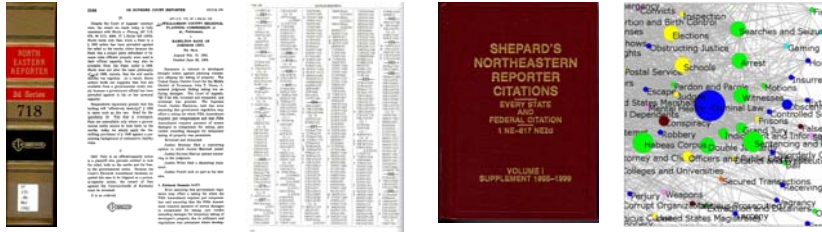


Organization of U. S. Legal Materials: An Access Driven Infrastructure



Peter A. Hook (<http://ella.slis.indiana.edu/~pahook>)
Doctoral Student
School of Library and Information Science (SLIS)
Indiana University--Bloomington
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Access Infrastructure

- Like any infrastructure, it comes at great time and expense.
- (But, there is a lot of money in the law so the expense may be recouped.)
- U.S. law is a precedence based system. (Common Law).
- Cases control subsequent cases.
- You must be able to find that controlling authority.

Infrastructure Components

- (1). Atomistic Indexing and Abstracting
- (2). Elaborate Citation Tools (Citators)
- (3). Attribution with Precision (pinpoint citations)
- (4). Extensive Full Text Content Online (Westlaw, LexisNexis)

(1) Atomistic Indexing and Abstracting

- West, Topic and Key Number System
- Each case in the National Reporter System is parsed by human editors for its unique statements of law.
- These statements are then assigned one or more West category numbers, called key numbers. (**about 100,000 total**)
- Using the key numbers, one may locate all other cases that address the same topic.

by 18A C. Wright, A. Miller & E. Cooper, Federal Practice and Procedure § 8332.6 (1984). While the policies underlying the two concepts often overlap, the finality requirement is concerned with whether the initial decisionmaker has arrived at a definitive position on the issue that inflicts an actual, concrete injury; the exhaustion requirement generally refers to administrative and judicial procedures by which an injured party may seek review of an adverse decision and obtain a remedy if the decision is found to be unlawful or otherwise inappropriate. *Patsy* concerned the latter, not the former.

The difference is best illustrated by comparing the procedure for seeking a variance with the procedures that, under *Patsy*, respondent would not be required to exhaust. While it appears that the State provides procedures by which an aggrieved property owner may seek a declaratory judgment regarding the validity of zoning and planning actions taken by county authorities, see *Fallis v. Knox County Bd. of Comm'rs*, 656 S.W.2d 338 (Tenn.1983); Tenn.Code Ann. §§ 27-9-101, 27-9-101 to 27-9-113, and 29-14-101 to 29-14-113 (1980 and Supp.1984), respondent would not be required to resort to those procedures before bringing its § 1983 action, because those procedures clearly are remedial. Similarly, respondent would not be required to appeal the Commission's rejection of the preliminary plat to the Board of Zoning Appeals, because the Board was empowered, at most, to review that rejection, not to participate in the Commission's decisionmaking.

Resort to those procedures would result in a judgment whether the Commission's actions violated any of respondent's rights. In contrast, resort to the procedure for

13. Again, it is necessary to contrast the procedure provided for review of the Commission's actions, such as those for obtaining a declaratory judgment, see Tenn.Code Ann. §§ 29-14-101 to 29-14-113 (1980), with procedures that allow a property owner to obtain compensation for a taking. Exhaustion of review procedures is not required. See *Patsy v. Florida Board of Regents*, 457 U.S. 496, 102 S.Ct. 2557, 73 L.Ed.2d 172

obtaining variances would result in a conclusive determination by the Commission whether it would allow respondent to develop the subdivision in the manner respondent proposed. The Commission's refusal to approve the preliminary plat does not determine that issue; it prevents respondent from developing its subdivision without obtaining the necessary variances, but leaves open the possibility that respondent may develop the subdivision according to its plat after obtaining the variances. In short, the Commission's denial of approval does not conclusively determine whether respondent will be denied all reasonable beneficial use of its property, and therefore is not a final, reviewable decision.

