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Date: _____

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PRE-POST EVALUATION OF CONSTITUTIONAL CASEBOOK

SECTION A: MULTIPLE CHOICE: (Answers Can Be Found in Appendix A.)

DIRECTIONS: In the Answer Section below, Place the letter a, b, c, or d that best answers the multiple choice question.

1. The Supreme Court of the United States is a: a. Trial Court b. Court of Claims c. District Court d. Appeals Court.
2. Who makes the final determination (confirms) whether a person will serve on the Supreme Court: a. The President b. The Chief Justice c. The House of Representatives d. The U.S. Senate
3. Supreme Court Justices can offer what kind of an opinion in a case before them? a. Dissenting Opinion b. Concurring Opinion c. Majority Opinion d. All of the Preceding.
4. A Supreme Court Justice serves for: a. 12 Years b. Life c. 13 Years d. 6 Years
5. In *Brown v. Board of Education* (1954), the Court decided to: a. Improve Textbooks b. Desegregate Our Schools c. Establish Free Public Schools d. Provide for "Separate But Equal" Schools.
6. In *Korematsu v. United States* (1944), the Court upheld the relocation of what group of people to inland relocation camps: a. German Americans b. Italian Americans c. Japanese Americans d. Irish Americans.
7. In *Dennis v. United States* (1951), the Supreme Court of the United States upheld the conviction of members of what party for advocating the forceful overthrow of the American Government: a. Republican Party b. Democratic Party c. Liberal Party d. Communist Party.
8. In *Roe v. Wade* (1973), the Court dealt with what issues? a. Equal Job/Equal Pay b. Privacy/Abortion c. Sex Discrimination/Harassment d. Maternity Leave/Child Care.
9. In *Tinker v. DesMoines* (1965) the Supreme Court explored the Constitutional Rights of what group of people: a. African Americans b. Women c. Students d. Christians.
10. In *Schenck v. United States* (1919), the Court ruled freedom of speech and press can be restricted if it: a. Is Obscene b. Is Disruptive c. Creates a Clear and Present Danger d. Is Funny.
11. In *Watkins v. United States* (1957), the Court ruled that congressional investigations must: a. Aid their Legislative Functions b. Be Pertinent to the Subject Under Investigation c. Spell Out their Purpose d. All of the Above.
12. In *Lochner v. New York* (1905), the Court struck down a New York State law which limited: a. Car Insurance b. Safety Requirements c. Union Shops d. Hours a Person Could Work.
13. In *Miranda v. Arizona* (1966), the Supreme Court ruled all persons who are arrested have all but which one: a. Right to a Lawyer b. Right to Remain Silent c. Right to a Jury Trial d. Right to Free Legal Advice.
14. In *The United States v. Nixon* (1974), the Supreme Court ruled a U.S. President: a. Can Claim Executive Privilege b. Has Separate and Special Powers c. Needs to Maintain Secrets is Protected by Law d. Is Not Above the Law.
15. In *Clinton v. New York City* (1998), the Court held the line item veto was: a. Unconstitutional b. Constitutional c. A Presidential Power d. A Legislative Power.

SECTION B: ANSWERS:

- | | | | | |
|---------|---------|---------|----------|----------|
| 1. ____ | 4. ____ | 7. ____ | 10. ____ | 13. ____ |
| 2. ____ | 5. ____ | 8. ____ | 11. ____ | 14. ____ |
| 3. ____ | 6. ____ | 9. ____ | 12. ____ | 15. ____ |

Marbury v. Madison

Citation: 5 U.S. 137 (1803)

Concepts: Judicial v. Executive Power/
Judicial Review

Facts

In his last few hours in office, President John Adams made a series of "midnight appointments" to fill as many government posts as possible with Federalists. One of these appointments was William Marbury as a federal justice of the peace. However, Thomas Jefferson took over as President before the appointment was officially given to Marbury. Jefferson, a Republican, instructed Secretary of State James Madison to not deliver the appointment. Marbury sued Madison to get the appointment he felt he deserved. He asked the Court to issue a *writ of mandamus*, requiring Madison to deliver the appointment. The Judiciary Act, passed by Congress in 1789, permitted the Supreme Court of the United States to issue such a writ.

Issue

Whether the Supreme Court of the United States has the power, under Article III, Section 2, of the Constitution, to interpret the constitutionality of a law or statute passed by Congress.

Opinion

The Court decided that Marbury's request for a *writ of mandamus* was based on a law passed by Congress that the Court held to be unconstitutional. The Court decided unanimously that the federal law contradicted the Constitution, and since the Constitution is the Supreme Law of the Land, it must reign supreme. Through this case, Chief Justice John Marshall established the power of judicial review: the power of the Court not only to interpret the constitutionality of a law or statute but also to carry out the process and enforce its decision.

This case is the Court's first elaborate statement of its power of judicial review. In language which remains relevant today, Chief Justice Marshall said, "It is emphatically the province and duty of the judicial department to say what the law is." Nowhere in the Constitution does the Court have the power that Chief Justice Marshall proclaimed. Despite there being no mention of such power in the Constitution, since 1803, our Nation has assumed the two chief principles of this case: that when there is a conflict between the Constitution and a federal or state law, the Constitution is supreme; and that it is the job of the Court to interpret the laws of the United States.

Fletcher v. Peck

Citation: 6 Cr. 87 (1810)

Concepts: Ex Post Facto Legislation/
Contract Clause

Facts

In 1795, the Georgia legislature sold thirty-five million acres of Native American land to four land speculating companies for one-half million dollars. In 1796, a newly elected legislature rescinded and revoked the sale of the land because of widespread fraud and bribery that influenced the original sale of the thirty-five million acres.

Mr. John Peck purchased some of the land from one of the original land speculating companies and resold the land to Mr. Robert Fletcher. When Mr. Fletcher learned of the new legislature's repeal of the original land sale, he demanded his contract with Mr. Peck be declared null and void and his money be returned. Mr. Fletcher claimed his sale of land to Mr. Peck was valid and protected by the contract clause, Article 1, Section 10, of the Constitution of the United States.

Issue

Can the contract entered into by Mr. Fletcher and Mr. Peck be invalidated by the new law passed by the Georgia legislature?

Opinion

In a unanimous opinion, the Supreme Court of the United States ruled that the original land grant was a valid contract despite the fact that it was corruptly passed by the Georgia legislature. The Court held that the new Georgia legislature could not annul the land sale *ex post facto* (after the fact). The Court noted that nothing in the Constitution allows states to pass laws which void contracts or land grants made by previous state legislatures. The Constitution prohibits states from passing any "law impairing the obligation of contracts."

Dartmouth College v. Woodward

Citation: 4 Wheat. 519 (1819)

Concepts: Contractual Obligations/
State Rights/Private Rights

Facts

Dartmouth College was established in 1769 under a corporate charter from King George III of England, which was to last "forever." When the United States was formed, the agreement with the King became an agreement with the state of New Hampshire. In 1816, the New Hampshire state legislature amended (changed) the College's charter, making it a state university, enlarging the number of trustees, and revising the educational purpose of Dartmouth College. The trustees of the College protested, stating that the original charter was still valid, and sued. Daniel Webster represented Dartmouth College and argued that such amendments were contrary to the original charter and therefore could not be changed by the state.

Issue

Whether the Dartmouth College's private corporate charter was constitutionally protected against any state law designed to interfere with the nature and purpose of the original charter.

Opinion

In a 6-1 decision, the Supreme Court of the United States ruled that the Dartmouth College charter was a contract and was unconstitutionally interfered with by the new laws enacted by the New Hampshire legislation. Chief Justice Marshall stated that the College charter was a contract protected by the Constitution and the state of New Hampshire was bound to respect the original charter.

McCulloch v. Maryland

Citation: 17 U.S. 316 (1819)

Concepts: "Necessary & Proper" Clause/
Federal Supremacy v. State Rights

Facts

The state of Maryland brought an action against James William McCulloch, a cashier in the Maryland branch of the Bank of the United States, for not paying a tax the state had imposed on the United States Bank.

Issue

Whether the state of Maryland had the right to tax a federal agency which was properly set up by the United States Congress.

Opinion

In a unanimous decision, the Supreme Court of the United States ruled that the "power to tax involves the power to destroy," and that the federal government's national bank was immune to state taxation. The Court reasoned that Congress could set up a United States Bank and write laws "necessary and proper" to carry out its constitutional power to coin and regulate money.

Gibbons v. Ogden

Citation: 22 U.S. 1 (1824)

Concepts: Interstate Commerce/
Federal Supremacy v. State Rights

Facts

Robert Livingston secured from the New York State Legislature an exclusive twenty-year grant to navigate the rivers and other waters of the State. The grant further provided that no one should be allowed to navigate New York waters by steam without a license from Livingston and his partner, Robert Fulton, and any unlicensed vessel should be forfeited to them. Ogden had secured a license for steam navigation from Fulton and Livingston. Gibbons originally had been partners with Ogden but was now his rival. Gibbons was operating steamboats between New York and New Jersey under the authority of a license obtained from the United States. Ogden petitioned the New York court and obtained an injunction ordering Gibbons to stop operating his boats in New York waters.

Issue

Whether the New York statute that prohibited vessels licensed by the United States from navigating the waters of New York was unconstitutional and, therefore, void.

Opinion

Writing for the Supreme Court of the United States, Justice Marshall said that the injunction against Gibbons was invalid because the monopoly granted by the New York statute conflicted with a valid federal law. The Court used this case to put forth the position that Congress can legislate and regulate *all* matters of interstate commerce as long as there is some commercial connection with another state. While interstate commerce is regulated by Congress, power to regulate "completely internal" commerce (trade carried on in a state that does not affect other states) is reserved to the states.

