

ASPEN SELECT SERIES

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JACKSON*

CONSTITUTIONAL LAW
Cases & Materials

Second Edition



Wolters Kluwer

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To the late Dean Otis H. King

“Otis without you not only would I not be at Thurgood Marshall, there would not be a Thurgood Marshall School of Law. This book’s for you!!”

—Martin Levy

To my parents, James and Evelyn Jackson, who were teachers, for being wonderful parents and for instilling in me an appreciation for teaching and learning. Hopefully one day I will reach their level as a teacher.

—Craig Jackson

Preface

This second edition contains updates and new cases in the area of Constitutional law since 2013; the words of our first edition prefaces still stand true:

Preface

Two things stand out in regard to the publication of this edition:

1. This is the first edition of the casebook published by Aspen.
2. I am joined by my colleague, Professor Craig Jackson, as a co-author.

Let me first thank Aspen for allowing me to reach the objectives detailed in the first publication of this work. My main interest has always been to conform written materials to support that which is reviewed in the class. I believe the teaching benefit is well worth the time spent, and at Thurgood Marshall's Law School (our namesake!), coverage of the postwar amendments and issues concerning equality are essential, and thus so is the coverage herein. I have also believed covering the interrelationship of jurisdictional requirements and how they relate to application of the judicial power is a central, yet more difficult, issue in presenting constitutional law. Thus, a review of Supreme Court decision making, using the "right of privacy" issues and cases, also sets this work apart from others. Publication by Aspen has allowed me to reach my objectives. Consequently, this work will be available for my students, my steadfast intent, while still as a part of Aspen's "Select Casebook Series," available on a national basis. So my thanks to all of the Aspen crew — Terry Johnson, Lynn Churchill, Carmen Corral-Reid, Lisa Wehrle, Rosalie Briand, and Gretchen Graham — for making this possible!

This work would not have been possible without my research Assistant Amir Tavakkoli and support from both the Thurgood Marshall School of Law and Texas Southern University.

Also, it gives me great pleasure to have my colleague Professor Craig Jackson join me as a co-author. Without Craig's assuming authorship of several sections herein, I don't know if it could have been done. So Craig, thanks and welcome!

Martin Levy
Houston
June 2013

Preface

This edition continues the inspired approach of the text's original author, Martin Levy, of presenting constitutional law within broader contexts than a simple progression of Supreme Court cases beginning with *Marbury v. Madison*. The text strives to demonstrate the role of social change in our nation's history in its case selection and emphasis. For example, this book includes in certain core areas of the constitutional law canon cases that trace the nation's struggle with race — slavery is presented within the context of the drafting of the Constitution and in the Commerce Clause, as a reminder of the practice of human trafficking that influenced the writing of the Constitution and continues to influence social events. Commercial regulation is presented as both a function of constitutional structure and international economics to demonstrate the kind of polity the Framers had in mind when drafting the Constitution. Procreative rights are the subject of several selected cases, including *Roe v. Wade*, to demonstrate judicial review and constitutional interpretation in addition to the jurisprudence of the Due Process Clause. The events leading up to and surrounding the nation's reaction to 9/11 are chronicled in cases addressing presidential power, separation of powers, the constitutional meaning of “war powers,” and civil liberties.

It has been an honor to work with Marty, my colleague of 23 years, on this latest edition of the textbook, which I have used in my own teaching for more than ten years. Marty shares my view that constitutional law should be more than a collection of cases and descriptions of structures, fascinating perhaps to constitutional law scholars yet separated from the history and society that we all live in. Hopefully the use of historical and social contexts will be fascinating to students while demonstrating the real day-to-day impact of constitutional law on our lives.