B
[3-6] A second reason the taking claim is not yet ripe is that respondent did not seek compensation through the procedures the State has provided for doing so.¹⁹ The Fifth Amendment does not proscribe the taking of property; it proscribes taking without just compensation. *Hodel v. Virginia Shoreline Mining & Reclamation Area, Inc.*, 432 U.S. at 297, n. 40, 101 S.Ct. at 2371, n. 40. Nor does the Fifth Amendment require that just compensation be paid in advance of, or contemporaneously with, the taking; all that is required is that a "reasonable, certain and adequate provision for obtaining compensation" exist at the time of the taking. *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 134-135, 95 S.Ct. 335, 342, 45 L.Ed.2d 320 (1974) (quoting *Cherokee Nation v. Southern Kansas R. Co.*, 135 U.S. 641, 650, 10 S.Ct. 965, 971, 34 L.Ed. 295 (1890)). See also *Ruckelshaus v. Monsanto Co.*, 467 U.S. at 1016, 104 S.Ct. at 2879-2880; *Yaretsky v. W.A. Ross Construction Co.*,

(1982). As we have explained, however, because the Fifth Amendment proscribes takings without just compensation, no constitutional violation occurs until just compensation has been denied. The nature of the constitutional right therefore requires that a property owner utilize procedures for obtaining compensation before bringing a § 1983 action.

• 11 pages later, after all of the editorial front matter, here is the actual language from the court.

• Part of this language had been glossed as *Headnote 3*.

• It had been assigned the topic *Eminent Domain* and the specific key number, *74—Necessity of Payment Before Taking—In General*.

74 EMINENT DOMAIN

For later cases, see same Topic and Key Number in Pocket Part

through construction of guidelines on other lands before such taking (Conn. Amend. 3). *Hurley v. Kincaid*, 52 S.Ct. 267, 285 U.S. 95, 76 L.Ed. 617.

U.S.Mass. 1985. A statute authorizing the taking of private property for public use, which makes such provision for compensation as will be adequate, though it is not required to be paid before the taking, satisfies the requirements of the constitution that no property of any individual can be taken for public uses without his consent, or that of the representative body of the people, and that he shall receive compensation therefor.

Swett v. Reche, 16 S.Ct. 43, 159 U.S. 380, 40 L.Ed. 188.

U.S.N.Y. 1874. A declaration in statute relating to street widening that title will vest at a particular time must be construed in subordination to constitutional provisions requiring, except in cases of emergency admitting of no delay, the payment of compensation or provision for its payment to precede the taking or, at least, to be concurrent with it.

Garrison v. City of New York, 88 U.S. 196, 75 U.S. 196, 3 L.Ed. 413.

U.S.Tenn. 1985. Fifth Amendment does not require that just compensation be paid in advance of, or contemporaneously with a taking; all that is required is that a reasonable, certain and adequate provision for obtaining compensation exist at time of taking. U.S.C.A. Const. Amend. 5.

Williamson County Regional Planning Com'n v. Hamilton Bank of Johnson City, 105 S.Ct. 3108, 474 U.S. 172, 87 L.Ed.2d 126, 58 U.S.W.2d 779 (1985).

74-75. — Taking by United States, state, or municipality.

U.S.Mass. 1993. It is competent for the legislature to authorize a city to take lands for the purpose of raising the grade thereof, and preserving the public health, prior to making compensation therefor.

Swett v. Reche, 16 S.Ct. 43, 159 U.S. 380, 40 L.Ed. 188.

U.S.Neb. 1840. The Fifth Amendment does not entitle the owner of land taken to the federal government to be paid in advance of the taking, and the statute authorizing sale to the Court of Claims on claims against the United States affords a plain and adequate remedy to the owner. 28 U.S.C.A. §§ 1491, 1496, 1501, 1503, 2501; U.S.C.A. Const. Amend. 5.