**First Cherokee Indian Case
Cherokee Nation v. Georgia**

Citation: 5 Pet. 1 (1831)

Concepts: Sovereignty of Indian Nations/
Reserve Power of States

Facts

In 1791, a federal treaty granted the Cherokee Indians land within the boundaries of Georgia. In the 1820s the state began to enforce strict laws which were meant to assert control over the Indians and their land. The Cherokee Nation filed suit requesting the Supreme Court of the United States to order the state to stop enforcing these laws. The Georgia officials refused to participate in the suit. Meanwhile, Georgia's governor and legislature executed a Cherokee Indian, Corn Tassel, under the laws being contested by the Cherokee Nation. This was in direct defiance of the Supreme Court's notice to the state of Georgia that it was looking into the conviction of Corn Tassel, thus furthering the problem.

Issue

Whether the state of Georgia could enforce its state laws upon the Cherokee nation and deny the constitutional jurisdiction of the Supreme Court.

Opinion

The Supreme Court denied the Cherokees request reasoning it had no jurisdiction to decide such a case. Chief Justice Marshall wrote, "this is not the tribunal that can redress the past or prevent the future."

Second Cherokee Indian Case Worcester v. Georgia

Citation: 6 Pet. 515 (1832)

Concepts: State Powers/
Federal Jurisdiction/
Tribal Sovereignty

Facts

A Georgia law required all whites living in Cherokee Indian Territory to obtain a state license. Two missionaries refused to obey the state law, were arrested, convicted, and sentenced to four years of hard labor for violating the state licensing law. They appealed their case to the Supreme Court of the United States arguing that the laws they had been convicted under were unconstitutional because states have no power or authority to pass laws concerning sovereign Indian Nations.

Issue

Whether States had the reserve power to pass laws concerning the Indian Nations.

Opinion

The Court ruled that the State had no power to pass any laws affecting the Cherokees because Federal jurisdiction over the Cherokees was exclusive. The missionaries' convictions were therefore reversed. This case led to much disagreement within the three branches of government. The President of the United States, Andrew Jackson, was rumored to have said that the Chief Justice has made his decision with this case, now let him enforce it. In what has been described as a political outcome to this case, the state of Georgia would, in time, pardon the two missionaries.

Dred Scott v. Sanford

Citation: 60 U.S. 393 (1857)

Concepts: Slavery/Question of Citizenship v.
Fifth Amendment/Property Rights

Facts

Dred Scott, a slave, was taken by his owner, Sanford, into northern federal territory. Scott felt that he was free because of the *Missouri Compromise of 1820*, which excluded slavery from specified portions of United States territories. When he came back to Missouri, Scott sued his owner for his freedom.

Issue

Whether Dred Scott, a slave, was a citizen of the United States and legally entitled to use the courts to sue.

Opinion

The Supreme Court of the United States ruled that slaves were property, not citizens and, therefore, Dred Scott was not entitled to use the courts. The Court focused on the rights of

the owner, not the slave, saying that black people had no rights that white people were bound to respect. Justice Taney said that freeing Scott would be a clear violation of the Fifth Amendment because it would amount to depriving Sanford of his property without due process of law. He also said that Congress had no power to prohibit slavery in the territory and that the *Missouri Compromise* was unconstitutional.

[Justice Taney is considered one of the most prominent chief justices; however, *Dred Scott* has been widely criticized throughout history. Justice Taney believed that if he decided the case in favor of Scott, immediate civil war would have resulted. Associate Justice Curtis of Massachusetts disagreed so strongly with Taney's decision that he left the Court.]

Ex Parte Merryman

Citation: 17 F. Cas. 144, No. 9487
(Cir. Ct., D. Maryland, 1861)

Concepts: Writ of Habeas Corpus/
Executive Power v. Civilian Due Process

Facts

John Merryman favored the South in the Civil War. A month after the war began in 1861, he was arrested and jailed for burning railroad bridges. His arrest was based on a vague suspicion of treason. There was no warrant issued, nor were there any witnesses nor proof of any illegal action. Merryman wrote to Chief Justice Roger Taney, asking for a writ of habeas corpus so that his case would be tried in a civilian court. Chief Justice Taney issued the writ. However, the military commander in charge of Merryman's trial ignored the writ, citing President Lincoln's suspension of habeas corpus in certain parts of the country.

Issue

Whether the President of the United States has the power to suspend a writ of habeas corpus without the consent of Congress; and whether Merryman was deprived of life, liberty, or property without due process.

Opinion

Chief Justice Taney, who was holding circuit court (which Supreme Court justices did then), challenged President Lincoln's suspension of the writ of habeas corpus. The Chief Justice believed that the President drew too much power to himself without the consent of Congress. He criticized the President for improperly substituting military authority for civilian authority and emphatically warned that the people of the United States were "no longer living under a government of laws, but ... at the will and pleasure of the army officer in whose military district they happen to be found."

[Eventually, Merryman was handed over to civilian authorities, and Congress gave the President the power, which he had previously drawn to himself, to suspend the privilege of habeas corpus at his discretion during wartime].

Ex Parte Milligan

Citation: 4 Wall. 2 (1866)

Concepts: Executive Powers/
Legislative Powers/
Civilian Courts

Facts

During the Civil War, President Abraham Lincoln instituted trial by military commission for civilians in areas where civil courts continued to function. In 1864, L.P. Milligan, a rebel, was tried and convicted of conspiracy by a military commission in Indiana. He was sentenced to die for his role in a plan to release and arm Confederate prisoners to invade Indiana. L.P. Milligan appealed his conviction by the military commission to the Supreme Court of the United States.

Issue

Whether the President of the United States or the United States Congress can replace civilian courts with military courts to try civilians.

Opinion

The Supreme Court of the United States unanimously held that the President acted unconstitutionally when he instituted trial by military commission for civilians. The Court further reasoned that neither Congress nor the President have the power to authorize military commissions to try civilians in areas outside actual war zones. The decision established that martial law must be confined to theaters of active military operations.

Slaughterhouse Cases

Butchers' Benevolent Association of New Orleans

v.

The Crescent City Livestock Landing and Slaughterhouse Co.

Citation: 16 Wall. 36 (1873)

Concepts: 14th Amendment Rights/
Monopolies

Facts

New Orleans butchers charged that the state of Louisiana had violated their Fourteenth Amendment Rights by granting one company the exclusive rights to operate a slaughterhouse in New Orleans. The butchers alleged that the state-granted monopoly to one company deprived them of their right to earn a living, a right among those privileges and immunities guaranteed by the Fourteenth Amendment.

Issue

Whether the state of Louisiana's grant of a monopoly abridged the privileges or immunities of citizens by depriving them of due process and property rights granted by the Fourteenth Amendment.

Opinion

The Supreme Court of the United States ruled 5-4 that Louisiana had not violated the Fourteenth Amendment by granting a monopoly on the slaughterhouse business to one company for New Orleans. The Court stated that the right of the other butchers to do business was neither a "privilege and immunity" protected by the Fourteenth Amendment, nor an aspect of "property" protected by the due process guarantee of the same amendment. In this, its first major interpretation of the recently ratified Fourteenth Amendment, the Court argued that the amendment applied to rights associated with United States citizenship, not those under state citizenship, and therefore only prevented states from interfering with the former.

Munn v. Illinois

Citation: 94 U.S. 113 (1877)

Concepts: Public-Private Property/Free
Enterprise v. State Rights

Facts

Midwestern farmers felt that they were being victimized by the exorbitant freight rates they were forced to pay to the powerful railroad companies. As a result, the state of Illinois passed a law that allowed the state to fix maximum rates that railroads and grain elevator companies could charge.

Issue

Whether the regulation of railroad rates by the state of Illinois deprived the railroad companies of property without due process of law.

Opinion

The Supreme Court of the United States upheld the Illinois law because the movement and storage of grain were considered to be closely related to public interest. This type of economic activity could be governed by state legislatures, whereas purely private contracts could only be governed by the courts. The Court held that laws affecting public interest could be made or changed by state legislatures without interference from the courts. The Court said, "For protection against abuse by legislatures, the people must resort to the polls, not the courts."

Civil Rights Cases

Citation: 109 U.S. 3 (1883)

Concepts: The 13th & 14th Amendments/
Powers of Congress

Facts

In 1875, the United States Congress passed the Civil Rights Act which declared it a crime to deny equal access and enjoyment of public accommodations to "citizens of every race or color." However, most privately owned, but publicly used theaters, hotels, restaurants, trains, and other such businesses, within several states, continued to deny black customers use of their facilities. Five separate cases, each from different states, were merged together to form the Civil Rights Cases. In all five of the cases, the lawsuits were based upon the Civil Rights Act of 1875 because they alleged continued discrimination.

Issue

Whether the Thirteenth and Fourteenth Amendments provided the United States Congress power to establish laws barring discrimination in privately owned accommodations.

Opinion

The Supreme Court of the United States ruled 8-1 that Congress had overstepped its authority to enforce the Fourteenth Amendment with the passage of the Civil Rights Act of 1875, and therefore, the act was invalid. The Court cited that the Fourteenth Amendment only applied to discriminatory action taken by states, not the discriminatory actions taken by individuals in the private sector. The Court also reasoned that private discrimination does not violate the Thirteenth Amendment's prohibition against slavery and involuntary servitude.

