Constitutional Law: Final Exam (January 16, 1970)

William & Mary Law School
There are seven cases assigned to each student, and for each case there are three steps to the assignment, as outlined below. Do the first two briefly and the third in more detail but still succinctly; of the example which is given.

1. a. Identify the specific clause or clauses in the text of the Constitution to which this case applies — that is, not merely First Amendment (if that is involved) but (i) freedom of religion, (ii) establishment of religion, (iii) freedom of expression, (iv) freedom of assembly, (v) right of petition, (vi) "freedom of association," or (vii) right of privacy (as argued by Douglas').

b. If there are written concurrences or dissents, do the same for the argument in these. (i. e., occasionally the justice will contend that the 'necessary and proper' clause, for example, is the more appropriate constitutional clause than, say, the commerce clause.)

2. Since constitutional questions seldom are raised by counsel merely upon the constitutional clause, but in connection with a specific statutory provision, identify the provision or provisions in the U. S. Code involved in this case. Indicate how it is related to the constitutional argument. N. B.: Distinguish between procedural law cited from the Code, the statutory provision which is challenged, and any other statutory considerations involved in the case.

(Of course, if the case is on appeal from a state court, you will need to refer to the state statute as well as to any pertinent federal statutory matter which may be involved. In this case, also, indicate how the state statute is related to the constitutional argument.)

3. Make your own evaluation of how the opinion in the case affected the general body of interpretative case law on the constitutional clause or clauses, comparing the principal case with any which anticipated it and any which followed (and perhaps even modified or overruled) the principal case.

Illustration:


1. a. Majority opinion turns on Article I, § 8, clause 1.

   b. Dissent argues the issue turns on Article I, § 9, clause 5.


3. Frankfurter, for Court: "Proprietary activities" of state governments held subject to federal taxation, even though state is within constitutional powers in disposing of its natural resources. Case illustrates trend of modern constitutional law away from theory that any federal taxes laid on state governmental agencies or activities are burdens. Modern rule emphasizes distinctions between state governmental activity which may properly be exempted, and activity or agents (e. g., state employees liable for federal income tax) which should be equally liable with similar activity or agents in non-governmental fields.
Concurring opinion by Stone, C. J.: Holding should place less stress on burden upon state and more upon injury to national interest if such a subject for taxation were withdrawn from federal tax power under Article I, § 8, clause 1.

Dissent by Douglas: U. S. required under Article I, § 9, clause 5 to meet state argument that in disposing of its natural resources state is engaged in revenue-raising (governmental) rather than profit-making (proprietary) activity and hence federal tax is in fact an unconstitutional burden on proper state governmental function.

The assignments which follow consist of the page in the casebook or the Supplement (8) followed by the name of the case. As nearly as feasible, the assignments for each person are distributed over the seven selected chapters, but in a few instances it has been necessary to add a case from another part of the book to make things come out even, and in some cases two cases have been assigned from one chapter.

Alcantara:

- 565 - Scripto, Inc. v. Carson
- 1179 - Peters v. Hobby
- 1152 - Braunfeld v. Brown

Ancarrow:

- 258 - Carter v. Carter Coal Co.
- 578 - Bibb v. Navajo Ft. Lines
- 657 - Norton Co. v. Dept./Rev.
- 842 - Worthen Co. v. Thomas
- 1071 - Bond v. Floyd
- 1071 - Service v. Dulles
- 1156 - Scherbert v. Verner

Basnight:

- 259 - NLRB v. Jones & Laughlin Steel Corp.
- 582 - Huron Portland Cement Co. v. Detroit
- 660 - Gen. Motors Corp. v. Washington
- 842 - Wood v. Lovett
- 1071 - Viterelli v. Seaton
- 1166 - Brown v. Ed. of El.

Bassineper:

- 278 - U. S. v. Darby
- 516 - Firemen v. Chl., R. I. & P. R. Co.
- 668 - N. W. States Portland Cement Co. v. Minnesota
- 842 - El Paso v. Simmons
- 1071 - Croome v. McElroy
- 1167 - Mayor...of Baltimore v. Dawson

Bailey:

- 673 - Gen. Motors Corp. v. Dist. of Columbia
- 842 - Lichter v. U. S.
- 1171 - Cafeteria Workers v. McElroy
- 1167 - Holmes v. Atlanta
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