Yaretsky v. W.A. Ross Const. Co., 60 S.Ct. 413, 309 U.S. 18, 84 L.Ed. 554.

U.S.R.I. 1923. The taking of property for public use by a state or one of its municipalities need not be accompanied or preceded by payment, and the requirement of just compensation

is satisfied where the public faith and credit are pledged to a reasonably prompt ascertainment and payment and there is adequate provision for enforcing the pledge.

Justin Mtg. Co. v. City of Providence, 41 S.Ct. 644, 262 U.S. 466, 67 L.Ed. 1157.

U.S.Kent. 1981. Government taking property of alien friend by eminent domain must pay equivalent of full value contemporaneously with taking. U.S.C.A. Const. Amend. 5.

Russian Volunteer Fleet v. U.S., 31 S.Ct. 229, 282 U.S. 441, 75 L.Ed. 473.

74-76. — Entry on making deposit or payment into court.

U.S.Ark. 1890. An act of congress granting to a railroad company a right of way through lands owned by private persons, which provides for the appointment of three disinterested commissioners to assess the compensation and gives the owners the right of appeal from their award to the courts, where the case shall be tried de novo, and provides that on such appeal the railroad company shall pay into court, to abide its judgment, double the amount of the award, makes adequate provision to secure compensation to the owner.

Cherokee Nation v. Southern Ry. Co., 10 S.Ct. 965, 135 U.S. 641, 34 L.Ed. 295.

74-77-78. For other cases see the *Deserted Digits and WESTLAW*.

74-79. Waiver of, or estoppel to claim, compensation.

Library references

C.J.S. Eminent Domain § 182, 210.

U.S.Ohio 1897. If a railroad company is entitled to compensation for a bridge, the amount of which is necessitated by a change in the grade of a street, it waives its right thereby by failing to file its claim within the time after publication of notice prescribed by Rev. St. Ohio, § 2113 (repealed) and cannot thereafter claim the improvement on the ground that compensation has not been tendered.

Wadlow R. Co. v. City of Delaware, 17 S.Ct. 749, 10 Ohio P. Dec. 480, 167 U.S. 88, 42 L.Ed. 87.

U.S.Wis. 1891. By Act 1875, 18 Stat. 506, congress made provision for compensating riparian owners for all damages caused by the erection of Fox and Wisconsin river improvements, but this act was repealed by the delinquency bill of 1888, 25 Stat. 4. Held that a landowner who failed to take measures for obtaining compensation during the 14 years this act was in force cannot be considered to have waived all right thereto.

Kankarua Water Power Co. v. Green Bay & N. Canal Co., 12 S.Ct. 173, 142 U.S. 254, 35 L.Ed. 1004.

Here is the abstract (headnote 3) from the *Williamson* case collocated with all other cases with abstracts of the same micro-topic (Eminent Domain, 74).

Contained in a set of books called digests.

One case → all cases with the same micro-topic.

System started in the 1870's.

