

Ap government and politics assignment



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Constitutional Question: Does the Congress of the United States have the power, under Article I, Section 8, of the Constitution; have the authority to constitute a national bank even though that power is not explicitly enumerated within the Constitution? Did Article VI's National Supremacy Clause forbid State taxes on federal doings or was the Maryland tax law statutory? Article I, Section 8, Clause (Necessary and Proper Clause) – Grants Congress the powers that are Implied In the Constitution, but are not explicitly enumerated In the Constitution.

Article VI, Clause 2 (National Supremacy Clause) ?? The Federal Government, in expressing any of the powers enumerated in the Constitution, must prevail over any contradictory or shifting state exercise of power. (2) Background Information: Throughout the early years of the State, the power of the Federal Government had continued to grow. By the 1790's, cases opposing supporters of States' rights against those arguing for the sovereignty of the National Government came quite frequently before the Court. By the late 1790's, monetary solidity had become an issue of national concern.

While Jefferson was President, the First Bank's charter had not been renewed. Following the War of 1812, President Madison determined that the country was in need of the services of a national bank so it could fulfill its powers listed in Article I, Section 8, Clause 18 of the Constitution. So in 1816, Congress permitted a charter to the Second Bank of the United States and gave \$35 million, which was one-fifth of its total capital, to the bank. Many government officials, local bankers, and farmers hated the bank, which they viewed as a symbol of the power and privilege of national wealthy interests.) Opinion of the Court The Court and Chief Justice Marshall rejected

the Maryland argument with an undisputed (7-0). The decision mainly centered on Marshall's claim that because the Constitution was approved by State pacts, the States were supreme. Marshall refuted this claim, saying that the Constitution was a tool of the people, not the states. Therefore, the court proclaimed the sovereignty of the Federal constitution over the States. The Court also rejected Marshall's argument that the Constitution did not explicitly and overtly allow a national bank.

Marshall's argument centered around one main idea: The Constitution was intended to be a summary of simple concepts, straightforwardly understood by ordinary citizens and open to interpretation. He went on to say that while powers of government are limited, Article 1, Section 8, Clause 18 was intended to extend the power of Congress to carry out its enumerated powers. The Court ruled that Maryland did not have the power to extinguish an appropriately constituted institution of the Federal Government. *Gibbons v.*

Ogden (1824) (1) Constitutional Question: 'commerce'? What exactly did the Federal Government have the authority to control under those means? Were the steamboat permits of New York contradictory to the National Government's authority to control commerce? Article 1, Section 8, Clause 3 – Empowers Congress to regulate commerce in order to guarantee that the flow of national commerce is free from local coercion forced by various states. (2) Background Information: In 1807, Robert Fulton's steamboat effectively crossed the Hudson River in New York.

Fulton and his business partner, Robert Livingston, had an agreement with the New York State Legislature which granted them with a private, long-term contract to run and license all steam-powered boats in New York's waterways, including the ones that stretched across states. Aaron Ogden acquired a Fulton-Livingston license to run steam-powered ferries on the Hudson River under this monopoly. However, Thomas Gibbons operated under a coasting license issued by the Federal Government to carry passengers from New Jersey to New York City.

Because Gibbons had no New York license, Ogden filed a complaint in the Court of Chancery of New York asking the court to give an injunction to Gibbons forbidding him landing rights to the port of New York. Ogden's lawyer argued that states frequently approved laws on problems concerning interstate matters and that states should have entirely concurrent power with Congress on issues regarding interstate commerce. Gibbons' lawyer, Daniel Webster, contended that Congress had private nationwide power over interstate commerce permitted by Article 1, Section 8, Clause 3 of the Constitution.

The courts of New York rejected Gibbons' argument and found in favor of Ogden and issued an Injunction against Gibbons'. Gibbons appealed and the Court of Errors of New York confirmed the decision. He then appealed to the Supreme Court of the United States. 13) Opinion of the Court: The Supreme Court and Chief Justice Marshall rejected Ogden's argument with a unanimous (6-0). The Justices agreed that the Commerce Clause did, indeed, give Congress the power to oversee the operation of steamboats between New York and New Jersey.