Craig Jackson
Houston
June 2013

Table of Contents

<i>Preface</i>	xxi
PART I. GOVERNMENTAL POWERS	1
Chapter 1. The Supreme Court and Judicial Review	3
I. Development of Judicial Review	4
A. Origins.....	4
<i>Marbury v. Madison</i>	4
<i>Cooper v. Aaron</i>	13
<i>Bush v. Gore</i>	14
Cass Sunstein, <i>Order Without Law</i>	25
Pamela S. Karlan, <i>Unduly Partial: The Supreme Court and the</i> <i>Fourteenth Amendment in Bush v. Gore</i>	26
John C. Yoo, <i>In Defense of the Court's Legitimacy</i>	26
Michael J. Klarman, <i>Bush v. Gore Through the Lens of</i> <i>Constitutional History</i>	27
Mark Tushnet, <i>Renormalizing Bush v. Gore: An Anticipatory</i> <i>Intellectual History</i>	28
B. Contemporary Use of the Judicial Power.....	29
<i>The Federalist</i> No. 78 (Alexander Hamilton).....	30
C. Constitutional Interpretation: "When and How"	35
1. Head Start — Contraception/Reproduction: A Case Study	35
<i>Tileston v. Ullman</i>	36
<i>Poe v. Ullman</i>	37
<i>Griswold v. Connecticut</i>	42
<i>Roe v. Wade</i>	50
<i>Planned Parenthood of Southeastern Pennsylvania v. Casey</i>	56
D. Supremacy and State Courts	79
<i>Martin v. Hunter's Lessee</i>	79
1. Review of State Courts "In-Action": Independent/Adequate Grounds.....	83
<i>Michigan v. Long</i>	84
II. Jurisdictional Limitations on the Scope of the Judicial Power.....	88
A. Congressional/Statutory	88
1. Supreme Court/Appellate Jurisdiction	88
<i>Ex parte McCordle</i>	88
2. Lower Federal Courts.....	94
B. Article III "Case and Controversy" — Constitutional and	
Discretionary Abstention.....	95
1. The Constitutional Requirements.....	95
2. Advisory Opinions: Adversity, Mootness, and Collusion.....	95
<i>Muskrat v. United States</i>	96
<i>DeFunis v. Odegaard</i>	98
<i>Roe v. Wade</i>	103
3. "Measuring" Controversy/Adversity.....	103

4. Standing/Personalized Harm	104
a. Ripeness/Concreteness	104
<i>Nashville, Cincinnati & St. Louis Railway v. Wallace</i>	105
5. Measuring Adversity: Judicial Restraint and the Discretionary Use of the Judicial Power — Limiting Judicial Activism	106
6. Standing: Citizen and Taxpayer Suits	107
<i>Massachusetts v. Mellon</i>	108
<i>Flast v. Cohen</i>	111
<i>United States v. Richardson</i>	116
<i>Valley Forge Christian College v. Americans United for Separation of Church and State</i>	121
7. “In-House Rules” and Contemporary Judicial Self-Governance	125
<i>Warth v. Seldin</i>	126
<i>Valley Forge Christian College v. Americans United for the Separation of Church and State</i>	135
<i>DaimlerChrysler Corp. v. Cuno</i>	140
<i>Hein v. Freedom from Religion Foundation, Inc.</i>	142
<i>Arizona Christian School Tuition Organization v. Winn</i>	151
<i>Clapper v. Amnesty International et al.</i>	156
<i>Arizona State Legislature v. Arizona Independent Redistricting Commission et al.</i>	165
<i>Alabama Legislative Black Caucus et al. v. Alabama et al.</i>	166
<i>United States v. Windsor</i>	168
<i>Hollingsworth v. Perry</i>	179
<i>Susan B. Anthony List v. Driehaus</i>	185
8. Standing and Federalism: Prudence and Enforcing the Tenth Amendment	188
9. Article III Minimums: How Minimum Is Minimum? or “How Low Can You Go”?	189
<i>Allen v. Wright</i>	189
10. Article III Minimums: Can Congress “Create” Standing?	194
<i>Lujan v. Defenders of Wildlife</i>	194
<i>Massachusetts v. Environmental Protection Agency</i>	202
11. Article III Minimums: “Injury in Fact” and “Causal Connection”	206
<i>Summers v. Earth Island Institute</i>	206
C. Discretionary Abstention/The Power to Decline Jurisdiction	206
1. Avoiding Constitutional Questions	206
<i>Cohens v. Virginia</i>	207
<i>Ashwander v. Tennessee Valley Authority</i>	208
2. Political Questions	210
<i>Collegrove v. Green</i>	210
<i>Baker v. Carr</i>	212
<i>Powell v. McCormack</i>	216
<i>Nixon v. United States</i>	220
<i>Goldwater v. Carter</i>	222
D. Supreme Court Practice	226