Santa Clara County v. Southern Pacific Railroad

Citation: 118 U.S. 394 (1886)

Concepts: Corporate Tax/State Power to
Tax v. Equal Protection

Facts

Santa Clara County taxed the Southern Pacific Railroad. However, the corporation refused to pay the taxes, claiming that the taxes were assessed at the full monetary value without the discount that was given to individual property owners for extremely large mortgages. The Southern Pacific claimed that under the Fourteenth Amendment, their corporation, which should be treated as an individual, was denied equal protection under the law.

Issue

Whether corporations should be treated as individuals under the Fourteenth Amendment; and whether the state of California denied Southern Pacific Railroad equal protection under the law.

Opinion

The Supreme Court of the United States agreed with the railroad and upheld the lower court decision that Santa Clara County wrongfully taxed the Southern Pacific Railroad. Under the Fourteenth Amendment of the Constitution, corporations are treated as individuals; therefore, their taxes should be assessed at a smaller value, the same way it is done for individual property owners.

[This case is often cited in other cases because it stands for the principle that the word *person* in the Fourteenth Amendment applies to corporations as well as natural persons and both are entitled to the equal protection of the laws under the Constitution. Thus, corporations are now considered legal persons and can sue and be sued.]

Wabash, St. Louis & Pacific Railway Co. v. Illinois

Citation: 118 U.S. 557 (1886) **Concepts:** Individual Property Rights v. State Rights/Commerce Clause

Facts

An Illinois statute imposed a penalty on railroads that charged the same or more money for passengers or freight shipped for shorter distances than for longer distances. The railroad in this case charged more for goods shipped from Gilman, Illinois, to New York, than from Peoria, Illinois, to New York, when Gilman was eighty-six miles closer to New York than Peoria. The intent of the statute was to avoid discrimination against small towns not served by competing railroad lines and was applied to the intrastate (within one state) portion of an interstate (two or more states) journey.

Issue

Whether a state government has the power to regulate railroad prices on that portion of an interstate journey that lies within its borders.

Opinion

The Supreme Court of the United States held the Illinois statute to be invalid and that the power to regulate interstate railroad rates is a federal power which belongs exclusively to Congress and, therefore, cannot be exercised by individual states. The Court said the right of continuous transportation from one end of the country to the other is essential and that states should not be permitted to impose restraints on the freedom of commerce. In this decision, the Court gave great strength to the commerce clause of the Constitution by saying that states cannot impose regulations concerning price, compensation, taxation, or any other restrictive regulation interfering or seriously affecting interstate commerce.

[One year after *Wabash*, Congress enacted the Interstate Commerce Commission (ICC). This Commission had the power to regulate interstate commerce.]

Chae Chan Ping v. United States

Citation: 130 U.S. 581 (1889) **Concepts:** Treaties/Congressional Powers/Immigration

Facts

Between 1848, when gold was discovered in California, and the time of this case, the number of Chinese laborers in the United States greatly increased. During this short time, the Chinese immigrant population grew to become seventeen percent of the California population. This threatened American workers' jobs; in response Congress passed the Chinese Exclusion Act of 1882. The Act permitted the United States to regulate the flow of Chinese immigrants into the United States. Chae Chan Ping, a subject of the Emperor of China and a laborer by trade, lived in San Francisco, California. He left for China in 1875, but was not allowed to return to the United States in 1888 because of the new legislation. Ping contended that the Act violated existing treaties with China and that he should be allowed to re-enter the United States.

Issue

Whether an act of Congress that excluded Chinese laborers from the United States was a constitutional exercise of congressional power even though the act conflicted with an existing treaty with China.

Opinion

The Supreme Court of the United States ruled that Congress did have the right to deny Chae Chan Ping's re-entry into the United States. Saying that treaties are equivalent to acts of Congress and can be repealed or amended, the Court reasoned that it was permissible to exclude the Chinese because the preservation of independence and the security against foreign aggression are the highest duties of every nation. All other considerations are subordinate. Congress must have the power to do whatever it may deem essential in order to maintain and protect the United States. Such power includes the control over the immigration of aliens and their return to the United States. The Court decided that Congress had the authority to determine whether certain foreigners should be excluded.

Chicago, Milwaukee & St. Paul Railway Co. v. State of Minnesota

Citation: 134 U.S. 418 (1890)

Concepts: Railroad Rates/Procedural Due Process v. State Rights

Facts

In 1887, the state of Minnesota passed an act to regulate common carriers (i.e. railroads). The act declared that any unreasonable charge for service in the transportation of passengers or property was to be unlawful and prohibited. Certain trade unions complained that the Chicago, Milwaukee and St. Paul Railway charged some shippers up to four cents per gallon for the transportation of milk. They believed that these prices were unreasonable and unlawful under the act.

Issue

Whether states have the authority to regulate the rates which railroads charge for transportation of passengers or goods.

Opinion

The Supreme Court of the United States invalidated the Minnesota law because it authorized administrative rate-making without providing for judicial review (a hearing). The Court held that the state of Minnesota has the power to regulate and question the reasonableness of rates; however, railroads were entitled to more procedural protection. The Court upheld the state railway commission's right to regulate railroad rates but the commission had to give the railroads an opportunity to question and be heard if the rates established by the commission were unreasonable.

United States v. E.C. Knight Co.

Citation: 156 U.S. 1 (1895)

Concepts: Anti-Trust Acts/Congressional Power v. Free Enterprise

Facts

The Sherman Anti-Trust Act, passed by Congress in 1890, was an attempt to limit the growth of corporate power. Prior to this case, the American Sugar Refining Co., through stockholder agreements, purchased stock in smaller companies and eventually controlled 90 percent of the sugar processed in the United States. The federal government regarded the acquisition of the sugar refining companies as an illegal restraint of interstate commerce.

Issue

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Whether Congress has the authority to regulate manufacturing; and whether the Sherman Anti-Trust Act outlawed manufacturing monopolies.

Opinion

The Supreme Court of the United States believed that there were certain aspects of economic life that should be regulated by the federal government and other aspects that should be left to the states to regulate. Here, where the federal government sued under the Sherman Act to break up the large sugar refining monopoly of Knight, the Court held that the federal government could not regulate refineries since they were "manufacturing operations" that were not directly related to interstate commerce. The Court reasoned that the states, under the Tenth Amendment, should have the right reserved to them to regulate "local activities," such as manufacturing. [In subsequent cases, the Court modified its position and permitted Congress greater regulation of commerce.]

In Re Debs

Citation: 158 U.S. 564 (1895)

Concepts: Union Strikes/
Commerce Clause v. First &
Fourteenth Amendments

Facts

Eugene V. Debs, an American railway union officer and one of the leaders of the Pullman Railroad Car workers' strike in 1894, refused to honor a federal court "injunction" ordering him to halt the strike. Debs appealed his "contempt of court" conviction.

Issue

Whether the federal government has the constitutional authority to stop railroad workers from striking.

Opinion

The Supreme Court of the United States, in a unanimous decision, upheld the authority of the federal government to halt the strike. The Court reasoned that the federal government has "enumerated powers" found in Article 1, Section 8, to "regulate commerce ... among the several states," and to establish post offices and post roads. When the American Railway Union struck, it interfered with the railroad's ability to carry commerce and mail which benefited the needs and "general welfare" of all Americans.

Plessy v. Ferguson

Citation: 163 U.S. 537 (1896)

Concepts: Separate But Equal/Equal
Protection v. State Rights

Facts

In 1892, Plessy purchased a first class ticket on the East Louisiana Railway, from New Orleans to Covington, Louisiana. Plessy, who was of racially mixed descent (one-eighth black and seven-eighths Caucasian), was a United States citizen and a resident of the state of Louisiana. When he entered the train, he took a seat in the coach where only whites were permitted to sit. He was told by the conductor to leave the coach and to find another seat on the train where non-whites were permitted to sit. Plessy did not move and was ejected by force from the train. Plessy was sent to jail for violating the Louisiana Act of 1890, which required railway companies to provide "separate but equal" accommodations for white and black races. Plessy argued that this law was unconstitutional.

Issue

Whether laws which provided for the separation of races violated the rights of blacks as guaranteed by the equal protection clause of the Fourteenth Amendment.

Opinion

The Supreme Court of the United States held that the Louisiana Act, which stated that "all railway companies were to provide equal but separate accommodations for white and black races" did not violate the Constitution. This law did not take away from the federal authority to regulate interstate commerce, nor did it violate the Thirteenth Amendment, which abolished slavery. Additionally, the law did not violate the Fourteenth Amendment, which gave all blacks citizenship, and forbade states from passing any laws which would deprive blacks of their constitutional rights. The Court believed that "separate but equal" was the most reasonable approach considering the social prejudices which prevailed at the time.

[The *Plessy* doctrine of "separate but equal" was overturned by *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) (see p. 24), which held "separate but equal" to be unconstitutional.]

United States v. Wong Kim Ark

Citation: 169 U.S. 649 (1898)

Concepts: Citizenship/Civil Rights/
Immigration

Facts

Wong Kim Ark was born in 1873 in San Francisco, California. At the time of his birth, both his parents were Chinese citizens, but living as resident aliens in San Francisco. Since his birth, Ark had lived in California, but at age 17, Wong Kim Ark accompanied his parents to China on a temporary visit. Upon his return to the United States, he was granted re-entry because he was a native-born citizen. Again in 1894, Mr. Ark traveled to China, but upon returning to the United States, he was denied entrance on grounds that he was not a United States citizen.

Issue

Whether the United States Customs officers violated Wong Kim Ark's Fourteenth Amendment rights, when they denied him re-entry into the United States.

