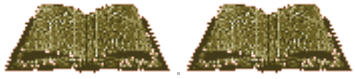
ANIL AGGRAWAL'S
Internet Journal of Forensic Medicine and Toxicology
The world's first online journal devoted entirely to forensic medicine and toxicology · Published 1 January and 1 July

VOL. 5, NO. 2
Downloaded from www.anilaggrawal.com · ISSN 0972-8074 (Online) · https://www.anilaggrawal.com/ij/vol_005_no_002/reviews/pb/page005.html

Book Reviews: Popular Books Section





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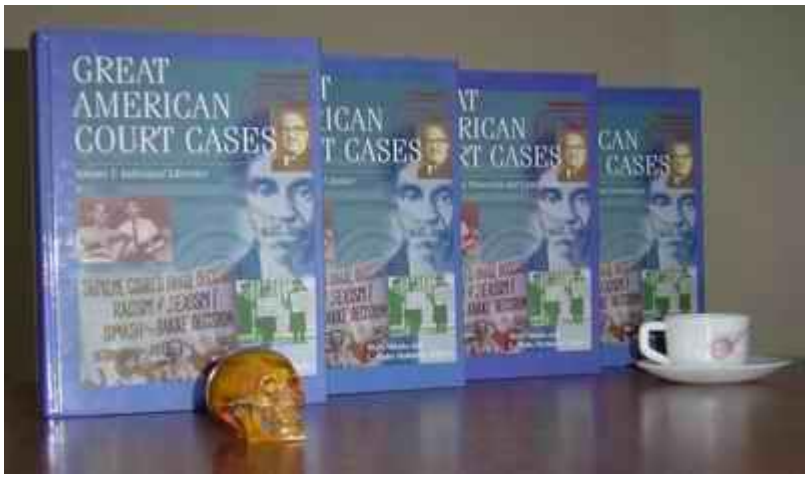

Imagine 778 greatest American legal cases, based on 53 different legal principles, all compiled in one encyclopedia! If you thought this was impossible, you would be wrong. Galegroup has come out

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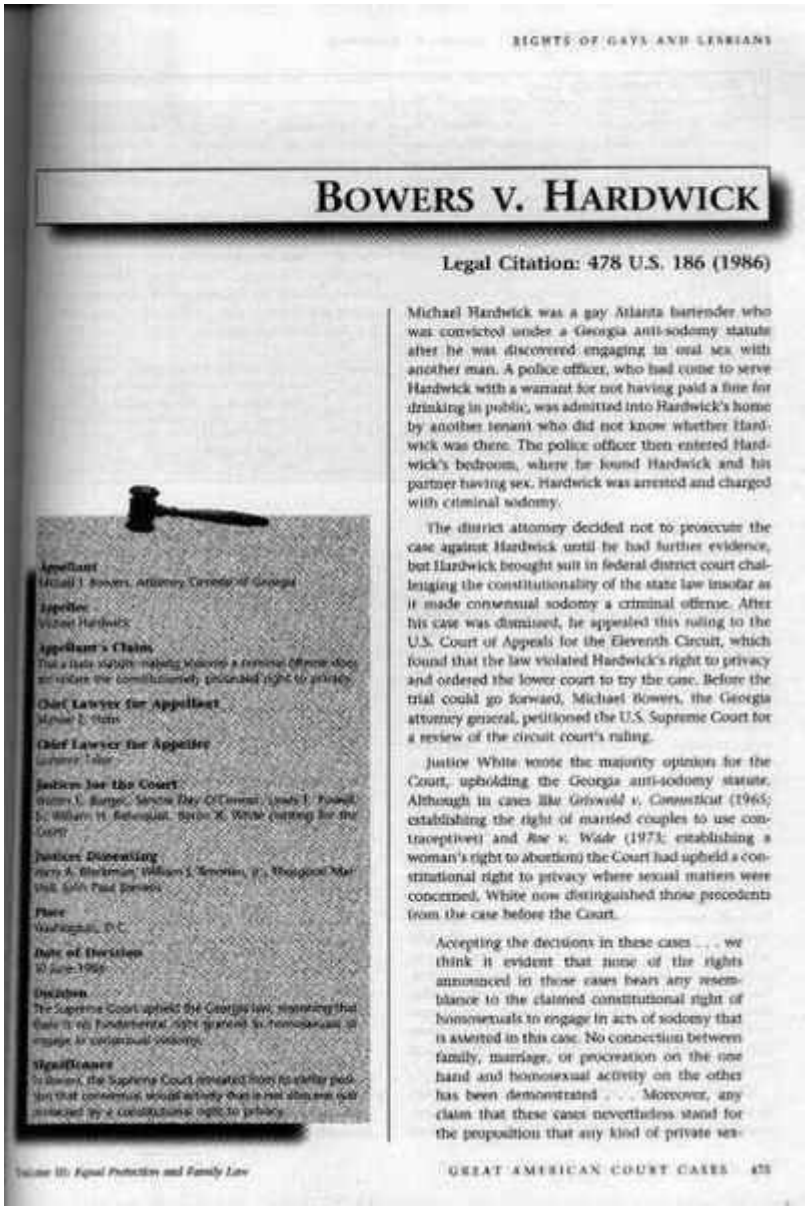
This is how each of the 778 cases in the encyclopedia start. This case is from page 475 of volume 3 in a legal section entitled *"Rights of Gays and Lesbians"*. Note the citations at the top and a quick digest of all facts at the left in a "factbox"



