CONSTITUTIONAL LAW I

Sections A and B

Instructor: Prof. Freeman

Fall, 1989 Final Exam

### GENERAL INSTRUCTIONS:

- 1. Be sure that your examination number appears on all bluebooks that you use.
- 2. Please do not use pencil to write this part of the examination. If you use a felt-time or fountain pen, please write on only one side of each sheet of paper in the bluebooks.
- 3. Leave a margin on the left-hand side of each page for me to use in grading.
- 4. Do not take the bluebooks or the examination copy out of the room in which you are writing.
- 5. When you are finished with Part I of this examination, place your bluebooks on the instructor's table at the front of the room announced at the beginning of the examination. If you use more than one bluebook, place one inside the other.

#### SPECIFIC INSTRUCTIONS:

- 1. Do not assume facts not given, and do not change the facts. In particular, do not assume the existence of statutes unless referred to in the question.
- 2. Although there is only one question on this part of the examination, the question is divided into four sections, labeled A through D. Each section contains one or two issues. Each issue is valued at two or three points. Therefore you should budget your time so as to devote approximately ten minutes to each issue.
- 3. In some instances, the facts may be cumulative; e.g., in discussing the issue or issues in Section B, it may be necessary to refer to the facts given in Section A. It is not necessary, however, to refer to the facts given in later sections when you answer an earlier section.
- 4. Structure your answer by discussing each section separately, and in the order given. At the beginning of your discussion of each section, label it with the appropriate letter (e.g., A). Within each section, discuss each issue separately. Complete in full your discussion of one issue before discussing another issue. Likewise, complete in full your discussion of one section before discussing another section.

5. Discuss each issue fairly raised by a fact pattern, even if your answer on one issue within the fact pattern makes discussion of another issue unnecessary. For example, if you conclude that the Supreme Court lacks jurisdiction to review a case, you still should discuss the merits of any substantive issue raised by the fact pattern.

# CONSTITUTIONAL LAW I PART I – 24 POINTS

### A. FACTS:

In 1984, the State of Franklin desired to attract new industry to the state in an effort to provide more jobs for Franklin residents. To this end, the Franklin state legislature enacted a statute whereby a corporate charter was granted to Tokyo Motor Company (T.M.C.), a Japanese corporation that manufactured automobiles. In return for TMC building an auto assembly plant in Franklin, the corporate charter exempted TMC from all state and local real property taxes for 15 years. In addition, the charter provided that TMC would be exempt from the state minimum wage statute, which provided a minimum wage of \$5.00 per hour. The charter also provided that the charter could not be amended by the state legislature without the consent of TMC. Assume that the charter did not violate the federal constitution or federal law. Subsequently, in 1985, after a new legislature was elected, several new statutes were enacted:

- 1. One statute repealed the two exemptions granted to TMC by the 1984 corporate charter. TMC brought suit to enjoin the enforcement of this statute.
- 2. A second statute imposed an ad valorem personal property tax on all personal property located in the state. The State of Franklin attempted to apply this tax to iron ore that was imported from Canada to Franklin, and stored in TMC's warehouses, in the original package, pending use in the manufacturing process. TMC brought suit to enjoin the state form taxing its iron ore.
- 3. A third statute required that all automobiles manufactured within the state be equipped with a specific type of anti-pollution device. TMC filed suit to enjoin the enforcement of this statute to it on the grounds that the regulation of pollution control devices on automobiles is a federal, not state, power.

The above actions ultimately were decided by the United States Supreme Court. What results, and why?

#### B. FURTHER FACTS:

Assume, irrespective of your answer above, that the United States Supreme Court upheld the third statute (described above) enacted by the State of Franklin. Thereafter, in 1986, Congress enacted a statute requiring that all automobiles manufactured in the United States after January 1, 1987, be equipped with a specific type of anti-pollution device. The statute also prohibited owners of such vehicles from removing the device. Thereafter, in June of 1987, Allen Alberts bought a new Ford automobile, which was equipped with the federally-mandated device. However, to conserve gasoline, Alberts removed the device from his auto, for which he was convicted and fined in federal court in spite of uncontroverted evidence that he never drives his car outside his small town of Hicktown, Franklin. Alberts' case finally was decided by the United States Supreme Court. What result, and why?

## C. FURTHER FACTS:

Assume, irrespective of your answer above, that the United States Supreme Court affirmed Alberts' conviction, holding that automobiles manufactured or used in the State of Franklin had to be equipped with both devices; i.e., the one required by the 1985 state statute and the one required by the 1986 federal statute. Thereafter, in 1988, Bill Barton, a federal employee driving a federal vehicle on official business on a state road in Franklin, was cited and subsequently convicted for driving a vehicle not equipped with the state-mandated anti-pollution device. Also in 1988, Cindy Carson, a state employee driving a state vehicle on official business in the state, was cited and subsequently convicted in federal court for driving a vehicle not equipped with the federally-mandated anti-pollution device. Both convictions ultimately were reviewed by the United States Supreme Court. What results, and why?

#### D. FURTHER FACTS:

In 1989, much labor strife broke out in industry in the State of Franklin, particularly in the automobile industry. Anticipating more strife, the state legislature enacted a statute providing that, in the case of violent local disturbance or armed conflict, the Governor of Franklin could call forth the Franklin National Guard and unilaterally compel local residents to furnish rooms for such guard personnel in their homes. Furthermore, because many civil claims for damage to private property were anticipated, the legislature decided to make civil trials more efficient and less time-consuming by enacting a statute that abolished trial by jury in civil cases where the amount of damages prayed for was less than \$300. Discuss the validity of these two statutes under the United States Constitution and relevant theories interpreting it. The third and seventh articles of amendment of the constitution provide, in part:

- III. No soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.
- IV. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.....