Hence, the license given to Gibbons by the government to run a ferry service antiquated the license to run a ferry service given to Ogden by the state of New York. As a result of this decision, State-issued ownership of island rivers and channels ceased and commercial competition was heartened. The Gibbons decision established the rule of the National Government in all situations affecting national and overseas business. The Marshall Court's reading of the Commerce Clause gave it permitted resistance that was later stretched to comprise federal control of railways, airlines, pipelines, etc.

Many political and constitutional professors consider the Supreme Court's decision in the Gibbons case the Supreme Court's finest. Barron v. Baltimore (1833) Does the Eminent Domain Clause (Fifth Amendment) reject the state and the national government the power to take private property for communal use without fairly numbering the proprietor of the property?

Eminent Domain Clause – Authorizes the government to take private property, both land and private possessions, for a civic associated with the market price of the property. 2) Background Information: Barron and his business partner had an extremely lucrative wharf in the city of Baltimore. It encompassed the deepest water in the wharf and allowed them to dock big boats. It all changed due to city developments which accumulated enormous amounts of sand in the wharf. Progressively, the residue left by these streams made the water very shallow. Shortly afterward, the water became so shallow that no ships could dock. Barron lost all income from his wharf and eventually lost his whole business. Its value had diminished.

Barron thought that because the city's negligence had caused him to lose his business, the Fifth Amendment of the Constitution deemed him eligible to

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receive compensation for his lost business. His case ultimately went to the Supreme Court. (3) Opinion of the Court: The Supreme Court recognized that Baron's once lucrative wharf had been diluted down to having no value and that the city was liable. However, Chief Justice John Marshall, elucidated that the Supreme Court had no authority to be involved in the case, because it was against state government action and not the federal government's.

The Fifth Amendment, had been written to restrain only the behavior of the federal government. The conduct of state governments were only restrained by their own constitutions. More than thirty years later, the Fourteenth Amendment was created and ratified. It explicitly restricted the actions of state government, prohibiting them from establishing bills as laws that dilutes the rights of citizens or rejects people life, liberty, or property, without due process of law. Since the establishment of the Fourteenth Amendment, the choice in *Barron v.*

Baltimore has been reversed. *Reynolds v. United States (1878)* Is the First Amendment's free exercise clause contravened by the federal statute outlawing bigamy because dual marriage is part of a religious practice? Impartial Jury – The Sixth Amendment gives the accused the right to a jury that represents the community in that area. Confrontation Clause – Gives the accused the right to have a direct confrontation with the accuser, and a chance to question the accuser. (2)

Background Information: George Reynolds, a devout Mormon living in Utah, married a second wife in violation of the federal anti-bigamy statute. He contended that because he was acting in conformity with his religious

principles, chastising him for polygamy violates his rights set by the Fourth Amendment. Therefore, the law outlawing polygamy is unconstitutional. He asked the court to inform the Jury that if they realized that he married in complete fulfillment of and compliance with his religious obligation, their adjudication should be not guilty. Instead, the court informed the Jury that if Mr..

Reynolds, thinking that because it was a religious belief that it was right, had intentionally married again, while his first wife was still living, and understood he was committing a crime, and just using his faith as an excuse to marry again, they find him guilty. Reynolds was, indeed, found guilty by the lower court, he then appealed to the Utah Territorial Supreme Court. (3) Opinion of the Court: The Utah Territorial Supreme Court agreed with the lower court and upheld did not have the authority to outlaw a belief in the in the rightness of polygamy, it could forbid the practice of it.

This was because marriage was considered the most essential aspect of social life. Lastly, the Court decided that people cannot pardon themselves from the obeying the law because of their religious beliefs. Practicing polygamy could not be excused from the law any more than practicing human sacrifice. Please v. Ferguson (1896) Nas Pulleys right to “ equal protection under the law’ disturbed when the Louisiana law demanded segregated seating? Was a State law demanding separate seating on community transportation service for Caucasians and African Americans a breach of equal protection?