RIGHTS OF GAYS AND LESBIANS

BOWERS V. HARDWICK

Legal Citation: 478 U.S. 186 (1986)

Michael Hardwick was a gay Atlanta bartender who was convicted under a Georgia anti-sodomy statute after he was discovered engaging in oral sex with another man. A police officer, who had come to serve Hardwick with a warrant for not having paid a fine for drinking in public, was admitted into Hardwick's home by another tenant who did not know whether Hardwick was there. The police officer then entered Hardwick's bedroom, where he found Hardwick and his partner having sex. Hardwick was arrested and charged with criminal sodomy.

The district attorney decided not to prosecute the case against Hardwick until he had further evidence, but Hardwick brought suit in federal district court challenging the constitutionality of the state law insofar as it made consensual sodomy a criminal offense. After his case was dismissed, he appealed this ruling to the U.S. Court of Appeals for the Eleventh Circuit, which found that the law violated Hardwick's right to privacy and ordered the lower court to try the case. Before the trial could go forward, Michael Bowers, the Georgia attorney general, petitioned the U.S. Supreme Court for a review of the circuit court's ruling.

Justice White wrote the majority opinion for the Court, upholding the Georgia anti-sodomy statute. Although in cases like *Griswold v. Connecticut* (1965; establishing the right of married couples to use contraceptives) and *Roe v. Wade* (1973; establishing a woman's right to abortion) the Court had upheld a constitutional right to privacy where sexual matters were concerned, White now distinguished those precedents from the case before the Court.

> Accepting the decisions in these cases . . . we think it evident that none of the rights announced in those cases bears any resemblance to the claimed constitutional right of homosexuals to engage in acts of sodomy that is asserted in this case. No connection between family, marriage, or procreation on the one hand and homosexual activity on the other has been demonstrated . . . Moreover, any claim that these cases nevertheless stand for the proposition that any kind of private sex-

Appellant
Michael J. Bowers, Attorney General of Georgia

Appellee
Michael Hardwick

Appellant's Claim
That a state statute making sodomy a criminal offense does not violate the constitutionally protected right to privacy.

Chief Lawyer for Appellant
Michael J. Hertz

Chief Lawyer for Appellee
Lawrence Tribe

Justices for the Court
Warren E. Burger, Sandra Day O'Connor, Lewis F. Powell, Jr., William H. Rehnquist, Byron R. White (writing for the Court)

Justices Dissenting
Harry A. Blackmun, William J. Brennan, Jr., Thurgood Marshall, John Paul Stevens

Place
Washington, D.C.

Date of Decision
30 June 1986

Decision
The Supreme Court upheld the Georgia law, reasoning that there is no fundamental right granted to homosexuals to engage in consensual sodomy.

Significance
In Bowers, the Supreme Court retreated from its earlier position that consensual sexual activity that is not obscene was protected by a constitutional right to privacy.

