List of Assignments – Part I

Unless otherwise noted, all assignments are in the Eskridge, Frickey & Garrett casebook.

I. Introduction to Legislative Process and Statutory Interpretation

A. Introductory Hypothetical: The Speluncean Explorers
   1. pp. 690-95.

B. Civil Rights Act of 1964: Case Study in Legislative Process and Statutory Interpretation
   1. pp. 38-47 (Griggs)
   2. pp. 1-23 (history of the Civil Rights Act of 1964)
   3. pp. 24-38 (overview of the legislative process)
   4. page 81 to end of first full paragraph on p. 83 (further history of Griggs)
   5. pp. 86-103 (Weber)
   6. pp. 47-75 (theories of legislation)

II. History and Theories of Statutory Interpretation

A. A Traditional Approach: Intentionalism
   1. pp. 669-682 (Holy Trinity)
   2. pp. 682-89 (notes on intentionalism & Fishgold)

B. Legislative Purpose and the Legal Process School
   1. pp. 559-567 & pp. 570-73 (historical development of the legal process school)
   2. pp. 696-707 (Hart & Sacks view of interpretation; Shine v. Shine; Locke)
   3. Public Citizen v. U.S. Dept. of Justice (Blackboard)
   4. pp. 724-727 (notes on judicial surgery)

C. Statutes as Common Law: “Dynamic” Statutory Interpretation
   1. pp. 587-92 (Calabresian overruling of statutes)
   2. pp. 707-09 (updating of statutes)
   3. pp. 714-20 (Li)

D. The Revival of Textualism
   2. pp. 742-58 (Green v. Block Laundry; Scalia, J., on interpretation)
   3. pp. 767-85 (Casey & Marshall)
   4. Casebook Supplement, pp. 84-87 (textualism and absurd results)

E. Pragmatic and Critical Theories
   1. pp. 800-08.
III. Doctrines of Statutory Interpretation

A. Textual Canons
   1. pp. 817-36 (notes on textual canons of statutory construction)
   2. Casebook Appendix B, pp. [19]-[25] (list of canons at the end of the casebook)
   3. Casebook Supplement, pp. 89-98 (Circuit City v. Adams)

B. Substantive Canons
   1. pp. 848-54 (introduction to substantive canons and the rule of lenity)
   2. Smith v. U.S. (Blackboard)
   3. pp. 873-87 (Catholic Bishops; Almenarez-Torres; and notes)
   6. pp. 920-21 (common law as a canon)
   7. pp. 934-35, note 2 only (on “common law statutes”)

C. Extrinsic Sources: History, Context and Legislative History
   1. pp. 937-47 (Leo Sheep and the use of history)
   2. pp. 947-57 (Blanchard and Justice Scalia’s objections to legislative history)
   3. Conroy v. Aniskoff (Blackboard)
   4. pp. 1020-22 (legislative acquiescence and reenactment)

D. The Effect of Other Statutes: The Presumption Against Implied Repeals
   1. Casebook Supplement, pp. 103-119

IV. Relationship Between Legislative and Judicial Processes

A. Statutory Policy as a Basis for Changing the Common Law
   1. pp. 573-85 (Moragne)

B. Stare Decisis in Statutory Cases
   1. pp. 599-615 (Flood)

C. The Rise and Fall of “Prospective” Judicial Decisionmaking

D. The Presumption Against Retroactive Legislation
   1. pp. 642-58 (Rivers & Landgraf)