Should the Louisiana State law be pronounced unconstitutional? Or does “separate but equal” facilities meet the criteria of the 14th Amendment? 13th Amendment – Aimed to defend individual rights. The 13th Amendment prohibits slavery, except when it is forced on someone as punishment for a crime. Equal Protection Clause – Forbids states from rejecting any person under its authority equal protection. In other words, the state must treat someone the same way as others would be treated in a similar situation. Homer Plessy was a very successful entrepreneur staying in Baton Rouge, Louisiana.

Plessy had one African-American relative, his grandfather. Even though he did not recognize himself as African American, Louisiana law acknowledged him as one-eighth African American, which they called Octoroon. Coming back by train from New Orleans to Baton Rouge, Plessy was told to sit in the segregated part of the train. He refused, was detained and formally charged. Plessy appealed to the Louisiana Supreme Court for an injunction against John H. Ferguson, the Judge of the trial court, to acquit the charges against him for the illegal breaking of state law.

He contended that racially isolated establishments clearly desecrated the Equal Protection Clause of the 14th Amendment. And because he was a citizen, he should not have been deprived of any rights. He should not have been demanded to give up any free right. He also argued that because the Louisiana law was against the Equal Protection Clause, it should be considered unconstitutional. Unfortunately, the Louisiana Supreme Court rejected. Still found guilty and fined, Plessy petitioned to the United States

Supreme Court. (3) Opinion of the Court In a unanimous 7-1 vote, the court rejected Pulleys argument, ruling in favor of Ferguson.

They noted that the law neither violated the 13th Amendment nor 14th Amendment. Justice Henry Brown stated that the 13th Amendment was only concerning slavery, and the 14th Amendment was not supposed to give African Americans social equality but was only concerned with legal equality. Additionally, the Justices repudiated the contention that the separation of the races by law forces people of color to be thought of as inferior. They argued instead that racial bigotry could not be eliminated by enforced integration and intermixing of the races, that such social views could not be altered simply by changing the law.

In conclusion, the Court said that racial segregation was completely legal as long as facilities were chains of racial hatred for nearly 60 more years.

Science v. United States (1919) Was the wide restraint on the right of free speech by the Espionage Act a violation of the First Amendment? What exactly was the meaning of the First Amendment's broad statement that Congress cannot make a law reducing the freedom of speech? Could the Espionage Act be unconstitutional or did it deliberately violate the First Amendment?

Right to Free Speech – Right ensured by the First Amendment, giving tizzies the power to express thoughts and opinions without unjustified government constraint. Espionage Act – set up to 20 years' imprisonment and a \$10, 000 fine to anyone impeding the conscription of troops or the exploitation of information concerning national defense. (2) Background Information:

Charles Science was general secretary of the Socialist Party in the United States. He decided to start protesting, urging people to resist the draft as socialists thought that the war had been produced by and would end up only benefiting the rich.

To socialists, the war only brought about misery, pain and death for the thousands of economically deprived and blue-collar soldiers. Science mailed around 15, 000 pamphlets to draftees asserting that the draft was illegal and complete authoritarianism and urged them to emphasize their rights and oppose the draft. Furthermore, he tried to argue that the Thirteenth Amendment, which banned forced bondage except as retribution for breaking the law or committing a crime, was contravened by the Conscription Act and that a draftee was not any better than a criminal.

In the pamphlets he emphasized the importance of the draftees asserting their rights and by not doing so they were supporting the denial and disparage of rights which is the most significant duty of all citizens of the United States to preserve. He proclaimed that many of the arguments in favor of the draft had to be coming from sly legislators and a greedy capitalist media. For these things Science was convicted of conspiracy to defy the Espionage Act by trying to hinder the recruitment and enlistment of men into the armed forces.

Science decided to dispute and challenge his conviction with the argument that his First Amendment rights had been violated. (3) Opinion of the Court: The Court ruled that the Espionage Act was lawful and confirmed that Science was guilty of having dishonored the Act. The Court's judgment was

centered on the impression that the First Amendment promises are not entirely absolute and must be applied to the specific situation in which those violations occur. The Court held that sensible restrictions can be enacted on the First Amendment's assurance of Free Speech.

