements permit the compilation of resources in a manner unthinkable when I was a law student. Materials that permit further examination of assigned reading can be delivered in a cost-effective manner and in a format more likely to be useful in practice than reams of photocopies. The associated DVD-ROM contains full, searchable text of several of the most important resources for interpreting the Constitution, lowering the wall between doctrinal courses and research courses.

With regard to assigned reading, there is no good reason to burden students with stacks of hand-outs or expensive annual supplements. Publication through the Modular Casebook Series virtually ensures that even very recent developments may be incorporated prior to publication. Moreover, if important cases are decided after publication of the latest edition of the volume, they will be included on the DVD-ROM. Cases and materials that shed additional light on matter in the hard copy casebook are also included.

I welcome comments from readers so that I may make further improvements in the next edition of this publication.

THO
TECHNICAL NOTE FROM THE EDITOR

The cases and other materials excerpted in this volume have been edited in an effort to enhance readability. Case citation forms have been revised to include the year of decision and reference to the volume number of the United States Reports. Many citations to secondary sources have been expanded to include the full names of authors or editors, and to reference the date of publication. Citations of multiple cases for a single proposition have been shortened in many places to reference only one or two prominent authorities.

In some places archaic language or spelling has been revised.

Headings were added to some of the longer decisions to permit ease of reference to various parts of the opinion. Such headings may also assist the reader in identifying a transition from one point to another.

None of these changes were intended to substantively alter the original materials.

With the exception of one or two cases per Volume, cases have been edited to a length suitable for reading as a single assignment. In order to achieve that result, many interesting but tangential points have been omitted. The length of some opinions also hindered the inclusion of excerpts from concurring or dissenting opinions. Where such opinions have been omitted, it is noted in the text. These omissions are not intended to present a biased view of the doctrine under review. In most instances, a subsequent case will present significant points raised by the omitted concurring and dissenting opinions. Any remaining unintentional bias is solely the responsibility of the editor.

THO
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