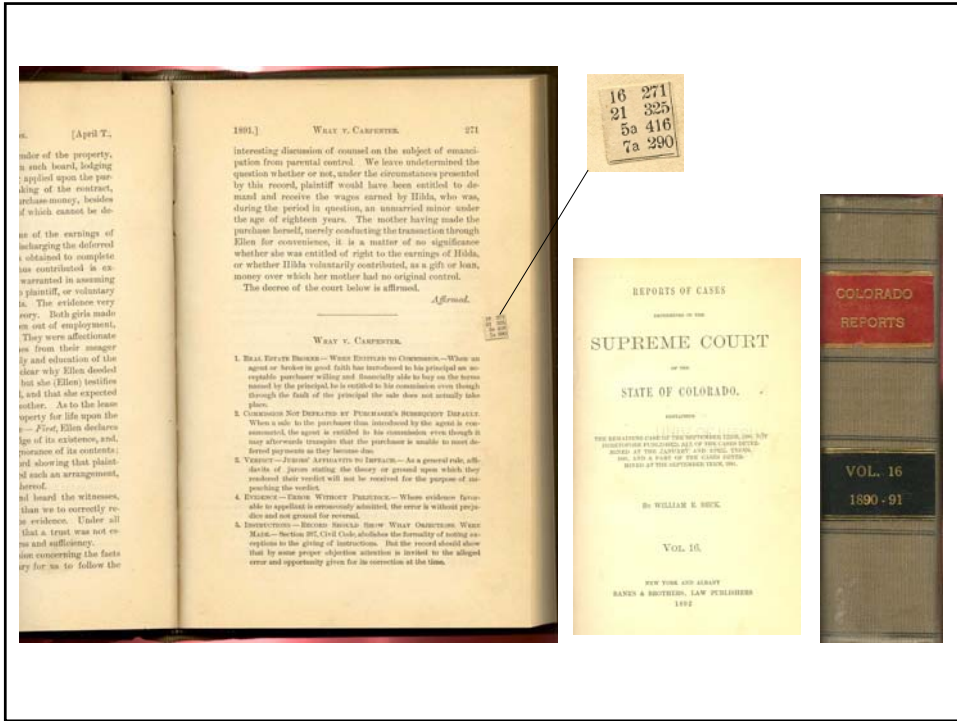
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Atomistic Abstracting and Indexing Online

- Go to www.westlaw.com.
- Retrieve *Williamson* 105 S. Ct. 3108.
- Hyperlink between abstract and court language.
- Hyperlink of Headnote 3
- Custom Digest / Most Cited Cases
- “Key Numbers & Digest” pull down menu
- Go to www.lexis.com.

(2) Elaborate Citation Tools (Citators)

- Citators – Tools that tell you how and where a given work has been cited.
- 1875, Frank Shepard published his first citator, *Illinois Citations*.
- He was a business person with no legal training.
- Manual Hyperlinks.



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History of Case			
a (affirmed)		Same case affirmed on appeal to a higher level court.	
cc (connected case)		The case is related to your case in some way in that it involves either the same parties or arises out of the same subject matter. However, it is not the same action on the merits.	q (questioned) The soundness of your case is at issue. For example, your decision may have been legislatively overruled, or its reasoning may have been overruled by an opposing line of authority.
D (dismissed)		An action which has been appealed from a lower court to a higher court has been discontinued without further hearing.	
m (modified)		The lower court's decision is changed in some way, either during a rehearing or by action of a higher court. For example, if a court of appeals affirms a trial court decision in part and reverses it in part, that trial court decision is shown as modified by the court of appeals.	
r (reversed)		The lower court is reversed on appeal to a higher court.	
s (same case)		The case is the identical action to your case, although at a different stage of the proceedings. "Same case" refers to many different situations, including motions and opinions that preceded your case. It is important to read these cases if you need to know exactly what occurred.	
S (superseded)		A subsequent opinion has been substituted for your case.	
v (vacated)		The opinion has been rendered void and is no longer of precedential value.	
US cert den		Certiorari has been denied by the U. S. Supreme Court.	
US cert dis		Certiorari has been denied by the U. S. Supreme Court.	
US reh den		Rehearing has been denied by the U. S. Supreme Court.	
US reh dis		Rehearing has been dismissed by the U. S. Supreme Court.	
Treatment of Case			
c (criticized)		The court is disagreeing with the soundness of your decision, although the court may not have the jurisdiction or the authority to materially affect its precedential value.	
d (distinguished)		The case is different from your case in significant aspects. It involves either a dissimilar fact situation or a different application of the law.	
e (explained)		The court is interpreting your case in a significant way.	
f (followed)		Your case is being relied upon as controlling or persuasive authority.	
h (harmonized)		The cases differ in some way; however, the court finds a way to reconcile the differences.	
j (dissenting opinion)		Your case is cited in the dissent of this opinion.	
L (limited)		The court restricts the application of your opinion. The court usually finds that the reasoning of your opinion applies only in very specific instances.	
o (overruled)		The court has determined that the reasoning in your case is no longer valid, either in part or in its entirety.	
p (parallel)		This letter is usually found in older cases where your case was described as "on all fours" or "parallel" to the citing case. Your case is being relied upon as controlling or persuasive authority.	