Opinion

The Supreme Court of the United States, in a 6-2 decision, ruled in favor of Mr. Ark. The fundamental rule of citizenship by birth includes all children of resident aliens born in this country. Since he was born in the United States, Mr. Ark was a citizen. The Chinese Exclusion Act passed in 1882 by the United States Congress couldn't apply to Mr. Ark, for he was a naturalized citizen.

DeLima v. Bidwell

Citation: 182 U.S. 1 (1901)

Concepts: Federalism/Commerce/
Imperialism/Colonization/
Incorporation

Facts

The DeLima Sugar Importing Company sued the New York City collector of customs to recover duties on sugar imported from Puerto Rico after 1899, when Puerto Rico was ceded to the United States. DeLima charged that The Port of New York City had no jurisdiction to collect duties, since Puerto Rico was annexed by the United States.

Issue

Whether Constitutional rights and guarantees afforded residents of the United States extend to residents of new territories.

Opinion

In a 5-4 decision, the Supreme Court of the United States ruled that when the peace treaty between Spain and the United States was ratified on April 11, 1899, Puerto Rico ceased to be a foreign country, but neither was it part of the United States, protected by the Constitution of the United States. The Court ruled the Constitution fully applies only to residents in territories that have been formally incorporated into the United States through treaties or Acts of Congress. The Court left it up to the United States Congress to govern territories.

Northern Securities Company v. United States

Citation: 193 U.S. 197 (1904)

Concepts: Restraints of Trade/
Federal Anti-Trust/
Commerce Clause

Facts

The major stockholders of two competing railroad companies set up a holding company to buy the controlling interest of the two railroads. The Sherman Anti-Trust Act of 1890 forbade unreasonable restraints on trade. The constitutionality of the holding company was brought into question by the United States government during President Theodore Roosevelt's trust busting campaign.

Issue

Whether the United States Congress had the authority under the Commerce Clause in the Constitution of the United States to regulate the holding company's effort to eliminate competition.

Opinion

The Supreme Court of the United States in a 5-4 decision found that a holding company formed solely to eliminate competition between the two railroads was in violation of the Federal Anti-Trust Act because it unreasonably restrained interstate and international commerce. The Court ruled that the Federal Anti-Trust Act could apply to any conspiracy which sought to eliminate competition between otherwise competitive railroads.

Dorr v. United States

Citation: 195 U.S. 138 (1904)

Concepts: Jury Trial/Rights of the Accused v. Congressional Power Over Territories

Facts

After the Spanish American War in 1898, the United States obtained the Philippines, Cuba, Guam, and Puerto Rico as territories. In the Philippines, Dorr was arrested for libel. Dorr was editor of the *Manila Freedom*, a radical newspaper opposing the government. Denied a trial by jury, he lost his case and appealed to the Supreme Court of the United States claiming that his constitutional right to a trial by jury had been denied.

Issue

Whether a trial by jury is necessary in a judicial proceeding in the Philippine Islands where the accused person has been denied a jury trial.

Opinion

The Court ruled that a trial by jury in the Philippines, or in any other United States territory, is not a "constitutional necessity," and the conviction was upheld. The Court concluded that the Constitution gives Congress the power to acquire and govern new territory but does not provide for the right of trial by jury in those territories. However, Congress could pass a law requiring trial by jury in the territories. The territorial government of the Philippines did not have to provide a jury trial in criminal cases unless Congress passed legislation requiring it to do so.

Lochner v. New York

Citation: 198 U.S. 45 (1905)

Concepts: Work Hours Per Week/
Individual Property Rights v. State
"Police Powers"

Facts

New York law set limits on how many hours bakery employees could work. Lochner was convicted and fined fifty dollars for permitting an employee to work more than the lawful number hours in one week. On appeal, Lochner claimed that the New York law infringed on his right to make employer/employee contracts.

Issue

Whether a law which limited the number of hours bakery employees were allowed to work interfered with the bakery owner's right to make employer/employee contracts.

Opinion

The Supreme Court of the United States held that even though states have the power to regulate the areas of health, safety, morals, and public welfare, the New York law in question was not within the limits of these "police powers" of the State.

[This decision marked the beginning of the "substantive due process" era, in which the Court struck down a number of state laws that interfered with an individual's economic and property rights. It was overturned twelve years later in *Bunting v. Oregon*, 243 U.S. 426 (1917).]

Swift v. United States

Citation: 196 U.S. 375 (1905)

Concepts: Price Fixing/Free Enterprise
v. Congressional Power

Facts

Under various congressional anti-trust acts, Congress had the power to prevent price fixing and monopolies. Swift and other meat packers arranged to fix or alter the price of livestock bought and sold in Chicago, in violation of these acts. Swift argued that it was not involved in interstate commerce since the stockyard transactions were the middle part of the meat packing process and took place only within the state.

Issue

Whether the Sherman Anti-Trust Act could bar price fixing by meat dealers within a state.

Opinion

The Supreme Court of the United States held that although the price fixing related to stockyard activities which occurred in one state, they were a part of a "stream of interstate commerce" and, therefore, could be regulated by the federal government under the commerce clause of the United States Constitution.

Muller v. Oregon

Citation: 208 U.S. 412 (1908)

Concepts: Employee-Employer Contracts/
Tenth Amendment v. Fourteenth
Amendment

Facts

In 1903, the state of Oregon passed a law prohibiting women from working in factories or laundries more than ten hours in any day. In 1905, a suit was filed against Curt Muller for making Mrs. E. Gotcher work more than ten hours in one day. Found guilty, Muller took his case to the Supreme Court of the United States, charging that he was wrongly convicted because the legislation of the state of Oregon was unconstitutional. He believed that his Fourteenth Amendment rights were infringed upon by his inability to make his own hours for his employees.

Issue

Whether the state of Oregon, through its regulation of women's work hours, violated the "privileges and immunities" clause of the Fourteenth Amendment by forbidding the employment of women for more than ten hours a day in laundries and factories.

Opinion

The Court held that the Oregon law that barred women (who were viewed as a weaker class and in need of special protection) from certain factory and laundry work to be correct and sustained the legislation. The Court distinguished the *Lochner* case, where an employer's "liberty to contract" outweighed the state's interest to regulate bakery employees' hours, from this case, which took into account the physical differences between men and women. The Court took judicial notice (based upon a famous brief submitted by then-lawyer, Louis D. Brandeis) of the belief that "women's physical structure and the function she performs ... justify special legislation restricting the conditions under which she should be permitted to toil."

Weeks v. United States

Citation: 232 U.S. 383 (1914)

Concepts: Search and Seizure/ "Police
Powers"/Exclusionary Rule

Facts

Fremont Weeks was suspected of using the mail system to distribute chances in a lottery, which was considered gambling and was illegal in Missouri. Federal agents entered his house, searched his room, and obtained papers belonging to him. Later, the federal agents returned to the house in order to collect more evidence and took letters and envelopes from Weeks' drawers. In both instances, the police did not have a search warrant. The materials were used against Weeks at his trial and he was convicted.

Issue

Whether the retention of Weeks' property and its admission in evidence against him violated his Fourth Amendment right to be secure from unreasonable search and seizure and his Fifth Amendment right not to be a witness against himself.

Opinion

The Supreme Court of the United States unanimously decided that as a defendant in a criminal case, Weeks had a right to be free from unreasonable search and seizure and that the police unlawfully searched for, seized, and retained Weeks' letters. The Court praised the police officials for trying to bring guilty people to punishment but said that the police could not be aided by sacrificing the fundamental rights secured and guaranteed by the Constitution.

[This decision gave rise to the "Exclusionary Rule." This meant that evidence seized in violation of the Constitution cannot be admitted during a trial.]

Hammer v. Dagenhart

Citation: 247 U.S. 251 (1918)

Concepts: Child Labor/Congressional
Powers v. State Rights/
Commerce Clause

Facts

In 1916, Congress passed the Child Labor Law, which prohibited the interstate transportation of products made by companies that employed young children who worked long hours.

Issue

Whether congressional powers under the commerce clause extended far enough to prohibit the interstate transportation of products made in factories in which underage children worked.

Opinion

In a 5-4 decision, the Supreme Court of the United States held that the Child Labor Law of 1916 was unconstitutional. The Court reasoned that Congress was trying to regulate child labor laws by using the commerce clause and that the employment of children was not directly related to interstate commerce. The Court felt that Congress should not impinge upon the states' right to oversee child labor by using its power to regulate commerce so as to indirectly regulate child labor.

Schenck v. United States

Citation: 249 U.S. 47 (1919)

Concepts: Clear & Present Danger/
Free Speech v. Congressional War Powers

Facts

Charles T. Schenck and Elizabeth Baer, charged with conspiring to print and circulate documents intended to cause insubordination within the military, were convicted of violating the Espionage Act of 1917. The act made it a crime to "willfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty in the military ... or to willfully obstruct the recruiting service of the United States." Schenck appealed the conviction to the Supreme Court of the United States, claiming all his actions were protected by the First Amendment.

Issue

Whether Schenck's and Baer's First Amendment right to freedom of speech were violated when they were convicted of conspiring to obstruct the recruitment and enlistment of service.

Opinion

The Court unanimously upheld the conviction of Schenck, not for violation of the Espionage Act, but rather for conspiracy to violate it. The Court found that the First Amendment did not apply in this case, and that Schenck's speech was not constitutionally protected because it posed a "clear and present danger" to the country. The nation was involved in World War I, and the Court saw Schenck's speech and action as counter-productive to the national war effort. The Court reasoned that certain speech could be curtailed, using the example of a situation where one cannot yell "fire" in a crowded theatre.

