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Constitutional Law: Final Examination (May 1961)

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I. P, a candidate for the U. S. House of Representatives from the 11th District of State X, equipped an auto and trailer, both registered in his name, with signs directing attention to the record of his opponent and informing the public that he was a candidate for the office. The trailer carried a large board about 7' 11" attacking the public record of his opponent. One day while operating said equipment on a public street in town Y in X, P was informed by D, chief of police of Y, that he was violating the law and that he, D, intended to charge P with violation of an ordinance who provided: "No person shall operate or park a vehicle on any street or highway for the primary purpose of displaying advertising signs." P then sought an injunction against D seeking to enjoin enforcement of the ordinance on the ground, "that the same violated due process." This action being in the proper trial court, was dismissed on D's motion. P appealed, substantially restating his case to the Supreme Court of X. When the case arrived there, it was properly represented by affidavit that P had been defeated in the primary election, and that P's opponent, in turn, had been defeated in the general election. P, nonetheless, urged his case on the ground that he might again wish to run for public office. Again, on motion of D, the case was dismissed. P now, satisfying procedural requirements, takes his case to the Supreme Court of the United States. What ruling should the Supreme Court of the United States make? Why?

II. D, in State X Kidnapped B in Y county of the state and transported him into Z county of the state, leaving behind a ransom note demanding $50,000 for the safe return of B. But while in Z county, D killed B. Shortly thereafter the authorities of Z apprehended D following a "hot tip" that if they searched a certain rooming house in Z, they would find something they were looking for. In the room, they found a pistol which was tested ballistically and found to be the weapon used to kill B. The weapon was then traced to D and his arrest followed. No warrant was obtained to search the room, nor was any warrant used when D was arrested, he being found in a pool hall. Following arrest D was arraigned on a charge of murder in the first degree to which he pled not guilty. At this time he had no lawyer, and when the arraigning magistrate asked him if he wanted one, he said, "That's the use." Nonetheless the arraigning magistrate appointed one lawyer from the community who at one time had been brilliant, but who drank to excess frequently. This lawyer immediately went to D's home to try to persuade D to plead guilty. Nonetheless, D, after 15 straight hours of questioning, during which he repeatedly asked to see his lawyer, confessed. The confession covered both the kidnapping and the murder. D was then indicted by the grand jury and bound over for trial in County Z on the charge of murder. Here his lawyer appeared, but D pled guilty, and was sentenced to life imprisonment. Meanwhile, County Y, by proper procedure, indicted D on the kidnapping charge, and the authorities of Y secured the custody of D from Z. D waived all hearings, appeared before the court of Y, waived, when requested, an attorney and pled guilty to the crime of kidnapping. The court sentenced D to death in the electric chair. In both determining processes, the confession was used by the courts for consideration in the sentence, though in accordance with state procedure, no proof of the crimes were necessary other than the plea of guilty. The statutorily prescribed penalties for both kidnapping and murder in State X are life imprisonment, or death by electrocution. habeas Corpus procedures are also available. Immediately after the death sentence, D secured the services of a lawyer who filed a writ of habeas corpus in the Federal District Court for D, alleging lack of due process. Should the writ be granted? Why?

III. X, by will probated in 1850, left a fund in trust for the erection, maintenance and operation of "a college." The will provided that the college was to admit "as many poor white male orphans, between the ages of 6 and 10, as the income from the fund shall be adequate to maintain." A city, C, of State Z, chartered by state Z, was named as trustee. The provisions of the will were carried out by the city and the state and the college was opened in 1860. Since 1869, by virtue of an act of State X, the trust has been administered and the college operated by the "Board of Directors of City Trustees of the City of C." In 1960, P, a full-blood Chinaman, born in China and a resident of the U. S. for six months, applied for admission to the college. P met all qualifications, academic and otherwise, but was refused because of his race, and citizenship. P went to the state courts claiming violation of the 11th Amendment to the Constitution of the United States. The State Courts upheld the Board, and P takes the case, by procedurally correct means to the Supreme Court of the United States. 

(a) Should the Supreme Court order P's admission? (2) Suppose that pending the appeal to the Supreme Court, the Z courts, acting under valid Z law substituted A, a private citizen, as trustee, and suppose that P then reappeals for admission and is again refused. In such event will he have the same right as if no substitution of trustees is made?
P. The Judge of a general trial court in State X, by virtue of rule-making power heretofore granted him, promulgated an order prohibiting the photographing of any party, attorney, juror, spectator of any other participant in any trial at any place in the courthouse building, steps and adjacent sidewalks and streets. The rule was, by the same order, to apply at all times during trials until trial had been completed, persons in attendance thereon shall have retired from the courthouse and adjacent streets and sidewalks and dispersed. Thereafter came on the trial of several persons indicted for the bombing of a house of worship, which occurrence had been widely publicized. The accused, being held in jail, filed a writ of habeas corpus and were brought to the courthouse, shackled, for the hearing on a bus which parked in front of the courthouse. As they get out of the bus they were photographed by newspaper photographers as they were in the corridors of the courthouse. Further, numerous pictures were made in the courtroom prior to the commencement of the hearing. Upon learning of such photographing, the judge ordered the photographers in contempt of court and assessed fines and jail sentences. The photographers appeal. What result? Why?

VI. Assume you are city attorney for the city of X. In need of operating funds, the city council proposes an ordinance which would levy a license fee on all busses passing through X. Section one of the ordinance provides the fee would vary proportionately with the seating capacity of the bus. Both cross-country and local busses pass through X. Section two of the ordinance prescribes that no bus shall operate on the streets of X unless equipped with H-type exhausts (which reduce the amount of carbon dioxide and other noxious elements in exhaust gases). Some other states prescribe such exhausts but others permit any noise-suppressing exhausts. Section three of the ordinance lays a personal property tax on the full value of any busses headquartered in X. Bus Company, BC, has its offices in X, but operates in several states. And its busses are continually engaged, though they operate essentially from and to X. There are no Federal laws concerning any aspect of the ordinance. Your opinion is requested as to the validity of the ordinance. Assuming the sections are severable, what is your opinion?

VII. P, oil company, is engaged in offshore drilling, though incorporated in the state of Texas, T. T has a statute prohibiting and punishing the use of dynamite in any sort of underwater operation in the Gulf of Mexico off the shores of T. Another statute provides that all off-shore drilling operations from the shores of T must be specially licensed and subject to state regulation, excepting drilling companies using type-A "Texas Towers," a special type of drilling platform manufactured only in Texas. P operates within the 3-mile limit off Texas shores, uses dynamite in its operation and is not licensed because of the exception in the licensing statute. It happens that P owns the controlling interest in the company producing the Texas Towers and buys all the Towers that can possibly be produced. (a) Can P be convicted for using dynamite? (b) Should P secure a license regardless of the exception covering it?

VIII. Suppose the CIA of the United States determines as a matter of fact that United States purchase and consumption of Cuban Rum provides the Cuban Government with funds which are being used to purchase Russian-made fighter planes and that such is detrimental to the peace of the Western Hemisphere. Congress acting on such information authorizes the President, if he sees fit, to prohibit the import of Cuban Rum into the United States. The President does so. P, owner and operator of a bar in Miami, having a clientele exclusively of Cuban refugees, knows this will ruin his business and files a suit to declare the ban unlawful, alleging unlawful delegation of legislative power. Should P succeed? Why?