Chapter 2. Congress and Federal Authority	229
I. Authority to Legislate: National Powers in Federal Union	229
A. A Lesson in Nation Building	232
<i>McCulloch v. Maryland</i>	232
B. Other Aspects of Federal Power	245
C. The Modern Anti-federalist Revival	249
<i>U.S. Term Limits, Inc. v. Thornton</i>	250
II. Commerce Power	258
A. The Court at the Threshold: “Fulton’s Folly”	259
<i>Gibbons v. Ogden</i>	259
B. The Indirect-Direct Test: Laissez-Faire and Limitation of National Power	261
<i>United States v. Knight</i>	261
<i>Houston, E. & W. Ry. Co. v. United States (The Shreveport Rate Case)</i>	263
<i>Swift & Co. v. United States</i>	264
<i>Hammer v. Dagenhart</i>	265
1. No “New Deal”	270
<i>Schechter Poultry Corp. v. United States</i>	270
<i>Carter v. Carter Coal Co.</i>	275
2. “Court Packing”	277
C. Substantial Effect: Expansion of Federal Authority: 1937-1995 — “A Switch in Time to Save the Nine”	279
<i>NLRB v. Jones & Laughlin Steel Corp.</i>	279
<i>United States v. Darby</i>	283
<i>Wickard v. Filburn</i>	286
D. The Use of the Expanded Commerce Power as a Regulatory Tool for Federal Authority— Early Precedents	289
<i>Champion v. Ames (The Lottery Case)</i>	290
<i>Perez v. United States</i>	292
E. Drawing on the Expansive Commerce Power to Protect Civil Rights	294
<i>Heart of Atlanta Motel v. United States</i>	296
<i>Katzenbach v. McClung</i>	299
F. Limits on the Commerce Power in the Modern Era	302
<i>United States v. Lopez</i>	302
<i>United States v. Morrison</i>	319
1. “Is Home Weed Home Feed?”	326
<i>Gonzales v. Raich</i>	326
2. The Affordable Health Care Act and the Commerce Clause	350
<i>National Federation of Independent Business v. Sebelius</i>	350
a. One Last Try: <i>King v. Burwell</i>	356
G. State Autonomy, Federalism, and the 10th and 11th Amendments: Modern Limits on the Commerce Power	357
1. Pre- <i>Garcia</i> “State Sovereignty and the 10th Amendment”	357
<i>National League of Cities v. Usery</i>	358
<i>Hodel v. Virginia Surface Mining Association</i>	358
<i>United Transportation Union v. Long Island Railroad</i>	359

<i>Federal Energy Regulatory Commission v. Mississippi</i>	359
<i>EEOC v. Wyoming</i>	359
<i>Garcia v. San Antonio Metropolitan Transit Authority</i>	360
<i>South Carolina v. Baker</i>	361
2. “Other Ways to Skin a Cat”	362
<i>New York v. United States</i>	362
<i>Printz v. United States</i>	372
<i>National Federation of Independent Business v. Sebelius</i>	387
H. The Rehnquist Court Fetish—“Dual Sovereignty,” the 11th Amendment: Limitation of Congressional Power	393
III. Other National Powers	398
A. The Taxing and Spending Powers	398
1. The Taxing Power	398
<i>Bailey v. Drexel Furniture Co. (Child Labor Tax Case)</i>	398
<i>United States v. Kahriger</i>	402
<i>National Federation of Independent Business v. Sebelius</i>	405
2. The Spending Power	407
<i>United States v. Butler</i>	408
<i>Steward Machine Co. v. Davis</i>	414
3. Conditional Spending	416
<i>South Dakota v. Dole</i>	417
<i>National Federation of Independent Business v. Sebelius</i>	423
B. The War and Treaty Powers	423
1. The War Power	423
<i>Woods v. Miller Co.</i>	423
2. The Treaty Power	424
<i>Missouri v. Holland</i>	425
<i>Medellin v. Texas</i>	426
IV. State Regulation and the National Economy: The Dormant Commerce Clause	427
A. Introduction	427
1. Comment: The American Common Market	429
B. The American Common Market as Seen in the Constitution and Supreme Court Decisions	431
1. Constitutional Provisions	431
2. Supreme Court Decisions	432
C. Development of the Dormant Commerce Clause	434
1. Early Cases	434
<i>Gibbons v. Ogden</i>	434
<i>Cooley v. Board of Wardens</i>	437
2. Race, Slavery, and the Dormant Commerce Clause	441
<i>Groves v. Slaughter</i>	442
D. The Modern Dormant Commerce Clause	447
<i>Di Santo v. Pennsylvania</i>	448
1. Category One: Discrimination	450
a. Facial Discrimination	451
b. Non-facial Discrimination	451