Debs v. United States

Citation: 249 U.S. 211 (1919)

Concepts: Free Speech v. Congressional War Powers

Facts

Eugene V. Debs, a well-known socialist, gave a public speech to an assembly of people in Canton, Ohio. The speech was about the growth of socialism and contained statements which were intended to interfere with recruiting and advocated insubordination, disloyalty, and mutiny in the armed forces. Debs was arrested and charged with violating the Espionage Act of 1917.

Issue

Whether the United States violated the right of freedom of speech given to Debs in the First Amendment of the United States Constitution.

Opinion

The Supreme Court of the United States upheld the lower court's decision in favor of the United States. The Court said that Debs had actually planned to discourage people from enlisting in the Armed Forces. The Court refused to grant him protection under the First Amendment freedom of speech clause, stating that Debs "used words [in his speech] with the purpose of obstructing the recruiting service." Debs' conviction under the Espionage Act would stand, because his speech represented a danger to the safety of the United States.

Powell v. Alabama

Citation: 287 U.S. 45 (1932)

Concepts: Right to Counsel/
Due Process

Facts

In what is known as the "First Scottsboro Case" nine illiterate, young black men were charged with raping two white girls on a freight train passing through Alabama. Their trial was held in Scottsboro, Alabama. Under Alabama law, rape is a Capital offense (a crime

punishable by death). On the first day of the trial, the defendants' attorney withdrew from the case; the judge then appointed members of the local bar association, most of whom then withdrew from the case. Although two attorneys did represent the accused, they did so without having time to investigate the case and with only a half hour of consultation with the defendants. All defendants were convicted.

Issue

Were the defendants denied the right to counsel and due process within the Fourteenth Amendment if they were not given the opportunity to consult with a lawyer in a timely fashion to prepare for their defense?

Opinion

In a 7-2 decision, the Supreme Court of the United States reasoned that because the defendants were ignorant, illiterate, and young; surrounded by public hostility; under close surveillance by the military and in deadly peril of their lives; the failure of the trial court to give them reasonable time and opportunity to secure counsel and prepare for trial was a clear denial of due process. As a result of this case, states were required to appoint counsel for poor people in all capital cases, and in non-capital cases where denial of counsel would result in an unfair trial. [See *Gideon v. Wainwright* (1963) (p. 28) for the further expansion of a defendant's right to counsel.]

Schechter Poultry Corp. v. United States

Citation: 295 U.S. 495 (1935)

Concepts: Congressional Power v. Presidential Power/ Commerce Clause/"Sick Chickens"

Facts

During the Great Depression, President Franklin Delano Roosevelt established an economic recovery program known as the "New Deal." As part of the program, the President established the National Industrial Recovery Act of 1933 (NIRA) which authorized the President to set "codes of fair competition," regulating certain facets of interstate commerce. The Schechter Poultry Corp. bought, slaughtered, and sold chickens only in New York State, although some of the chickens were purchased from other states. Schechter was indicted for disobeying the "live poultry code," one of the codes of fair competition. The government alleged that Schechter failed to observe minimum wage and hour provisions, permitted customers to select individual chickens from particular coops and half-coops, sold unfit and uninspected chickens, and made false reports. Schechter appealed his conviction.

Issue

Whether the National Industrial Recovery Act, which gave the President the authority to regulate certain aspects of commerce during the Depression, was an unconstitutional delegation of presidential power.

Opinion

The Supreme Court of the United States, in a unanimous decision, held that the delegation of power made by the NIRA was unconstitutional. The Court held that Congress has the power to regulate interstate commerce, not the President, and that Congress cannot delegate legislative power to the President. Even the extraordinary conditions of the Depression were not enough for the Court to allow the President to have more power than

the Constitution gave him. Schechter's conviction was reversed because its business indirectly affected interstate commerce. The NIRA was declared unconstitutional because it exceeded the commerce power that had been given to Congress by the Constitution.

United States v. Butler

Citation: 297 U.S. 1 (1936)

Concepts: Federalism/Taxation/
State Rights

Facts

As part of the 1933 Agricultural Adjustment Act, the United States Congress implemented a tax on the processing of agricultural commodities, from which funds would be redistributed to farmers who promised to reduce their production of the same agricultural commodities. The Act intended to solve the crisis in agricultural commodity pricing during America's Great Depression.

Issue

Whether the United States Congress exceeded its power to tax and spend in order to provide for the general welfare, granted by Article I, Section 8, Clause 1, of the Constitution of the United States, and violated the states' Tenth Amendment right to taxation, by enacting the Agricultural Adjustment Act.

Opinion

In a 6-3 decision, the Supreme Court of the United States found the Act unconstitutional because it attempted to regulate and control agricultural production, an area reserved to the states. Even though the United States Congress has the power to tax and appropriate funds, in this case those activities were "but means to an unconstitutional end," and were therefore in violation of the reserved powers the states have under the Tenth Amendment.

National Labor Relations Board v. Jones & Laughlin Steel Corp.

Citation: 301 U.S. 57 (1937)

Concepts: Commerce/Labor Relations/
Unionism

Facts

In a proceeding under the National Labor Relations Act of 1935, the National Labor Relations Board (NLRB) found that the Jones & Laughlin Steel Corporation had violated the act by firing ten union members because of their union membership. The NLRB demanded the steel company stop discrimination against union workers; the corporation failed to comply. The Circuit Court of Appeals refused to enforce the order of the NLRB holding that the order was outside the range of federal power.

Issue

Whether or not the United States Congress' involvement in labor relations went beyond its means to regulate interstate commerce, as found in Article I, Section 8, Clause 3 of the Constitution of the United States.

Opinion

The Supreme Court of the United States ruled 5-4 in favor of the NLRB, stating that Congress has ability to regulate intrastate matters when they directly burden, threaten, or obstruct interstate commerce. A labor strike in the steel factory would disrupt the "stream of commerce," and would have a direct effect on the flow of interstate commerce. Therefore, Congress has the power to regulate all trade which may upset the balance between *inter* and *intrastate* commerce.

West Virginia State Board of Education v. Barnette

Citation: 319 U.S. 624 (1943)

Concepts: Flag Salute/State Rights
v. Establishment Clause

Facts

The West Virginia State Board of Education required by state law that all students salute the flag and recite the pledge of allegiance as a part of their daily routine. Students who refused were suspended, declared unlawfully absent, and subject to delinquency proceedings. Parents of such students were also subject to a fine or imprisonment. Several Jehovah's Witnesses, who were citizens of West Virginia, sought from the court an injunction to stop the West Virginia State Board of Education from requiring the pledge and flag salute.

Issue

Whether flag salute ceremonies in the schools violated students' liberties as guaranteed by the First Amendment.

Opinion

The Supreme Court of the United States ruled, 6-3, in favor of Barnette and the other Jehovah's Witnesses. The Court held that the Board of Education could not require daily flag salute and pledge as a condition that students must meet to receive a public education. The Court's ruling provided students "scrupulous protection" of their constitutional liberties as guaranteed by the First Amendment.

Hirabayashi v. United States

Citation: 320 U.S. 81 (1943)

Concepts: War Powers/Civil Rights/
Discrimination

Facts

Reacting to the Japanese attack on Pearl Harbor which brought the United States into World War II, the President of the United States, Franklin D. Roosevelt as Commander-in-Chief of all Armed Forces, acted to prevent incidents of subversion and espionage by individuals of Japanese descent living in the United States. He issued two executive orders, which were quickly passed into law by the United States Congress. These laws gave the Secretary of War the power to designate certain parts of the country as "military areas" which excluded all Japanese. The second established the War Relocation Authority, which authorized the removal, maintenance, and supervision of all persons excluded from the military areas. Gordon Kiyoshi Hirabayashi, a student at the University of Washington, was convicted for violating a curfew and relocation order.

Issue

Whether the President's executive orders and the United States Congress' ratification of the executive orders exceeded the constitutional powers of the national government to impose restrictions on individuals of Japanese descent and whether the national government violated Japanese descendants' due process guarantee of "life, liberty or property" found in the Fifth Amendment of the Constitution of the United States.

Opinion

In a unanimous decision, the Supreme Court of the United States found the President's executive orders and the establishment of the curfew to be constitutional. The restrictions placed on Japanese Americans and resident aliens of Japan served a military and national security interest, and the Court viewed the curfew as a necessary "protective measure...in time of war."

Korematsu v. United States

Citation: 323 U.S. 214 (1944)

Concepts: Japanese Relocation/Equal Protection v. Executive Powers

Facts

Between 1941 and 1945, there were strong anti-Japanese feelings in the United States due to the war with Japan. In May 1942, Korematsu, an American citizen of Japanese descent, was convicted in federal court of "knowingly remaining in a designated military area in San Leandro, California." His actions violated Exclusion Order #34 and Executive Order #9066 of 1942, which had been issued to protect the West Coast from acts of espionage and sabotage. The Acts required all Japanese-Americans living in restricted areas to go to inland relocation centers. Korematsu believed the order violated his constitutional rights.

Issue

Whether Executive Order #9066 of 1942, violated Korematsu's Fourteenth Amendment right to equal protection of the law and his Fifth Amendment right to life, liberty, and property; and whether, because of the special circumstance of the world war, Congress or the President had the power to violate Korematsu's constitutional rights.

Opinion

In a rare decision, 6-3, the Supreme Court of the United States ruled that an entire race could be labeled a "suspect classification," meaning that the government was permitted to deny the Japanese their constitutional rights because of military considerations. Because a number of Japanese may have been disloyal, the military felt that complete exclusion of persons of Japanese ancestry from certain areas was essential during wartime. The Court ruled that such exclusion was not beyond the war powers of Congress and the President since their interest in national security was "compelling."

