

A SUGGESTION FOR APPLYING THE PROBLEMS INVOLVED WITH
UNDERSTANDING THE FOURTEENTH AMENDMENT:
ADAMSON V. CALIFORNIA (1947)

The purpose of the overview I have just given you was to confront you with the complexity of the concept of incorporation: the breadth and scope of the Fourteenth Amendment is dependent upon the eye of the beholder and the personal philosophy regarding what is the best method to approaching democracy. Below is a quick brief of the Adamson case (you will need to go into the concurring opinion and dissenting opinion deeper on Cornell Law should you choose to use the case). What do in my classes is have each student assigned a series of cases to brief and present to the class for discussion and analysis. Should it be a singular case or a singular concept I will pair the class up to research and write on the concept and how the case relates to that concept. There are a myriad of approaches and you are the professional!

1. *Adamson v. California (1947)*.
2. Facts:
 1. Adamson was convicted in California of murder in the 1st degree.
 2. The prosecutor, during the trial and in accordance with California law, made comments to the jury which highlighted Adamson's decision not to testify on behalf of himself.
 3. Adamson was subsequently convicted of murder in the first degree.
3. Question:
 1. Is a defendant's Fifth Amendment right not to bear witness against himself applicable in state court's and protected by the Fourteenth Amendment's due process clause?
4. Answer:
 1. No.
5. Reason:
 1. The Fourteenth Amendment due process clause does not extend to a defendant's Fifth Amendment right to bear witness against himself in state courts.
 2. The Fourteenth Amendment does not extend carte blanche all immunities and privileges of the first ten amendments at the state level (see *Twining v. New York* where the court denied explicitly the right against self-incrimination; also *Palko v. Connecticut (1933)*).
6. Other Opinions:
 1. Black (dissenting). The history of the Fourteenth Amendment illuminates an absolute and complete application of the Bill of Rights to the States.
 2. Frankfurter (concurring).

BRIEFING A CASE: A TEMPLATE

Briefing a case is a convenient way to understand the main issues in the decision. Below are the instructions for briefing a case.

1. Name of case.
2. Facts of the case (what happened).
3. Questions (What constitutional questions does the decision raise, based on the facts of the case?).
4. Answers (brief, yes-no answers)
5. Reasons (why did the court answer the question in this manner --- derived from the decision itself).
6. Other opinions (dissenting and/or concurring opinions). The cases you have in this lesson may be found either in:
 1. *The Supreme Court of the United States: A Student Companion*. John J. Patrick Note: this IS also a great source for definitions and issues related to law.
 2. Cornell Law: <http://www.law.cornell.edu/> This IS super because YOU can limit your search to a summary, dissent, concurring, or the entire case. Use this with the Adamson case for Black and Frankfurter.
 3. Founding Documents: http://constitution.org/cs_fond.htm This is great because there are links to numerous constitutional sites sponsored by major institutions (annotated Declaration of Independence; annotated Constitution, etc.) This Will link you to Findlaw and Oyez ... two case-law sources

ESSENTIALS CHART

Another approach I have used to get greater understanding and clarity on reading difficult material is called an "Essentials" chart.

1. Title of the piece read.
2. List 5 "big ideas" from the reading that are related to the material we have been discussing and reading.
3. From the above "big ideas" construct three complex questions (questions that require more than a yes-no response or a simple response). These questions should demonstrate an understanding of the material and lead you to a thesis for a paper.
4. Answer one of your questions in a formal and correct essay.