They articulated that no person can use their given privilege of free speech to place others at risk. Secure political speech was reduced in the time of war. *Twilit v. New York* (1925) Did the New York law opposing felonious anarchy rob GIWIST of his liberty of expression guaranteed by the Due Process Clause of the Fourteenth Amendment? Should the New York law have been declared unlawful? The Court was asked to contemplate whether or not the Fourteenth Amendment assimilated the freedoms guaranteed by the Bill of Rights into the individual constitutions of all of the States.

In this specific case, did the Fourteenth Amendment grant GIWIST the same protections guaranteed by the First Amendment to a citizen in federal court, in State court? Due Process Clause – Emphasizes that state and local government cannot deny a person their right liberty, property or their own life. First Amendment rights – Grants people Ninth the right to free speech, free practice of religion, gives the press to freely publish news, grants people the right to appeal to government officials in support or against certain decisions that affect them, and also says that people have the right to gather in public to exercise their right to march.

Benjamin GIWIST was a devout supporter of the left wing sect of the United States Socialists Party. In 1919, the left wing proclaimed that they were disestablishing themselves from the Socialist Party at a conference in New

York. They promoted more erect efforts to bring Marxist Socialism to America, incorporating the use of violence. ere newly established left wing conference formed a committee to create the Left Inning Manifesto (modeled by Karl Mar’s Communist Manifesto) under Kowtows command.

The Left Wing Manifesto supported a coup d’?? tat of structured government by coercion, brutality, and other illegal means. Over fifteen thousand copies were printed, and mailed. GIWIST gave his consent to start distributing the Manifesto amongst the followers of the United States Socialists Party’s leftist wing, and Journeyed all over New York openly promoting the Manifesto and its heliotropes. The movement got more notoriety and authorities traced it back to Twilit. He was detained, found guilty under the state criminal anarchy statute and punished accordingly.

Stilton’s lawyers contended that the State could not confirm or even show that any evil had transpired from his practice of free speech and press entitled to him by the First Amendment. The Constitution protected his freedom of speech as long as it did not demonstrate “ clear and present danger”. Actually, his lawyers argued there was not any proof that he had influenced anyone to take action. They argued that the New York Statue was an unlawful boundary enforced by a State on a right assured by the First Amendment.

The Fourteenth Amendment’s promise that no State can create or impose any law that will reduce the freedoms or protections of people of the United States was, they claimed, dishonored in this case. ere New York lawyers claimed that all States had the obligation and right to try to avert violence.

The state government did the necessary and proper thing in creating laws to guarantee the people security. GIWIST had been involved in activities which imposed harm on the residents of New York. He was given a fair trial and his sentence should be kept the way it was.

They said that the New York Supreme Court should not interfere in the inner dealings of a state, because that would dishonor the main beliefs of federalism. Stilton's liberty to speak was sufficiently secured by the state's constitution. The Court agreed with the lower court's conviction and claimed statute and Stilton's unfavorable verdict, the significance of the situation is found in the arguments that Stilton's attorneys demand the Court to contemplate. The Court thought about the insinuations of "incorporation", how things that make up the First

Amendment were fused into individual state constitutions by the Fourteenth Amendment. The dispute over "incorporation" opened the entrance to milestone lodgment in years to come, judgments tolerant to the idea of the "incorporation" of the provisions of the Bill of Rights into individual state constitutions on the foundation of the fourteenth Amendment. *Sauerkraut v. United States* (1944) Should close examination be considered in looking at laws that deliberately discriminate against an ethnic group? Could Civilian Exclusion Order No. 34 be found unlawful under such a close examination?

Did the Congress and President Roosevelt ever impose their powers by initiating an exclusion order and limiting the civil liberties of Japanese Americans? Civilian Exclusion Order No. 34 – allowed the United States armed forces commandants to proclaim areas of the United States as official

military areas from which some or many people may be omitted. Although it did not imply a specific race, it was ultimately used against those of enemy descent, lapses. (2) Background Information: Fred Distributors Sauerkraut was an American native of Japanese ancestry who was brought up in California.