Dennis v. United States

Citation: 341 U.S. 494 (1951)

Concepts: Overthrow of Government/Free Speech v. National Security

Facts

Eugene Dennis was a leader of the Communist Party in the United States between 1945 and 1948. He was arrested in New York for violation of Section 3 of the Smith Act. The Act prohibited advocacy of the overthrow of the United States Government by force and violence. The government felt that the speeches made by Dennis presented a threat to national security. Dennis appealed his conviction to the Supreme Court of the United States, claiming that the Smith Act violated his First Amendment right to free speech.

Issue

Whether the Smith Act violated the First Amendment provision for freedom of speech or the Fifth Amendment due process clause.

Opinion

The Court found that the Smith Act did not violate Dennis' First Amendment right to free speech. Although free speech is a guaranteed right, it is not unlimited. The right to free speech may be lifted if the speech presents a clear and present danger to overthrow any government in the United States by force or violence. Since the speech made by Dennis advocated his position that the government should be overthrown, it represented a clear and present danger to the national security of the United States.

Brown v. Board of Education of Topeka

Citation: 347 U.S. 483 (1954)

Concepts: School Segregation/Equal Protection v. State Rights

Facts

Four black children sought the aid of the courts to be admitted to the all-white public schools in their community after having been denied admission under laws which permitted racial segregation. The youths alleged that these laws deprived them of the equal protection of the law under the Fourteenth Amendment, even though their all-black schools were equal to the all-white schools with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors.

Issue

Whether segregation of children in public schools denies blacks their Fourteenth Amendment right of equal protection under the law.

Opinion

The Supreme Court of the United States looked not to the "tangible" factors but the effect of segregation itself on public education. The Court decided unanimously that segregation of black children in the public school system was a direct violation of the equal protection clause of the Fourteenth Amendment. It rejected the "separate but equal" doctrine of *Plessy v. Ferguson*, 164 U.S. 537 (1896), and stated that this doctrine had no place in education. According to the Court, even if the facilities were physically equal, the children of the minority group would still receive an inferior education. Separate educational facilities were held to be "inherently unequal."

Watkins v. United States

Citation: 354 U.S. 178 (1957)

Concepts: Self-Incrimination/Un-American Activities/Right to Remain Silent v. Congressional Investigation

Facts

Watkins was convicted of violating a federal law that made it a crime for any person summoned as a witness by a congressional committee to refuse to answer any question asked by the committee. He had been summoned to testify before the House Committee on Un-American Activities. He testified about his own activities but refused to answer questions about whether other persons were members of the Communist Party. Watkins refused to answer the questions because he believed they were outside the scope of the Committee's activities and not relevant to its work.

Issue

Whether Watkins was within his rights to refuse to answer; and whether his conviction was a violation of the due process clause of the Fifth Amendment.

Opinion

The Supreme Court of the United States held that Watkins's conviction was invalid. The Court said that Congress had to spell out its purpose specifically to guarantee that people summoned to testify are treated fairly and given all their rights. The Court held that congressional committees are required to uphold the Bill of Rights and must grant citizens the freedom of speech. Such committees are restricted to the areas of investigation delegated to the committees, and no witness can be made to testify on matters outside those areas.

Yates v. United States

Citation: 354 U.S. 298 (1957)

Concepts: Communist Party/Free Speech v. Congressional Power

Facts

In 1951, fourteen persons were charged with violating the Smith Act for being members of the Communist Party in California. The Smith Act made it unlawful to advocate or organize the destruction or overthrow of any government in the United States by force. Yates claimed that his party was engaged in passive actions and that any violation of the Smith Act must involve active attempts to overthrow the government.

Issue

Whether Yates' First Amendment right to freedom of speech protected his advocating the forceful overthrow of the government.

Opinion

The Supreme Court of the United States said that for the Smith Act to be violated, people must be encouraged to do something, rather than merely to believe in something. The Court drew a distinction between a statement of an idea and the advocacy that a certain action be taken. The Court ruled that the Smith Act did not prohibit "advocacy of forcible overthrow of the government as an abstract doctrine." The convictions of the indicted members were reversed.

Mapp v. Ohio

Citation: 367 U.S. 643 (1961)

Concepts: Warrantless Search/Right to Privacy v. State "Police Powers"

Facts

In May 1957, Cleveland police officers received a tip that Miss Mapp was in possession of a large number of betting slips, and that a bomber was hiding in her home. When the police arrived at her house, Mapp refused to admit them without a search warrant. A few hours later, the police knocked again, then forcibly opened the door. A struggle ensued and Mapp was put in handcuffs, taken upstairs, and kept there while police searched her apartment. During the search, obscene materials were discovered in a trunk in her basement. Mapp was arrested for possession and control of obscene materials.

Issue

Whether Miss Mapp's Fourth Amendment right to be secure from search and seizure was violated during the search of her home.

Opinion

The Supreme Court of the United States ruled that Mapp's Fourth Amendment right to be secure from search and seizure was violated. The Court held that both the Fourth and Fourteenth Amendments protected persons from unwarranted federal and state intrusion of their private property.

Baker v. Carr

Citation: 369 U.S. 186 (1962)

Concepts: Reapportionment/
Equal Protection/Voting Rights

Facts

In 1960, potential voters for members of the Tennessee Legislature brought a class action suit charging that some members of the legislature represented larger numbers of people in some voting districts while other legislators represented very small numbers of voters, thus creating disproportional representation among people living in the more populated voting districts.

Issue

Whether or not the unequal voter representation was in violation of the Fourteenth Amendment's Equal Protection Clause, and whether the apportionment of the state legislative districts is a question within the jurisdiction of the federal courts.

Opinion

By a 6-2 ruling the Supreme Court of the United States agreed that Tennessee's failure to reapportion their voting districts had created electoral districts for the state legislature of unequal population. Individuals living in the cities, although with larger populations, were underrepresented while those living in the country, with a smaller population, held the majority of representation. Two thirds of the State Senate was elected by only one third of the state population. The Court ruled this clearly deprived voters of equal protection found in the Fourteenth Amendment's Equal Protection Clause.

Engel v. Vitale

Citation: 370 U.S. 421 (1962)

Concepts: School Prayer/Establishment
Clause v. State Rights

Facts

The Board of Education of New Hyde Park, New York, instructed the schools of their district to have students recite a NYS Regents-composed prayer at the beginning of each school day. Parents of a number of students challenged this policy. They said that the official prayer was contrary to their religious beliefs and that a governmental agency did not have

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the right to force prayer on students. The parents felt that the prayer violated the First Amendment's separation of church and state provision. The state contended that it was a non-denominational prayer and that the schools did not compel any student to recite it.

Issue

Whether a non-denominational prayer, recited in every classroom in a school district, violated the First Amendment's provision for separation of church and state.

Opinion

The Supreme Court of the United States found that the school district violated the students' First Amendment rights because even though the students did not have to say the prayer, the reciting of the prayer in class would put unwanted pressures on them. Further, this *non-denominational* prayer was found to be too religious for the state to mandate and was in violation of the establishment clause of the First Amendment.

Abington School District v. Schempp

Citation: 374 U.S. 203 (1963)

Concepts: Bible Readings/Reserved
Clause v. Establishment Clause

Facts

A Pennsylvania statute required that "at least ten verses from the Holy Bible shall be read at the opening of each public ... school day." A student could be excused from the bible reading with a written note from a parent or guardian. The Schempp family, who had children in the Abington school system, disapproved of the bible reading because it violated their religious beliefs. The family refused to write a letter to have their children excused, and took legal action to stop the school district from conducting the daily bible readings. The district court ruled in favor of the Schempp family. The school district appealed to the Supreme Court of the United States.

Issue

Whether a state, in creating a statute that promotes prayer in its public school system, is violating the establishment clause of the First Amendment, which states that the government may not establish any religion.

Opinion

The Court declared the law calling for "prayer in school" unconstitutional because it represented an establishment of religion by government. Stating that this was a direct violation of the establishment clause of the First Amendment, the Court prohibited bible readings in public schools.

Gideon v. Wainwright

Citation: 372 U.S. 335 (1963)

Concepts: Right to Counsel v. Rights of
the Accused v. State Rights

Facts

Clarence Earl Gideon was arrested in 1961, and charged with breaking and entering a pool hall with intent to commit petty larceny (a felony). He did not have enough money for a lawyer and asked that one be appointed to defend him. The judge denied the request, saying that under Florida state law, counsel can be appointed only in a capital offense. Gideon was sentenced to five years in prison. He then filed a writ of certiorari (petition of appeal) to the Supreme Court of the United States, asking for a case review. The Court granted Gideon's request and appointed Abe Fortas to represent him.

Issue

Whether the state of Florida violated Gideon's Sixth Amendment right to counsel, made applicable to the states by the Fourteenth Amendment, by not providing him with the assistance of counsel for his criminal defense.

Opinion

The Court ruled unanimously in Gideon's favor, and held that the Fourteenth Amendment included state as well as federal defendants. The Court said that all states must provide an attorney in all felony and capital cases for people who cannot afford one themselves. Through the Fourteenth Amendment due process clause, the Sixth Amendment guarantee of the right to counsel applies to the states. [Gideon was retried in Florida and found not guilty.]

