

1953

Constitutional Law: Final Examination (January 27, 1953)

William & Mary Law School

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Constitutional Law
Final examination
27 January 1953

1. Discuss the legality of ~~(a)~~ the United States, ~~(b)~~ the Commonwealth of Virginia, and ~~(c)~~ an individual, requiring all employees as a condition precedent to employment to take an oath which specified: "That I am not affiliated directly or indirectly with any foreign political agency, party, organization or Government, or with any agency, party, organization, association, or group whatever which has been officially determined by the United States Attorney General or other authorized agency of the United States to be a communist front or subversive organization; that I will take up arms in the defense of the United States in time of War, or National Emergency, if necessary; that within the five years immediately preceding the taking of this oath I have not been a member of any agency, party, organization, association, or group whatever which has been officially determined by the United States Attorney General or other authorized public agency of the United States to be a communist front or subversive organization."
2. The United States Senate established a committee and charged it with the duty of determining the scope, nature, and extent of activities which existed even though such activities were in conflict with state and/or United States criminal law. This Crime Investigating Committee held public hearings in the major cities of the United States and subpoenaed alleged criminals to testify before the committee. The alleged criminals were asked detailed questions about their activities and associations while the entire hearing was broadcast by radio and television and recorded by newsreel cameras and news photographers. One Gunner refused to make a statement and to answer questions whereupon Gunner was cited for contempt. Should he be convicted? Why?
3. A Florida statute makes it illegal for a prison official or guard to whip a prisoner. Criminal, a convicted felon who was a prisoner in Camp No. 10, attempted to escape but was caught and returned. In order to punish Criminal and to prevent further attempts to escape, Captain, the official in charge of the Camp, whipped Criminal with a leather belt. Has Captain committed a crime against the United States? What? Discuss fully.
4. New Jersey law required that all interstate bus carriers carry the same liability insurance that the state required intrastate bus carriers to carry. The Bus Lines, Inc., an interstate carrier, operating in part through New Jersey complied with the New Jersey statute. Pursuant to an act of Congress the Interstate Commerce Commission promulgated a regulation which permitted interstate bus carriers to be self-insurers. The Bus Lines, Inc., prefers to be a self-insurer; therefore, it consults you concerning its rights. What would you advise? Why?
5. Sec. 3290 of the U. S. Internal Revenue Code levies a tax of \$50. per year to be paid by each person who is engaged in wagering. Sec. 3291 decrees that each person required to pay such tax shall register with the Collector: (1) his name and place of residence; (2) each place of business where the activity is carried on and the names and places of residence of persons engaged in receiving wagers for him or on his behalf; and (3) the name and place of residence of each person for whom he is receiving wagers. Discuss the constitutionality of these statutes

6. A Michigan statute required that all persons who are communists or knowingly members of communist front organizations, must while in Michigan, register with the State Police and give pertinent information of the purpose of his presence within the State, features of identification, and other data. It also requires officers of the Communist Party and those of communists front organizations to register and disclose the location of their offices and meeting places, names of their members, financial statements reflecting receipts and disbursements, and other data. The act prohibits the printing of any communist or nominees of the Communist Party on any ballot, primary or general. Albertson, Secretary of the Communist Party in Michigan, filed a sworn complaint on his behalf as well as the Communist Party, to enjoin the Attorney General of Michigan from enforcing the act. Result? Why?
7. One Daverse, who was being held on a charge of murder in Pennsylvania, was subjected to an examination by a psychiatrist due to an order of the state prosecuting attorney. Daverse counsel knew of the examination but was not permitted to be present. Later during the course of the trial, one of the jurors sent a note to the judge. The judge refused to show the note to Daverse, but told him that the note asked the question whether a life prisoner was eligible for parole. The judge made a written answer which refused to answer the question. Daverse was convicted. Were his constitutional rights infringed? Discuss fully.
8. A state statute prohibited the teaching of negro and white children in the same public schools but provided that separate schools should be maintained for each. Locality X built two schools to comply with the statute and offered substantially the same instruction in both schools. The teachers, and the students were different, but their qualifications were relatively the same. The equipment was relatively the same. Some negro students that lived close to the white school had to travel further to attend the negro school than they would have had to travel if they were attending the white school; and, some white students that lived close to the negro school had to travel further to attend the white school than they would have had to travel if they were attending the negro school. Discuss the Constitutional problems involved.
9. West Virginia enacted a statute known as the Habitual Criminal Act which provided for a much greater punishment for an individual when convicted three times of a felony. Defendant who had previously been convicted of felonies in Chicago and Pittsburgh was charged with a felony which carried a maximum penalty of ten years in prison. Defendant was convicted and under the Habitual Criminal Act sentenced to life imprisonment. What arguments would defendant make on appeal? How should the court rule? Why?
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