Sauerkraut aspired to join the United States Navy but when he tried he was disallowed when called for service obligation due to health concerns. Instead, he was given a job in a boatyard. When the Japanese began to be incarcerated in California, Sauerkraut eluded his order and relocated to a neighboring town. He also underwent plastic surgery, changed his name to Clyde Sarah and said he was of Hispanic and Hawaiian descent. When General DeWitt ordered that all Japanese-Americans report to internment camps by Exclusion Order No. 4, he was detained for resisting and found guilty of disobeying the Order. At the time of the verdict, there was no argument that Sauerkraut had been consistently allegiant to the United States and was definitely not a threat to the United States' war effort. Sauerkraut appealed his unfavorable verdict on the basis that the exclusion and internment orders were way beyond the authority of Congress, any type of military enforcement and the Head of State. He also declared that to coerce these orders only on those of Japanese origin developed into supposed forbidden prejudice based on race.

The government claimed that the incarceration of Japanese Americans was completely reasonable because it was necessary to the United States' war effort. They believed there was proof that some Japanese Americans were participating in espionage against the United States, and disputed that

because there was not any way to separate the trustworthy and untrustworthy, all persons of Japanese ancestry had to be looked upon as though they were untrustworthy. The Court of Appeals agreed with the United States, Sauerkraut found this absurd and appealed to the Supreme Court. 3) Opinion of the Court: In a tough 6 to 3 vote, the Supreme Court ruled in agreement with the United States' body did not go beyond their lawful power, and that Exclusion Order No. 4 did not dishonor the Fourteenth Amendment. Three Justices disagreed with the resolution, claiming that the Exclusion Order was mainly grounded on racism. The majority compared the case to an earlier case wherein the Court had supported a martial order forcing a time restriction on those of Japanese heritage residing on the West Coast.

In that case, the Court determined that the curfew mandate was within the Maritime powers of Congress and within the control of the President as Head of State because its main intention was to help the national defense through the course of the war by thwarting any attempts of spying and deliberate disruption. They concluded that the exclusion order in Sauerkraut's case was acceptable in the same way. Because the order was issued during wartime, the Court gave Congress, the President and all of those who believed the Order necessary, great respect.

The Court also determined that Exclusion Order No. 34 did not dishonor the Equal Protection Clause of the Fourteenth Amendment. They ruled that even though the Exclusion Order only beleaguered a particular ethnic group, it was not grounded on aggression of those of Japanese descent. Actually, it was because martial authorities did not have the resources to proficiently

separate those who were disloyal from those who were loyal that all people of Japanese ancestry as a group were subject to the exclusion order.

If the exclusion order had been based solely on racial prejudice, however, it would be unquestionably unconstitutional. The Sauerkraut decision was significant because it ruled that the United States government had the right to exclude and forcibly move people from designated areas based on their race. Even though Sauerkraut's invention was eventually overturned in 1983, the Sauerkraut ruling concerning the creation of exclusion orders has never been overturned. *Map v. Ohio* (1961) Was it lawfully acceptable to search Map's home and the evidence tolerable for use under the law?

Because the State Criminal Procedure Code did not discount the evidence because it was illegally obtained, was the Ohio law unsuccessful in supplying Map with her Fourth Amendment security against "unreasonable searches and seizures"? A previous case had already concluded that any evidence illegally acquired would not be able to be applied to cases in courts. Should that rule be overlooked or reexamined to make such evidence acceptable individual state courts? 4th Amendment (Unreasonable Searches and Seizures) – The Fourth Amendment safeguards people from "unreasonable searches and seizures" by law enforcement.

A search can be anything from a small pat-down by an officer to a bodily fluid examination found in someone's car or home. 14th Amendment (Nationalization) – Nationalization in the Fourteenth Amendment specifically applies to the procedure that widened the Constitution's rudimentary rights requirements to individual state and local administrations. In May 1957, Ms.

Doodler Map was quietly enjoying her Friday night with her daughter, who lived with her in Cleveland, Ohio.

After receiving some information police went to her home and demanded she let them in, but Map denied them entrance into her home without proper search authorization and called her lawyer. After many hours of surveillance and the influx of more and more officers, the police once again tried to enter the home only this time when Map did not let them in, they were able to gain access by opening the door by force. Once they were in the house, Map asked to see the warrant they were supposed to have. The officers landed around a piece of paper asserting that it was a search warrant.