Escobedo v. Illinois

Citation: 378 U.S. 478 (1964)

Concepts: Right to an Attorney/Self-Incrimination/ Rights of the Accused v. State Rights

Facts

Escobedo was arrested in 1960, in connection with the murder of his brother-in-law. After his arrest, he requested to see his lawyer but was not allowed to do so. After persistent questioning by the police, Escobedo made a statement which was used against him at his trial and he was convicted of murder. He appealed to the Illinois Supreme Court, which affirmed the conviction. Escobedo then appealed to the Supreme Court of the United States.

Issue

Whether the state of Illinois violated Escobedo's Fourteenth Amendment protections, his Fifth Amendment right to remain silent, and his Sixth Amendment right to assistance of counsel by denying his request to speak to a lawyer before questioning.

Opinion

The Court found that the denial by the police of Escobedo's right to counsel and their failure to inform him of his right to remain silent were clearly unconstitutional. Furthermore, the Court held that incriminating statements made by defendants are inadmissible as evidence unless the accused is informed of his rights before making the statements.

Heart of Atlanta Motel, Inc. v. United States

Citation: 379 U.S. 241 (1964)

Concepts: Discrimination/Individual Property Commerce Clause

Facts

The Civil Rights Act of 1964, passed by the United States Congress, prohibited racial discrimination and segregation in public accommodations. The owner of the Heart of Atlanta Motel refused accommodations to blacks and filed suit, claiming that such control over an individual's business was not within the powers of Congress.

Issue

Whether the United States Congress, under its authority to regulate interstate commerce, has the power to require private businesses within a state to comply with the Civil Rights Act of 1964, which prevents discrimination in places of public accommodations.

Opinion

The Supreme Court of the United States held that the Civil Rights Act of 1964 was constitutional. The Court said that the commerce clause of the Constitution empowers Congress to regulate both commercial and non-commercial interstate travel. Since the motel

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served interstate travelers, its refusal to accommodate blacks posed a potential obstruction to their freedom of movement across state lines. Congress has a right to regulate individual businesses in the interest of promoting interstate travel.

Miranda v. Arizona

Citation: 384 U.S. 436 (1966)

Concepts: Self-Incrimination/Rights of the Accused v. State "Police Powers"

Facts

Ernesto Miranda was convicted of rape and kidnapping. His conviction was based in part on incriminating statements he made to the police while they interrogated him. At no time during the questioning did the police inform Miranda that he did not have to talk to them or that he had the right to a lawyer when being questioned by police.

Issue

Whether the state of Arizona violated the constitutional rights of Miranda under the Fifth, Sixth, and Fourteenth Amendments when they interrogated him without advising him of his constitutional right to remain silent.

Opinion

The Supreme Court of the United States, in a 5-4 decision, ruled that the police were in error. The Court held that the police must inform suspects that they have the right to remain silent, that anything they say may be used against them, and that they have the right to counsel before the police may begin to question those held in custody.

[*Miranda* established the "Miranda Warning" which police now use prior to interrogation of persons arrested.]

Green v. County School Board of New Kent County, Va.

Citation: 391 U.S. 430 (1968)

Concepts: Desegregation/Equal Protection v.

Facts

A small school district with two high schools and a fifty percent ratio black and white student population adopted a "freedom of choice" plan whereby students could choose their own public school. Based on "free choice," black and white students segregated themselves. Green protested, claiming that the "freedom of choice" plan created a segregated school community instead of an integrated one.

Issue

Whether the district's "freedom of choice" plan, resulting in a segregated school community, violated the Fourteenth Amendment and the mandate of the Supreme Court of the United States established under the *Brown v. Board of Education of Topeka* (1954) decision.

Opinion

The Court unanimously decided in favor of Green. The Court noted that the first major school desegregation decision, *Brown*, held that segregated schools were inherently unequal. The Court held that the district's "freedom of choice" plan did not and would not bring about desegregation. The Court emphatically placed on the School Board of New Kent the burden of formulating a desegregation plan that would immediately and realistically achieve integration in its schools.

[*Green* is important because it set in motion the direction the federal district courts took during the 1970s, in ordering busing and other affirmative desegregation steps so that a non-racial system of public education could be achieved.]

Epperson v. Arkansas

Citation: 393 U.S. 97 (1968)

Concepts: Teaching of Evolution/
Establishment Clause v. State Rights

Facts

An Arkansas statute forbade teachers in public schools from teaching the "theory or doctrine that mankind ascended or descended from a lower order of animals." A teacher determined that the law was invalid and lost her job for violating it. The Supreme Court of the United States was called in to review this statute which made it unlawful for teachers in state schools to teach human evolution.

Issue

Whether the Arkansas statute that prohibited the teaching of evolution violated the establishment clause of the First Amendment and the equal protection clause of the Fourteenth Amendment of the Constitution because of its religious purpose.

Opinion

The Court held that the Arkansas statute forbidding the teaching of evolution in public learning institutions was contrary to the freedom of religion mandate of the First Amendment, and was also in violation of the Fourteenth Amendment. The Court ruled that a state may not eliminate ideas from a school's curricula solely because the ideas come in conflict with the beliefs of certain religious groups. In this case, the law that compelled the evolution doctrine to be removed from the course of study was passed to agree with the religious point-of-view of certain fundamentalists. Thus, the reason for removing the doctrine was to aid a religious point-of-view and, therefore, was violative of the First Amendment. The Court said that the law must require religious neutrality.

Tinker v. Des Moines School District

Citation: 393 U.S. 503 (1969)

Concepts: Symbolic Speech/Students'

Facts

In December 1965, Marybeth and John Tinker planned to wear black arm bands to school signifying their protest of the Vietnam War. School officials became aware of the plan beforehand and adopted regulation banning the wearing of such armbands. Failure to comply with this regulation would result in suspension until the student returned to school without the armbands. Both Tinkers went ahead and wore the black armbands to school. They were suspended and told not to return with the armbands. The Tinkers claimed that their rights of free speech and expression, which are protected under the First Amendment of the Constitution of the United States, had been violated, and that they should have been allowed to attend school wearing the armbands.

Issue

Whether Marybeth and John Tinker have a First Amendment right to free speech to wear black armbands as a symbol of protest in a public school.

Opinion

The Court decided that the students did have a right to wear the armbands. It reasoned that the wearing of the armbands was an exercise of the students' right to free, silent, *symbolic* speech, which is protected under the First Amendment: "Students do not shed their constitutional rights at the schoolhouse gate, and therefore are entitled to the free expression of their views as long as there is no *substantial or material* interference of the educational process."

Oregon v. Mitchell

Citation: 400 U.S. 112 (1970)

Concepts: Right to Vote/State Rights v.
Equal Protection

Facts

Several states challenged the Federal Voting Rights Act Amendments of 1970, which lowered the right to vote to age 18, expanded bans on literacy tests, and prohibited application of state durational residency requirements in presidential elections.

Issue

Whether Congress could grant 18-year-olds the right to vote in federal and state elections.

Opinion

The Court ruled to sustain the Voting Rights Act Amendments with respect to federal elections, but struck it down with respect to state elections.

[This decision was handed down on December 21, 1970. Three months later, Congress submitted the Twenty-Sixth Amendment to the states for ratification. On June 30, 1971, the states ratified the Twenty-Sixth Amendment which provided 18-year-olds the right to vote in all state and federal elections.]

New York Times Co. v. United States

Citation: 403 U.S. 713 (1971)

Concepts: Pentagon Papers/Free Press v.
Executive Power

Facts

The United States wanted to restrain the *New York Times* and the *Washington Post* newspapers from publishing a classified study on Vietnam policy entitled, "History of United States Decision Making Process on Vietnam Policy," commonly called "Pentagon Papers."

Issue

Whether the President of the United States had the power to stop the publication of historical news that might have an impact on the Vietnam War.

Opinion

The Supreme Court of the United States said that prior restraints (prohibiting information from being published or aired) are almost never valid. The Government must strongly justify any abridgment of a newspaper's freedom of speech. Since, in the eyes of the Court, national security was not threatened by the printing of the "Pentagon Papers," no prior restraint was necessary and the Government's attempt at censorship was unconstitutional.

P.A.R.C. v. Commonwealth of Pennsylvania

Citation: 334 F.Supp. 1257
(D.C., D.C., 1971)

Concepts: Education for the Handicapped/
Equal Protection v. State Rights

Facts

Several parents of mentally retarded children who were not getting an education brought a class action suit (under the Pennsylvania Association for Retarded Children) on behalf of all

mentally retarded persons who lived in Pennsylvania and who had been denied access to a free public education program appropriate to the individual student's capacity.

Issue

Whether the Commonwealth of Pennsylvania's denial of educational treatment for the mentally retarded violated the equal protection rights under the Fourteenth Amendment.

Opinion

The U.S. District Court found that mentally retarded persons are capable of benefiting from education and/or training. They can, with the state's help, achieve self-sufficiency or self care. Pennsylvania, having undertaken to provide a free education to all of its children, must provide mentally retarded children an educational program that will meet their needs. Educational programs should take place, when possible, in a regular public school classroom.

Swann v. Charlotte-Mecklenburg County Board of Education

Citation: 402 U.S. 1 (1971)

Concepts: Busing/School Desegregation

Facts

In *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), the Supreme Court of the United States ruled that racial segregation in public schools was unconstitutional. *Swann* deals with how school districts such as the Charlotte-Mecklenburg School District in North Carolina may restructure their attendance zones to comply with the *Brown* decision. The Charlotte-Mecklenburg Board of Education proposed a plan that involved busing students to balance the ratio of black to white students in its schools.

Issue

Whether forced busing and a restructured school system are methods of complying with the integration demands set forth in *Brown*.

