

Final Examination - Constitutional Law (Professor Power)

Question 1

You are an attorney and have been retained by Tinytown Living Centers, Inc. (“TLC”), the owner of a large house in Tinytown, Connecticut. TLC wishes to operate the house as a supervised group home for the mentally retarded. Tinytown’s zoning laws permit such group homes, but require that “special permits” be obtained from the Town Council for “hospitals or homes for the insane, mentally retarded, or drug-addicted.” No other uses require special permits.

TLC applied for a special permit but the application was denied by the Town Council. The formal denial consisted of a statement signed by each member of the Town Council. It stated that the decision was based on the following factors:

1. The statutory requirement for a special permit is based on the need to protect the health, safety and welfare of the public, in particular:
 - a. to protect neighbors from harm; and
 - b. to protect the insane, mentally retarded and drug-addicted by providing an appropriate living environment.
2. The special permit requested by TLC is hereby denied because:
 - a. a majority of owners in the vicinity have objected to the group home;
 - b. a junior high school is located within 150 feet of the house; and
 - c. at the last group home we authorized, several residents caused a disturbance by stealing mail from neighbors.

You are asked to file an action in federal district court to overturn both the law requiring the special permit and the Town Council’s denial of the special permit to TLC. Before you do so, however, you are informed that the Town Council rescinded its decision and granted the special permit to TLC. The officers of TLC advise you that they still wish the suit to be filed as they hope to operate other group homes in Tinytown. They point out that they are supported in this regard by several of the persons who will be living in the group home.

In compliance with your client’s wishes, you agree to file suit. Please discuss the arguments you can make a) that the trial court should resolve this matter, and b) that it should declare unconstitutional i) the zoning law, and ii) the denial of the special permit. Your answer should include a discussion of the trial court’s probable rulings on the various issues presented by this case.

Question 2

Many constitutional law scholars regard the 1930s as the most critical period of constitutional development since John Marshall was Chief Justice. In this course, we have seen several important changes in constitutional doctrine during that period. Some of these changes concerned the respective powers of the national government and the states over “commerce.” Others concerned the rights of persons to “substantive due process.”

Please discuss the nature of the changes in constitutional law during the 1930s, including possible causes, immediate effects and long-term impacts on the present interpretation of these constitutional provisions. Feel free to discuss other aspects of constitutional law considered in this course if you feel that they have been affected, directly or indirectly, by what occurred during the 1930s.

Question 3

The SNT Corporation produces “Sugary ‘N Thin,” a low-calorie sugar substitute. SNT has factories in Ohio and Michigan and sells its product in all 50 states. “Sugary ‘N Thin” contains saccharin.

A recently enacted New York statute bans both distribution and use of any product containing saccharin. There is no legislative history for the statute but the preamble asserts that the objective of the ban is “to improve the health of New York residents by eliminating their exposure to saccharin.”

A federal statute requires that all products containing saccharin must bear the following label:

Use of this Product may be hazardous to your health. This Product contains saccharin which has been determined to cause cancer in laboratory animals.

The federal statute is not limited to products sold in interstate commerce. The statute does contain a section titled “Findings”. That section states: “Congress finds that the production of products containing saccharin has a substantial effect on interstate commerce.” The federal statute says nothing about its impact on state laws regulating the distribution or use of saccharin.

You are a federal district judge and SNT has brought an action to invalidate the New York and federal statutes on all arguably applicable constitutional grounds. At trial, it is proven to your satisfaction:

- 1) that there is substantial disagreement among scientific experts concerning the dangers of saccharin; and

2) that Congress adopted the labeling requirement immediately after defeating a bill which would have banned products containing saccharin on a nationwide basis.

Draft a decision in this case. If you believe that a multi-member court would issue concurring and/or dissenting opinions, you may include them in your answer.