ABBREVIATIONS - COURTS

- Cir. DC-U.S. Court of Appeals, District of Columbia Circuit
 - Cir. (number)-U.S. Court of Appeals Circuit (number)
 - Cir. Fed.-U.S. Court of Appeals, Federal Circuit
 - CCPA-Court of Customs and Patent Appeals
 - CIT-United States Court of International Trade
 - CIC-Claims Court (U.S.)
 - CICl-Court of Claims (U.S.)
 - CuCl-Customs Court
 - ECA-Temporary Emergency Court of Appeals
 - ML-Judicial Panel on Multidistrict Litigation
 - RRR-Special Court Regional Rail Reorganization Act of 1973
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- GEBl-Pollard/Burton, Guide to Effective Bankruptcy Litigation (Shepard's, 1988)
 - Geo-Georgetown Law Journal
 - GICL-Vishny, Guide to International Commerce Law (Shepard's, 1984)
 - GMS-Schwartz, Lee & Kelly, Guide to Multistate Litigation (Shepard's, 1985)
 - GPFS-Dunkle, Guide to Pension and Profit Sharing Plans (Shepard's, 1984)
 - HCC-Hazalambie, Handling Child Custody Cases (Shepard's, 1983)
 - HHb-Binder, Hearsay Handbook (Shepard's, 1983)
 - HHB(3)-Binder, Hearsay Handbook, Third Edition (Shepard's, 1991)
 - HLR-Harvard Law Review
 - HPWT-Aron & Rosner, How to Prepare Witnesses for Trial (Shepard's, 1985)
 - ICCD-Turner, Insurance Coverage of Construction Disputes (Shepard's, 1992)
 - JBK-The Journal of the Bar Association of the State of Kansas
 - JCB-Kansas Judicial Council Bulletin
 - JuS-Jordan, Jury Selection (Shepard's, 1980)
 - JuS(2)-Jordan & Gobert, Jury Selection, Second Edition (Shepard's, 1990)
 - JV-Nachmias/Nasuti, Joint Ventures (Shepard's, 1988)
 - Kan-Kansas Reports
 - KanA-Kansas Court of Appeals Reports
 - KA2d-Kansas Court of Appeals Reports, Second Series
 - KLR-University of Kansas Law Review
 - LASB-Zeidman, Legal Aspects of Selling and Buying (Shepard's, 1983)
 - LASB(2)-Zeidman, Legal Aspects of Selling and Buying, Second Edition (Shepard's, 1991)
 - LCP-Law and Contemporary Problems, Part 3
 - LE-Lawyers' Edition, United States Supreme Court Reports

Garfield's Model For ISI

- And in 1953 I learned, through William C. Adair, a former vice president of Shepard's Citations, that there was an index to the case literature of the law that used citations. Shepard's Citations is the oldest major citation index in existence; it was started in 1873 to provide the legal profession with a tool for searching legal decisions. ... **The legal "citor" system provided a model of how a citation index could be organized to function as an effective search tool.**

Garfield, Eugene (1979). *Citation Indexing—Its Theory and Application In Science, Technology, and Humanities*. Philadelphia: ISI Press. p.7.