Map grabbed it and tried to put it in her dress, but one of the officers got it back and handcuffed Map for being “ belligerent”. While searching her home, the police did not find the bombing suspect; however, searching her basement, they found a trunk comprising of obscene pictures, tapes and books. The police arrested her, held her in contempt and at the trial, the court charged her with possession of pornographic material with the evidence presented by police. Once convicted, Map, extremely upset, appealed to the Ohio Supreme Court.

Her lawyer disputed that she should not have been convicted because the way the officers gathered the information was illegal. And because the evidence was illegally acquired, it should also be excluded from the case. In the Ohio Supreme Court’s ruling, the Court realized that Map’s argument was sensible and that her conviction should be reversed, but the Court also indicated that the evidence found were acceptable. And because of this

decision, Map's appeal was rejected and her sentence of 1 to 7 in the Women's Reformatory of Ohio was maintained. She then appealed to the United States Supreme Court.) Opinion of the Court: ere Justices expressed their opinions in a 5-3 decision, favoring Map. The common ' Tote agreed that the exclusionary rule should be applied to the states, which necessitates the prohibition and exclusion of illegally obtained evidence from trials that are in direct and indirect breach of the ban on " unreasonable searches and seizures". The Courts decision was essentially grounded on many decisions before that had commenced the procedure of exercising the protections guaranteed by the Constitution to state and local Justice systems. Also in one of the previous cases, the

United States Supreme Court that the individual states should abide by the Fourth Amendment because it ensures the people " due process", which is obligatory to all states under the Fourteenth Amendment. So the decision basically made it mandatory that the Fourteenth Amendment protections be applied to States, not only the federal administration. Engel v. Vital (1962) Nas the first amendment right to exercise freedom of religion violated when the New fork State Board of Regents permitted time during school hours for students to pray prayer that the state made?

Could the prayer have been considered and thought of s representing an unlawful action by the creating of a religious code by a civic organization? Was the First Amendment's Establishment Clause trying to stop public schools from practicing spiritual undertakings? What about the separation of Church and State? 1st Amendment (Establishment Clause) – The Establishment Clause federal government is not allowed to make laws

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helping any specific religion or deem any religion a state religion. Many courts have utilized the Establishment Clause to articulate the separation of church and state. 2) Background Information: ere New York State Board of Regents created and implemented a nondenominational rarer for students of New York public schools to recite every morning. Believing that the prayer would be a beneficial instrument for the growth of character and teach the children to be good citizens of the United States, the Regents offered the prayer the other school boards in New York stating that participation was voluntary. But in one union-free school District in New Hyde Park, New York, a principal was told to have the class recite the prayer every morning.

Enraged, ten parents opposed and refused to let their children participate in such a thing. They filed a lawsuit against he school board wanting to have the prayer issued unconstitutional and expelled from schools, asserting that the prayer was in contradiction to their and their children’s spiritual practices. New Work’s Appeal Court maintained the prayer recitation as long as the schools did not force any student to participate over the parents’ protest. Still upset, the parents appealed to the United States Supreme Court.

They articulated to the court that the separation of Church and State necessitates the fact that the government needs to stay away from the affairs of religious activities, unless those activities are harming another person. They emphasized the fact that an official state prayer undoubtedly violated the First Amendment and, thus, should be prohibited and expelled from the schools. On the other side of the argument, the Regents’ lawyers

stressed that they did not create an official religion simply by supplying students who wanted to pray, a prayer.

Numerous references to the religious legacy of the United States were made every day by many officials and politicians. They tried to convince the Court that they had made the right decision in supplying an optional – not mandatory, prayer recitation for students. And that in prohibiting the prayer from schools, the Court was being Intrusive in the affairs of the State. (3) Opinion of the Court: In a 6-1 decision, the New York Regents' prayer was found unconstitutional.

The majority thought that the State had employed a new exercise that was not compatible Ninth the Establishment Clause of the First Amendment, by have one of its schools implement a prayer recitation. They also explained that when the control and funding from the government is backing one or many religions, everyone following that or those religions would conform to the monopoly and it would be hard for people to still be devout to that religion; therefore, the Establishment Clause was superior and the founding fathers would have wanted it that way because they thought that religion was too sacred, and personal.