

ASPEN CASEBOOK SERIES

SIEGEL

FEDERAL COURTS
Cases and Materials



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Federal Courts

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Published by Wolters Kluwer in New York.

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Wolters Kluwer
Attn: Order Department
PO Box 990
Frederick, MD 21705

Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 978-1-4548-3798-5

Library of Congress Cataloging-in-Publication Data

Siegel, Jonathan R., author.

Federal courts: cases and materials / Jonathan R. Siegel, F. Elwood and Eleanor Davis
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pages cm.—(Aspen casebook series)

ISBN 978-1-4548-3798-5

1. Courts—United States—Cases. 2. Judicial power—United States—Cases. 3. Jurisdiction—United States—Cases. 4. Judicial review—United States—Cases. I. Title.

KF8719.S54 2015

347.73'2—dc23

2015007470

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For Claudine and Allen Siegel

Preface

The philosophy of this casebook is “more cases, fewer notes.” It attempts to strike a balance between cases and notes to present the concepts of Federal Courts in a rich, sophisticated way without unnecessary and obscure detail.

The selection of materials is based on the following principles:

- Whenever possible, students should read cases, rather than notes about cases. If a dozen cases are presented in notes of one paragraph each, students don’t absorb their nuances. Short note cases are also pre-digested for the students, depriving them of the experience of interpreting the cases for themselves.
- The case selection should ensure that the students are familiar with the canonical cases and concepts. It should show the richness and sophistication of the subject. But it should avoid excessive, obscure detail. With the material curated to exclude unnecessary clutter, more space is available for fuller presentation of the cases that are included.
- Notes should include questions to guide student thinking and describe important follow-up cases that aren’t worthy of being principal cases. But the notes should remain brief enough to sustain student interest and allow the professor to put his or her own imprint on the materials.

* * * * *

The casebook provides numerous discussion problems. These problems can help students determine whether they have understood the rules and concepts presented. Most of the problems call for straightforward application of the rules—they are pitched at about the level of a classroom hypothetical.

Discussion problems are useful because even if rules of law are extracted from the materials in the reading and stated clearly, many students will not

truly understand the rules until they are called upon to apply them to specific facts. That is the great virtue of the Socratic method—it compels students to apply rules of law to particular facts. The discussion problems can assist professors and students in this process.

* * * * *

The course in Federal Courts studies the role of the federal courts in the American system of government. It particularly considers the role of the federal courts in vindicating federal rights, the relationship of the federal courts to the other branches of the federal government, and the relationship of the federal courts to the states.

Within these broad areas, the course covers numerous topics. The topics are varied and somewhat disparate: They include justiciability, jurisdiction, the law applied by federal courts, lawsuits against governments and government officers, abstention doctrines, Supreme Court review, and the writ of habeas corpus. What ties the topics together are core themes—themes about the role of the federal courts. The themes explored in this casebook include:

- *Ubi jus, ibi remedium?* An ancient maxim states that “there is a remedy for every right.” But is this maxim true? Much of the course in Federal Courts addresses this question. The course explores obstacles that might get in the way of providing remedies for violations of right. Such obstacles include justiciability doctrines, jurisdictional barriers, sovereign immunity, and the desire to respect state governments and state courts.
- *Public rights v. private rights.* A central tension within federal courts law is whether the federal courts should act only to vindicate the private interests of a particular injured plaintiff, or whether they should vindicate the public interest in enforcing the Constitution and ensuring that the federal and state governments behave lawfully. Do the federal courts enforce the Constitution only as an *incident* of their function of deciding cases about particular parties, or is enforcing the Constitution part of their primary role?
- *Federalism.* The course in Federal Courts is a course in federalism. The course explores the relationship of the federal government to the states, especially the relationship between the state and federal court systems. Important questions within this theme include: (1) When must federal courts apply state law, and vice versa? (2) Are the states sovereign entities, and do they enjoy sovereign immunity from suit in federal court? (3) Should the federal courts play the primary role in enforcing federal rights, particularly when those rights are threatened by state government actors, or should they let state courts play the primary role, with the federal courts playing only the

secondary role of reviewing a case after the state courts have finished with it?