Shepard's Online

- www.lexis.com
- Shepardize *Williamson* 105 S. Ct. 3108
- Customize and limit to Headnote 3
- Customize and limit to Law Review articles.
- 77 Calif. L. Rev. 1301

(3) Attribution with Precision

- Legal style guide for citations is a 300+ page book known as the Bluebook
- Tradition of Student Edited Journals
- Extensive Cite Checking and Validation
- Does Not Rest on the Credibility of the Author



Example Citations (Case)

- We examine the posture of respondent's cause of action first by viewing it as stating a claim under the Just Compensation Clause. This Court often has referred to regulation that "goes too far," [*Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415, 43 S.Ct. 158, 160, 67 L.Ed. 322 \(1922\)](#), as a "taking." See, e.g., [*Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1004-1005, 104 S.Ct. 2862, 2873-2874, 81 L.Ed.2d 815 \(1984\)](#); [*Agins v. Tiburon*, 447 U.S., at 260, 100 S.Ct., at 2141](#); [*PruneYard Shopping Center v. Robins*, 447 U.S. 74, 83, 100 S.Ct. 2035, 2041, 64 L.Ed.2d 741 \(1980\)](#); [*Kaiser Aetna v. United States*, 444 U.S. 164, 174, 100 S.Ct. 383, 390, 62 L.Ed.2d 332 \(1979\)](#); [*Andrus v. Allard*, 444 U.S. 51, 65-66, 100 S.Ct. 318, 326-327, 62 L.Ed.2d 210 \(1979\)](#); [*Penn Central Transp. Co. v. New York City*, 438 U.S. 104, 124, 98 S.Ct. 2646, 2659, 57 L.Ed.2d 631 \(1978\)](#); [*Goldblatt v. Hempstead*, 369 U.S. 590, 594, 82 S.Ct. 987, 990, 8 L.Ed.2d 130 \(1962\)](#); [*United States v. Central Eureka Mining Co.*, 357 U.S. 155, 168, 78 S.Ct. 1097, 1104, 2 L.Ed.2d 1228 \(1958\)](#).
- *Even assuming that those decisions meant to refer literally to the Taking Clause of the Fifth Amendment, and therefore stand for the proposition that regulation may effect a taking for which the Fifth Amendment requires just compensation, see [*San Diego*, 450 U.S., at 647-653, 101 S.Ct., at 1302-1304](#) (dissenting opinion), and even assuming further that the Fifth Amendment requires the payment of money damages to compensate for such a taking, the jury verdict in this case cannot be upheld.*

Example Citations (Articles)

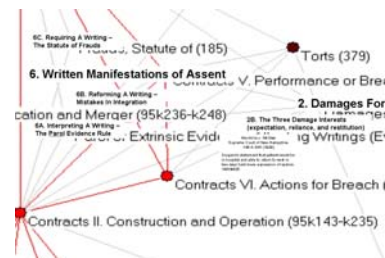
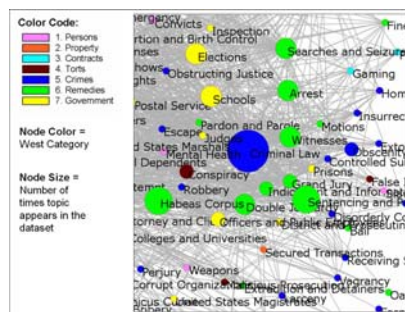
- **See 77 Calif. L. Rev. 1301**
- 344 footnotes. 62 page article. Both are typical.
- Shepardize it