2. Category One (a) — Facial Discrimination	451
<i>City of Philadelphia v. New Jersey</i>	452
3. Compensatory Tax Schemes	457
<i>Comptroller of the Treasury of Md v. Wynne</i>	458
4. Restrictions on Both Out-of-State and Intrastate Activity	460
5. Discrimination That Does Not Offend the Dormant Commerce Clause...	460
6. The New Public Function Exception.....	461
<i>C & A Carbone, Inc. v. Town of Clarkstown</i>	461
<i>United Haulers Association v. Oneida-Herkimer Solid Waste</i> <i>Management Authority</i>	464
7. Category One (b) — Discriminatory Purpose or Effect.....	469
<i>Baldwin v. G.A.F. Seelig, Inc.</i>	469
8. The Market Participant Exception.....	473
<i>South-Central Timber Development, Inc. v. Wunnicke</i>	473
<i>Department of Revenue of Kentucky v. Davis</i>	477
9. Nondiscriminatory, Yet Burdensome, State Legislation (Pike Balancing).....	479
<i>Southern Pacific Co. v. Arizona</i>	480
<i>McBurney v. Young</i>	487

Chapter 3. The President, Executive Authority, and Separation of Power

and Separation of Power	489
I. Presidential Power: Domestic Affairs	490
<i>Youngstown Sheet & Tube v. Sawyer (The Steel Seizure Case)</i>	491
<i>Dames & Moore v. Regan</i>	502
A. The “War on Terrorism”	509
<i>Hamdi v. Rumsfeld</i>	510
<i>Rumsfeld v. Padilla</i>	524
<i>Rasul v. Bush</i>	528
<i>Hamdan v. Rumsfeld</i>	534
<i>Boumediene v. Bush</i>	545
II. Presidential Power: Foreign Affairs.....	553
<i>United States v. Curtiss-Wright Corp.</i>	554
A. Executive Agreements	
<i>Menachem Binyamin Zivotofsky v. John Kerry</i>	558
B. Military Affairs: The President and Use of Armed Forces	664
III. Separation of Powers	565
A. Legislative Veto	574
<i>INS v. Chadha</i>	574
B. Impoundment	581
<i>Clinton v. City of New York</i>	581
C. Executive Officers.....	591
<i>Bowsher v. Synar</i>	591
<i>Morrison v. Olson</i>	598
<i>Free Enterprise Fund v. Public Company Accounting</i> <i>Oversight Board</i>	606

<i>NLRB v. Noel Canning</i>	608
D. Watergate and Executive Privilege	618
<i>United States v. Nixon</i>	619
<i>Clinton v. Jones</i>	623
<i>Cheney v. U.S. District Court</i>	632
PART II. INDIVIDUAL RIGHTS AND LIBERTIES	635
Chapter 4. Application of the Bill of Rights	637
I. Adoption of the Bill of Rights	637
A. The Failure to Include a Written Bill of Rights	637
II. The Bill of Rights and the States.....	642
<i>Barron v. Baltimore</i>	642
III. Slavery and the Constitution: The Ignoble Compromise.....	644
<i>Prigg v. Pennsylvania</i>	646
<i>Dred Scott v. Sanford</i>	657
IV. The Civil War and the Post-Civil War Amendments.....	661
A. The Amendments “Annotated”	662
1. Amendment XIII	662
2. Amendment XIV	663
3. Amendment XV	664
B. Reconstruction and a Return to Normalcy	665
1. “Radical” Reconstruction.....	665
2. “A Return to Normalcy”	666
C. A Supreme Court Trilogy.....	667
<i>Slaughter-House Cases</i>	667
<i>The Civil Rights Cases</i>	678
<i>Plessy v. Ferguson</i>	690
V. The Struggle for Incorporation	690
A. Life, Liberty, or Property, Without Due Process of Law	694
<i>Palko v. Connecticut</i>	694
<i>Adamson v. California</i>	695
<i>Duncan v. Louisiana</i>	701
<i>Williams v. Florida</i>	712
<i>Apodaca v. Oregon</i>	717
<i>Burch v. Louisiana</i>	718
VI. The State Action Limitation	728
A. Public Function	729
<i>Marsh v. Alabama</i>	729
<i>Evans v. Newton</i>	732
<i>Amalgamated Food Employees Union Local v. Logan Valley Plaza</i> ...	734
<i>Hudgens v. National Labor Relations Board</i>	737
<i>Jackson v. Metropolitan Edison Co.</i>	740
<i>Flagg Brothers v. Brooks</i>	742
1. “The White Primary Cases”	744
<i>Nixon v. Herdon</i>	744
<i>Nixon v. Condon</i>	744