Volume III: Equal Protection and Family Law

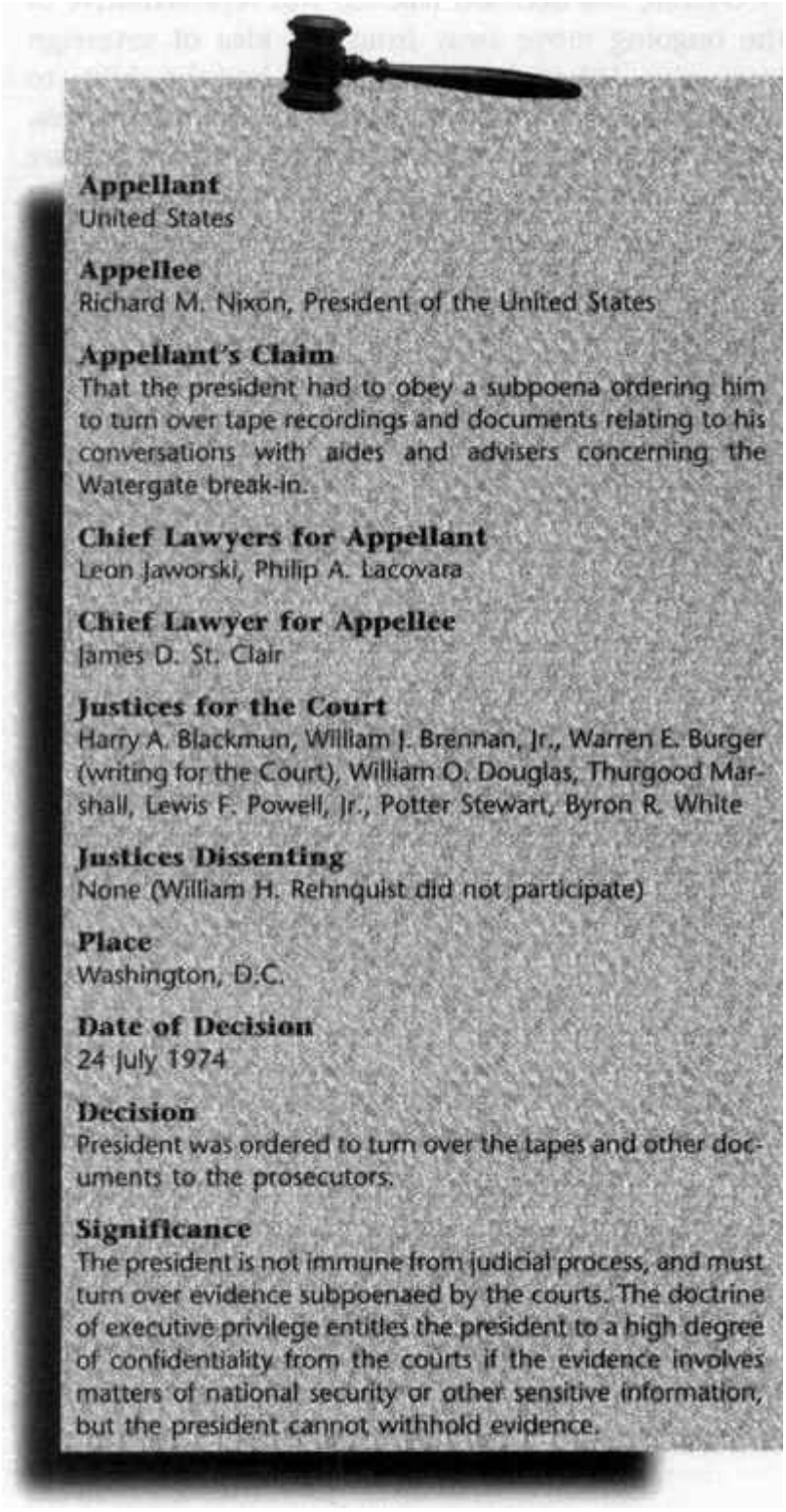
GREAT AMERICAN COURT CASES 475

Each of the four volumes is devoted to one unique legal theme: volume I deals with Individual liberties, volume II with criminal justice, volume III with equal protection and family law and volume IV with business and government. So regardless of what specialty you are associated with, you would find the encyclopedia a great companion. Each volume is subdivided into several smaller sections, each dealing with a separate legal principle and illustrating its various nuances with several legal cases. Volume II (dealing with criminal justice) for instance deals with eleven different legal principles. There is the section on capital punishment, dealing with 20 different cases

illustrating several different legal shades related to it; criminal law, with 5 cases; Criminal procedure, with 17 cases; Damages, with 13 cases; drug laws, with 4 cases; juries with 12 cases; juvenile courts with 4 cases; the rights of the accused before, during and after trial dealing with a total of 20, 16 and 6 cases respectively and finally the legal principle related to search and seizure with 68 cases. In all there are 185 cases in this volume. Volume I deals with a total of 11 legal principles illustrated by 205 cases; volume II deals with 11 legal principles illustrated by 185 cases (as mentioned just before); volume III deals with 16 different principles illustrated by 211 cases and volume IV deals with 15 cases illustrated by 177 cases.