(4) Full Text Content Online

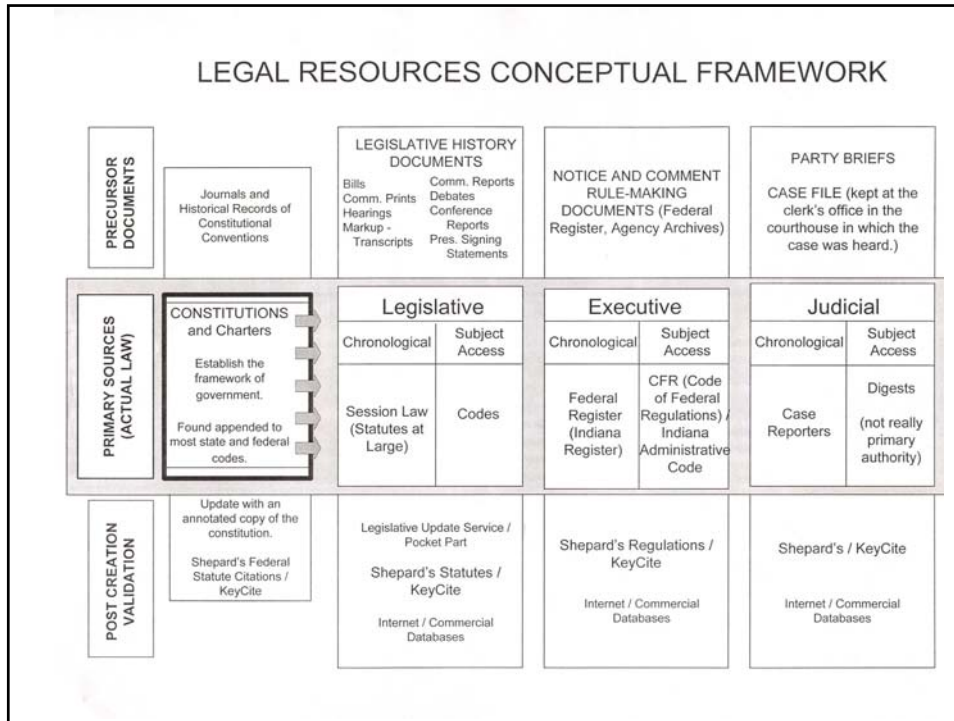
- Westlaw (www.westlaw.com)
- Lexis (www.lexis.com)

What does this permit us to do?

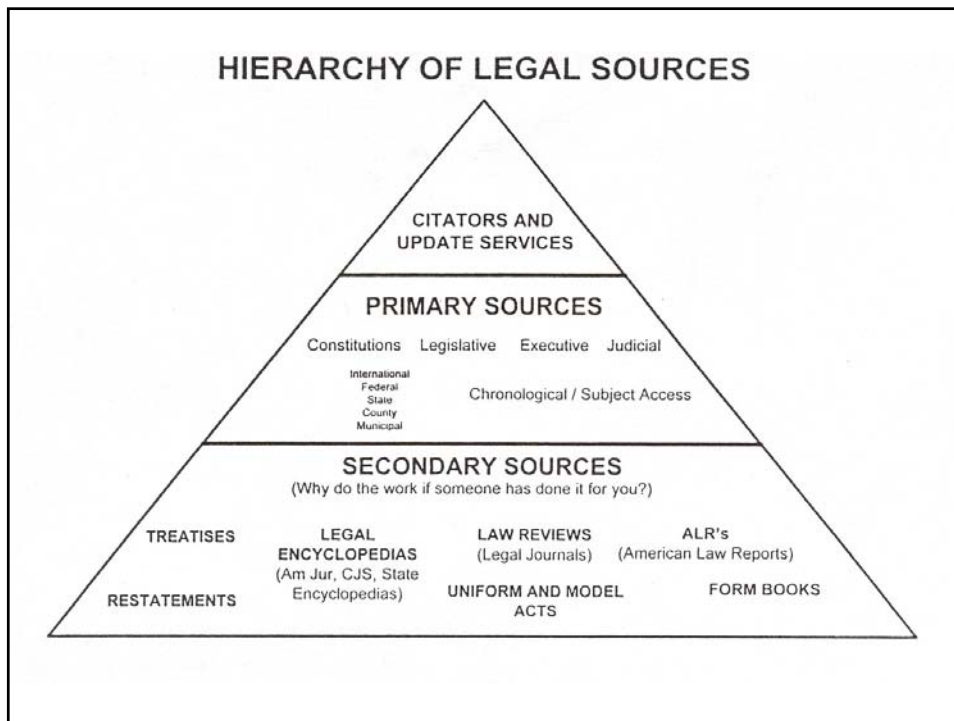
- Interesting visualizations
- Tracing memes



LEGAL RESOURCES CONCEPTUAL FRAMEWORK



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CYCLE OF COMPETENCE

Research fleshes out the skeletal framework one learns in Law School