<i>Grovey v. Townsend</i>	744
<i>Smith v. Allwright</i>	744
<i>Terry v. Adams</i>	745
B. State Involvement.....	746
<i>Shelley v. Kraemer</i>	746
<i>Pennsylvania v. Board of Directors of City Trusts of</i> <i>City of Philadelphia</i>	749
<i>Evans v. Abney</i>	750
<i>Burton v. Wilmington Parking Authority</i>	751
1. “State Encouragement”.....	755
<i>Reitman v. Mulkey</i>	755
<i>Moose Lodge v. Iris</i>	758
2. “Contemporary Standards”.....	762
<i>Jackson v. Metropolitan Edison Co.</i>	762
<i>Flagg Brothers v. Brooks</i>	765
<i>Lugar v. Edmondson</i>	768
<i>Edmonson v. Leesville Concrete Co.</i>	770
<i>Brentwood Academy v. Tennessee Secondary School</i> <i>Athletic Association</i>	773
Chapter 5. Constitutionally Protected Rights — Due Process	777
I. Substantive Due Process.....	777
A. Introduction.....	777
<i>Lochner v. New York</i>	778
1. Decline of Judicial Intervention.....	784
<i>Nebbia v. New York</i>	784
<i>United States v. Carolene Products Co.</i>	786
<i>Williamson v. Lee Optical</i>	788
B. The Contract and Takings Clauses.....	792
1. The Contract Clause.....	792
a. Nineteenth-Century Developments.....	793
<i>Fletcher v. Peck</i>	793
b. Twentieth-Century Developments.....	796
<i>Home Building & Loan Ass’n v. Blaisdell</i>	797
<i>Allied Structural Steel v. Spannaus</i>	807
2. The Takings Clause.....	811
a. Public Use.....	812
<i>Berman v. Parker</i>	812
<i>Kelo v. New London</i>	815
b. Regulatory Takings.....	825
<i>Pennsylvania Coal Co. v. Mahon</i>	825
<i>Keystone Bituminous Coal Ass’n v. De Benedictis</i>	831
<i>Koontz v. St. Johns River Water Management District</i>	838
C. Revival of Substantive Due Process.....	843
1. “Fundamental” Right to Privacy.....	843
<i>Griswold v. Connecticut</i>	843
2. Abortion.....	852

<i>Roe v. Wade</i>	852
3. The Nature of the Right.....	859
<i>Maher v. Roe</i>	859
<i>Harris v. McRae</i>	862
<i>Planned Parenthood of Southeastern Pennsylvania v. Casey</i>	864
<i>Stenberg v. Carhart</i>	886
<i>Gonzales v. Carhart</i>	891
4. Extending Privacy Rights: Family, Marriage, Procreation, Child Bearing	896
<i>Moore v. City of East Cleveland</i>	896
<i>Zablocki v. Redhail</i>	899
<i>Michael H. v. Gerald D.</i>	901
<i>James Obergefell v. Richard Hodges, Director, Ohio Department of Health</i>	913
<i>McDonald v. City of Chicago</i>	930
5. Sexual Orientation.....	936
<i>Lawrence v. Texas</i>	936
6. Right to Die	948
<i>Cruzan v. Director, Missouri Department of Health</i>	948
<i>Washington v. Glucksberg</i>	955
<i>Vacco v. Quill</i>	967
II. “Procedural” Due Process	970
A. Procedural Due Process in Civil Procedure.....	973
1. Opportunity to be Heard.....	974
Chapter 6. Constitutionally Protected Rights — Equal Protection	981
I. An Overview — The “Old” and the “New”	982
A. Something “Old”.....	982
B. Something “New”	982
C. The Newer Than New but Older Than Old Equal Protection	982
II. Discriminatory Classifications	984
A. Economic Regulations: The Rational Purpose Test.....	984
<i>Kotch v. Board of River Port Pilots</i>	984
<i>Railway Express Agency v. New York</i>	987
<i>Dandridge v. Williams</i>	990
B. “Proving Up Discrimination, Discriminatory Purpose”	992
<i>Yick Wo v. Hopkins</i>	993
<i>Washington v. Davis</i>	994
<i>Arlington Heights v. Metropolitan Housing Development Corp.</i>	1001
<i>Texas Department of Housing and Community Affairs et al. v.</i> <i>Inclusive Communities Project, Inc., et al.</i>	1004
I. Note on Disparate Impact	1010
<i>Personnel Administrator of Massachusetts v. Feeney</i>	1011
<i>Rogers v. Lodge</i>	1019
C. Race-Based Classifications	1026
1. Strict Scrutiny.....	1026
<i>Loving v. Virginia</i>	1027