The encyclopedia has a popular appeal, and should find favor with people in all walks of life, be they school teachers, professors, legal personnel, lawyers, judges, police officers, researchers, office goers, students, doctors, chartered accountants or just plain housewives. Every intelligent person interested in knowing legal happenings around him would find it a great read. Of course the encyclopedia would be indispensable for all judges, police officers, lawyers and law students. Legal researchers would find it very valuable indeed.

The "factbox" in detail. This one appears on page 156 in volume IV in the case *United States v. Nixon*. This case appears in a legal section entitled *"Federal powers and separation of powers"*



Appellant
United States

Appellee
Richard M. Nixon, President of the United States

Appellant's Claim
That the president had to obey a subpoena ordering him to turn over tape recordings and documents relating to his conversations with aides and advisers concerning the Watergate break-in.

Chief Lawyers for Appellant
Leon Jaworski, Philip A. Lacovara

Chief Lawyer for Appellee
James D. St. Clair

Justices for the Court
Harry A. Blackmun, William J. Brennan, Jr., Warren E. Burger (writing for the Court), William O. Douglas, Thurgood Marshall, Lewis F. Powell, Jr., Potter Stewart, Byron R. White

Justices Dissenting
None (William H. Rehnquist did not participate)

Place
Washington, D.C.

Date of Decision
24 July 1974

Decision
President was ordered to turn over the tapes and other documents to the prosecutors.

Significance
The president is not immune from judicial process, and must turn over evidence subpoenaed by the courts. The doctrine of executive privilege entitles the president to a high degree of confidentiality from the courts if the evidence involves matters of national security or other sensitive information, but the president cannot withhold evidence.

The encyclopedia explains away several important points in the beginning itself. Take for instance the enigmatic numerals we so often find associated with legal citations. In my 25 years as a professor of legal medicine in a medical school, I have seen this as one of the biggest areas of ignorance amongst non-legal personnel.

For instance when talking of new and questionable forensic techniques, I have to teach the famous Frye Standard to my students which among other things states that "the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs". The case from which Frye standard springs is generally cited

as "Frye v. United States 293 F. 1013 (1923)". Students are quite confused about what these numerals mean. This encyclopedia explains this in the very beginning.

Each volume starts with a general essay on "The American Legal System" which gives a broad overview of the court system. We also get to read the structure of the American legal system, origins of the state judicial systems and federal judiciary, judicial hierarchy, criminal and civil procedures and a number of other similar topics.

Each of the 778 cases is a unique gem in itself. The legal citation appears at the head of each case profile, enabling researchers to access the authoritative records of the court action. To my mind, the single feature which makes this encyclopedia uniquely important is a fact box which appears on the first page of every single case. This fact box is a kind of "digest" of what is to follow; just read it to get an idea whether you want to read the case or not. Among other things, it gives the names of litigants, the initiating litigant's claim, the names of chief lawyers on each side, the name of the judge or justice who wrote the majority opinion or decision, as well as names of those who concurred or dissented, the date and location of the decision, the summary of the decision and above all, the significance of the decision. As I delved into this encyclopedia deeper and deeper I found myself first scanning this fact box invariably before going ahead. This feature proved very helpful in putting before me "in perspective" every case I studied. I could then decide if this was the case I needed to study right then or not. If, for instance, I am researching on the legal rights of, say, gays and lesbians, I don't have to read each and every case detailed under this legal principle to locate the right case I am in need of. All I need to do is to read the fact box and decide.

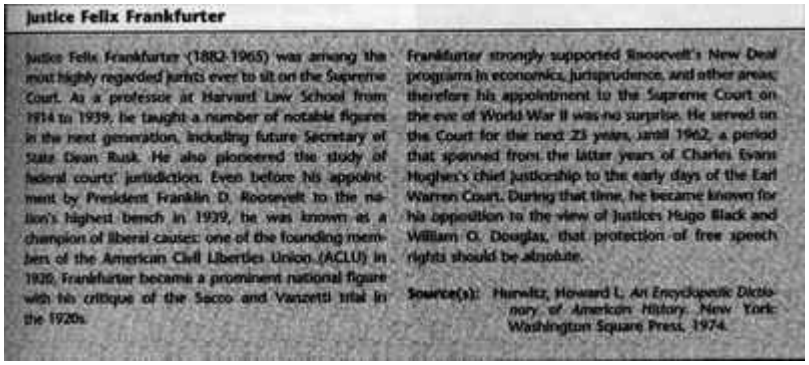
The encyclopedia is replete with historical photographs, contemporary lithographs, newspaper cuttings, cartoons, lampoons and other related visual material such as the one shown here. This cartoon appears on page 87 in volume III. The case is *Yick Wo v. Hopkins* in a legal section entitled *"Civil rights and equal protection"*. The case relates to an alleged discrimination against a Chinese. The contemporary cartoon from 1880 illustrates the anti-Chinese sentiments. In this reviewer's opinion, visual material such as this is very helpful.



