
PREFACE

This new edition continues our inclusion in Aspen Publishing's Connected Casebook series. However, there is one major change: The book is much shorter (approximately 1,100 pages instead of 2,000 pages) so that it can comfortably be taught in a four credit, one semester course. Our goal was to create a book that was accessible and teachable, and one that will help students understand constitutional theory, lead students to greater insights, generate classroom interactivity, and provide a platform for inspired learning.

One way that we accomplish these objectives is through the inclusion of problems. Because of the nature of constitutional law, we do not use a single type of problem but instead employ many different models and formats. Many problems are factual in nature and are designed to encourage students to think about how constitutional doctrine might apply in particular contexts. In some instances, these fact-based problems are premised upon actual cases, including U.S. Supreme Court cases. Other problems are theoretical in nature and are simply designed to help students better understand constitutional doctrine.

A problem might be designed to achieve any one of several objectives. For example, we might use problems to illustrate and clarify doctrinal principles and conflicts, to place students in real-life situations and ask them how they would respond, to help students view constitutional law issues in modern and historical context, or to prepare students for actual practice. Some problems probe divisions in the law, while others ask students to apply existing doctrine to new situations. Some problems place students in the position of a lawyer and ask them to explain how they might argue a particular case (e.g., what facts or arguments might they use in support of their positions). In other words, the user should not expect to see a single, monolithic approach to problems.

In using problems, we accept the criticisms of the Realists and Critical Legal Theory movements. In other words, one of our goals is to encourage students to think critically and to develop arguments and theory, rather than to view law as simply a "deductive process." As a result, even if the Court has rendered a decision in a particular case, we might present that case as a "problem" because we want students to critically analyze the issues involved. Even if a student responds, "I read the decided case and the Court held . . ." the professor can respond with questions designed to stimulate thought. "Ok, fair enough. Now, do you think that the Court got it right? Did it give sufficient weight to this consideration? How could the Court possibly have reached that conclusion?" Such analysis helps students become better lawyers.

In any constitutional law casebook, tradeoffs are necessary, and we have made a number of intentional ones. First, although we include the landmark cases, we do not attempt to catalog every decision (even every U.S. Supreme Court decision) in each of the relevant areas. Over the past half-century, constitutional case law has multiplied to the extent that it is impossible to thoroughly discuss every decision and do justice to each one. As a result, constitutional law casebooks authors are necessarily forced to include some decisions and to exclude others. Otherwise, our book would be too long. Although this book is designed to give students a thorough grounding in constitutional law, students can always consult secondary sources if they desire more treatise-like discussions. In this book, we have chosen cases for a variety of reasons. Some were chosen because they are modern cases that reflect the current state of the

law. Others were chosen because they are “landmarks” that students need to read and understand. In some cases, we have included older cases that help students understand and evaluate the modern approach. Because we present fewer cases overall, we are generally able to include more of the cases that we do include. In other words, we allow students to read the Court’s own words and decide for themselves what the decisions mean. Other cases may come in through questions, problems, or hypotheticals.

Since this book is part of the Connected Casebook series, several advantages accrue to your students because the book includes a number of important components, including the following:

- an ebook component, which allows students to read, search, highlight, and annotate the text of their casebook;
- a study center component, which provides students with access to thousands of video and text explanations of difficult concepts, assessment questions, practice essays, as well as hypothetical and issue-spotting exercises; and
- an outline component, which allows students to quickly create effective course-long outlines, directly integrating excerpts and notes from the textbook.

We give thanks to the many people who assisted us in the creation and revision of this book, including our research assistants and secretaries. We are particularly grateful to the students who helped us find and correct errors. Finally, we are thankful to our spouses, significant others, and children who supported us through the various stages of this project.

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