- *Separation of powers.* The course also explores the relationship of the federal courts to the other branches of the federal government. To what extent can Congress control the federal courts? To what extent can the courts control the other branches? When can federal courts generate law, and when must they leave that role to Congress?
- *Practical administration.* In addition to these grand, philosophical themes, the course also explores many practical questions about how to run an effective and efficient court system.

These themes tie together the varied materials in the Federal Courts course. Throughout, this casebook explores how the topics presented implicate these core themes of the course.

J.S.
April 2015

Acknowledgments

I would like to thank the editors at Aspen, particularly Richard Mixer and Carol McGeehan, for persistently encouraging me to publish these materials. I also gratefully acknowledge the excellent editorial review I received from numerous editors at Aspen and The Froebe Group, including Tom Daughhetee, John Devins, Troy Froebe, Eric Holt, Annalisa Rodriguez, Barbara Roth, and Cindy Uh.

I am grateful to Thomas Ingalls for research assistance provided during the final stages of preparing the manuscript.

I thank the Honorable William Fletcher for permission to reprint an excerpt from one of his articles.

Most of all, I would like to thank my wife, Michelle Girvan, for her loving support during the long period of work on this book.

J.S.

A Note on the Text

Most of the text of the cases reproduced herein was downloaded from Westlaw. In working on this casebook I discovered that, particularly with regard to older cases, the West version of a Supreme Court case may differ from the text as printed in the United States Reports with regard to details such as spelling, punctuation, capitalization, italicization, and citation forms. In some cases words themselves are added or changed. Where I have discovered these differences I have generally restored the text to the U.S. Reports version, but I have not systematically attempted to root out all such differences.

In general, I have attempted to reproduce the text of cases faithfully, with ellipses or brackets indicating any editorial changes. However, to improve readability, some changes have been made without any textual indication:

- Most footnotes have been omitted (this is a common practice among casebook authors).
- Parallel citations have been omitted (in most cases these were added by West anyway).
- Ellipses which should really appear before a punctuation mark or marks have sometimes been placed after them.
- The omission indicated by ellipses may include paragraph structure.
- Some obvious typographical errors may have been corrected. At first I checked such errors against the U.S. Reports, but they almost invariably turned out to be errors by West, not by the Court, particularly in older cases. So for a while I stopped checking, until I discovered HeinOnline's digital images of the U.S. Reports, which allowed me to check without leaving my desk. Thus, some obvious typos have been corrected without checking whether they are part of the original U.S. Reports text.

- My publisher made some changes to conform to its own style. The most noticeable is the omission of the space between the section symbol and a section number. Thus, for example, the federal question jurisdiction statute, which is “28 U.S.C. § 1331” in Blue Book style, is here referred to as “28 U.S.C. §1331.”

Readers are invited to call any errors to my attention for correction in future editions.

J.S.

Constitution of the United States of America

Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. [1] The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

[2] No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[3] Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse

three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New-Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

[4] When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

[5] The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. [1] The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

[2] Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

[3] No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

[4] The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

[5] The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

[6] The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

[7] Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4. [1] The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

[2] The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section 5. [1] Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

[2] Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

[3] Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

[4] Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. [1] The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

[2] No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7. [1] All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

[2] Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both

Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

[3] Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8. [1] The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

[2] To borrow Money on the credit of the United States;

[3] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

[4] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

[5] To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

[6] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

[7] To establish Post Offices and post Roads;

[8] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

[9] To constitute Tribunals inferior to the supreme Court;

[10] To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

[11] To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

[12] To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

[13] To provide and maintain a Navy;

[14] To make Rules for the Government and Regulation of the land and naval Forces;

[15] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

[16] To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of