Another useful feature of this encyclopedia are the sidebars included with almost every case. These throw interesting sidelights to the case. Take for example Korematsu v. United States 323 U.S.214 (1944). The case is an important landmark in civil rights and equal protection law. After the Japanese attack on Pearl Harbor, the US government illegally imprisoned about 112,000 persons of Japanese origin living in the United States. Of these, 70,000 were actually American citizens. The prisons were known by the euphemism "internment camps". One of the sufferers, Toyosaburo Korematsu brought a case against the United States government asserting that the order to arrest innocent Japanese was illegal. We do get to read the decision of the court and its reasoning thereof, but in a sidebar entitled "Japanese American Internment camps", we also get to read about these camps; what these camps were like, where they were located, what did it mean to live in those camps and so on.

Most cases are illustrated with historical photographs, contemporary lithographs, newspaper cuttings, cartoons, lampoons and other related visual material. In all there are about 400 photographs and graphics. Scanning the encyclopedia I discovered several cases the details of which I was searching for long and was not able to get them anywhere. Among others I got to read such important cases as Gitlow v. New York (1925), Hustler magazine v. Falwell (1988), Cruzan v. Director, Missouri Department of Health (1990), Toth v. Quarles (1955), California v. Acevedo (1991), Santosky v. Kramer (1982), Escobedo v. Illinois (1964), Hylton v. United States (1796), Mapp v. Ohio (1961), Brown v. Board of Education of Topeka (1954), Frontierro v. Richardson (1973), Roe v. Wade (1971), Duffield v. Robertson, Stephens & Co (1998), Baker v. Carr (1962) and United States v. Nixon (1974). Each case is described in an average of about 2-4 pages.

The book also has a number of "sidebars" such as these. Almost every case has one. This one is from page 139 from Vol. II. This "sidebar" is included in the case *"Wiener v. United States"* in the legal section entitled *"Damages"*. Justice Felix Frankfurter wrote for the court in this case, and the editors decided to give more information about him in this "sidebar".



Justice Felix Frankfurter

Justice Felix Frankfurter (1882-1965) was among the most highly regarded jurists ever to sit on the Supreme Court. As a professor at Harvard Law School from 1914 to 1939, he taught a number of notable figures in the next generation, including future Secretary of State Dean Rusk. He also pioneered the study of federal courts' jurisdiction. Even before his appointment by President Franklin D. Roosevelt to the nation's highest bench in 1939, he was known as a champion of liberal causes: one of the founding members of the American Civil Liberties Union (ACLU) in 1920, Frankfurter became a prominent national figure with his critique of the Sacco and Vanzetti trial in the 1920s.

Frankfurter strongly supported Roosevelt's New Deal programs in economics, jurisprudence, and other areas; therefore his appointment to the Supreme Court on the eve of World War II was no surprise. He served on the Court for the next 23 years, until 1962, a period that spanned from the latter years of Charles Evans Hughes's chief justiceship to the early days of the Earl Warren Court. During that time, he became known for his opposition to the view of Justices Hugo Black and William O. Douglas, that protection of free speech rights should be absolute.

Source(s): Hurwitz, Howard L. *An Encyclopedic Dictionary of American History*. New York: Washington Square Press, 1974.

The encyclopedia rounds up with a complete statement of the Constitution of the United States (this appears in volume IV, from pages 621-630) and a chronology of U.S. Supreme Court Justices. Alphabetical and chronological lists of court cases, a thorough glossary consisting of more than 600 words and phrases and a cumulative index appears at the end of each volume.

Who should read this encyclopedia? I would imagine every intelligent person interested in knowing the legal happenings around him must read it, be he interested in legal cases related to the use of internet, to libel and obscenity, right to bear arms, freedom of speech and press, custody and child support, rights of the disabled, sexual harassment, voting rights, immigrant rights, gender discrimination, civil rights and equal protection, assisted suicide and the right to die, drug laws,

capital punishment, business and corporate law, environmental law, military issues, national security, consumer protection or taxation.

The language is completely non-technical and should be comprehensible even to a general reader. This encyclopedia is going to be my inseparable companion for the rest of my life. It has given me innumerable hours of joy already and would undoubtedly keep doing so in future. At $450.00, it is virtually a steal.

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