Opinion

In a unanimous decision, the Court stated that changing attendance zones and busing students to various schools to create racial balance within the schools are acceptable solutions to the problem of segregated school systems. Only when a child's health or education might be significantly hurt by busing, should it be banned. The Court said "a school district has broad powers to fashion a remedy that will assure a unitary school system."

Mills v. Board of Education of District of Columbia

Citation: 348 F.Supp. 866 (1972)

Concept: Education for Exceptional Children
Equal Protection v. State Rights

Facts

Seven children of school age were denied education because they were mentally retarded, emotionally disturbed, hyperactive, or had behavioral problems. The Board of Education did not provide schooling for these exceptional children, violating controlling statutes and their own board regulations. It was also estimated that 18,000 similar "exceptional" children in the Washington, D.C., area were not in school. The D.C. school system admitted that it had failed its duty to provide these children with publicly supported education suited to their individual needs. It also had failed to provide prior hearings and periodic reviews of each exceptional student case.

Issue

Whether the Board of Education's failure to provide schooling, hearings, and periodic reviews for "exceptional" children violated the children's equal protection and due process rights of the Fourteenth Amendment.

Opinion

The Supreme Court of the United States said that the Board of Education of the District of Columbia violated such rights as due process and certain statutes and regulations. The Court held that the Board of Education must provide public schooling for the exceptional children, along with a hearing beforehand to decide whether the child was exceptional. A plan was devised to adopt due process hearing procedures similar to that which the children requested. The Court said that the Board of Education had an obligation to provide whatever specialized instructions were needed to benefit the children, and that every child between the ages of seven and sixteen shall be provided regular instructions. No child eligible for public education should be excluded from school unless an adequate alternative suited to the child's needs was provided.

Furman v. Georgia

Citation: 408 U.S. 238 (1972)

Concepts: Equal Protection/Due Process
Cruel and Unusual Punishment

Facts

William Henry Furman, a 26 year old African American, attempted to burglarize a home in Georgia. When the homeowner awoke and attempted to stop him, Mr. Furman tried to escape. He tripped and dropped his gun, which went off, killing the homeowner. At the trial, Mr. Furman was found guilty of murder, despite a claim of mental incompetence. Under Georgia statute, the jury had the option of recommending the death penalty or life imprisonment. Mr. Furman was sentenced to death. His lawyer argued the Georgian death penalty law was excessively cruel and: (1) made rehabilitation impossible; (2) imprisonment was an available alternative; and (3) the death penalty was imposed almost exclusively on poor people and black persons.

Issue

Whether Mr. Furman's death sentence was a violation of the Eighth Amendment's Cruel and Unusual Punishment Clause and the Equal Protection and Due Process Clause of the Fourteenth Amendment.

Opinion

In a 5-4 decision the Supreme Court of the United States struck down all existing state death penalty laws. The justices reasoned these death penalty laws left almost unlimited discretion to the judges or juries in deciding the sentence. The majority of the justices agreed that almost all those convicted in capital trials were black or poor or both, which they found "capriciously selective." The Court did not declare capital punishment a violation of the Eighth Amendment's "Cruel and Unusual Punishment" clause. Instead, it declared the existing death penalty laws violated the due process clause of the Fourteenth Amendment.

Roe v. Wade

Citation: 410 U.S. 113 (1973)

Concepts: Abortion/Right of Privacy v. State
Rights/Reserve Powers

Facts

A Texas woman sought to terminate her pregnancy. However, a Texas law made it a crime to procure or attempt an abortion except when the mother's life would be in danger if she remained pregnant. Ms. Roe challenged the Texas law on the grounds that the law violated

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her right of personal liberty given in the Fourteenth Amendment and her right to privacy protected by the Bill of Rights.

Issue

Whether state law which bans or regulates abortion violates a woman's right to privacy or personal choice in matters of family decisions or marriage.

Opinion

The Supreme Court of the United States decided that states could regulate abortions only in certain circumstances but otherwise women did have a right to privacy and reproductive autonomy. The Court divided a woman's pregnancy into three time periods: 1) during the first trimester (the first three months of pregnancy), states may not interfere with a woman's decision to have an abortion; 2) during the second trimester, states could regulate abortions, but only if such regulation was reasonably related to the mother's health; and, 3) during the third trimester, which occurs after the fetus (unborn child) reaches viability (the stage at which it can survive outside the mother's body), states may regulate absolutely and ban abortions altogether in order to protect the unborn child. The woman's right to privacy was held to be a fundamental right which could only be denied if a compelling state interest existed. Once the fetus reaches a "viable" stage of development, such a compelling point is reached because the unborn child is now given constitutional protection.

United States v. Nixon

Citation: 418 U.S. 683 (1974)

Concepts: Watergate/Federal Due Process v.

Facts

In the first half of 1972, the Democratic National Headquarters at the Watergate Office Building in Washington, D.C., was broken into. The investigation that followed centered on staff members of then Republican President Richard M. Nixon. The Special Prosecutor subpoenaed certain tapes and documents of specific meetings held in the White House. The President's lawyer sought to deny the subpoena. The Special Prosecutor asked the Supreme Court of the United States to hear the case before the lower appeals court ruled on the President's appeal to deny the subpoena.

Issue

Whether the United States violated President Nixon's constitutional right of executive power, his need for confidentiality, his need to maintain the separation of powers, and his executive privilege to immunity from any court demands for information and evidence.

Opinion

By an 8-0 vote, the Court decided that President Nixon must hand over the specific tapes and documents to the Special Prosecutor. Presidential power is not above the law. It cannot protect evidence that may be used in a criminal trial.

Goss v. Lopez

Citation: 419 U.S. 565 (1975)

Concepts: Suspension/State Rights v. Students' Due Process

Facts

Several public high school students (including D. Lopez) were suspended from school for misconduct but were not given a hearing immediately before or after their suspension. School authorities in Columbus, Ohio, claimed that a state law allowed them to suspend students for up to ten days without a hearing. The students brought a legal action, claiming that the statute was unconstitutional because it allowed school authorities to deprive

students of their right to a hearing, violating the due process clause of the Fourteenth Amendment.

Issue

Whether the suspension of a student for a period of up to ten days without a hearing constitutes a violation of the due process clause of the Fourteenth Amendment.

Opinion

The Supreme Court of the United States said that education is a property interest protected by the Fourteenth Amendment's due process clause and any suspension requires prior notice and a hearing. Permitting suspension without a hearing is, therefore, unconstitutional. The Court said that oral or written notice of the charges brought against a student must be given to the student who is being suspended for more than a trivial period. If he denies the charges, the student must be given a hearing. The hearing may be an informal one where the student is simply given an explanation of the evidence against him and an opportunity to tell his side of the story.

University of California Regents v. Bakke

Citation: 438 U.S. 265 (1978)

Concepts: Affirmative Action/State Rights v. Equal Protection

Facts

Allan Bakke, a white male, applied to the University of California at Davis Medical School. He was denied admission because he did not meet the standard entrance requirements. Davis Medical School also had a special admissions program for minorities. Sixteen per cent of the available places were reserved for minorities who did not meet the standard entrance requirements. Bakke argued that the requirements for special admissions to the medical school were discriminatory because only African-American, Chicano, and Asian students could compete for these places. The University of California argued that its special admissions program remedied the long standing historical wrong of racial discrimination.

Issue

Whether the University's special admissions program, which accepted minority students with significantly lower scores than Bakke, violated Bakke's Fourteenth Amendment equal protection rights; and whether the University was permitted to take race into account as a factor in its future admissions decisions.

Opinion

The Supreme Court of the United States did not render a majority opinion in this case (i.e., one in which five or more of the nine justices agree). Six separate opinions were written, and no more than four justices agreed in whole in their reasoning. The Court ordered Bakke's admission to Davis Medical School and invalidated the University's special admissions program because the program barred people like Bakke from applying for the special admissions seats in the medical school. However, of much greater significance was the fact that the Court allowed institutions of higher learning to take race into account as a factor in their future admissions decisions. Justices Brennan, White, Marshall, and Blackman said that this aspect was the central meaning of the case: "Government may take race into account when it acts not to insult any racial group but to remedy disadvantages cast on minorities by past racial prejudice."

[While to some observers Bakke won a place in the school and the particular special admissions program at Davis was invalidated, the case really stands as a landmark civil rights-affirmative action decision. Race may hereafter be taken into account as a factor in college admissions.]

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Plyler v. Doe

Citation: 457 U.S. 202 (1982)

Concepts: Rights of Aliens/
Equal Protection

Facts

In 1981, the state of Texas passed a statute (Tex. Educ. Code Ann. sec. 21.031) which prohibited the use of state funds for the education of any children who were not citizens of the United States. They did this for three reasons: first, it would prevent illegal immigrants from wanting to enter the state; second, the state would not be burdened with educating illegal immigrants; and, third, the state would not be educating people who would likely leave the state.

Issue

Does a state in denying an education to the children of illegal immigrants deprive them of equal protection of the law as found in the Fourteenth Amendment?

Opinion

In a 5-4 decision the Supreme Court of the United States ruled that a state may not deny a public education to the children of illegal immigrants unless they can show a substantial state interest. The Court ruled none of the three reasons given by Texas were substantial enough to allow the state to deny a public education to these illegal immigrants' children. The Court also said that denying the children an education could lead to illiteracy and would deny them an ability to become productive participants in our civic society.

Board of Education, Island Trees School District v. Pico

Citation: 457 U.S. 853 (1982)

Concepts: Book Banning/Reserved Clause v.
First Amendment

Facts

The Board of Education of the Island Trees School District in New York directed the removal of nine books from the libraries of the Island Trees senior and junior high schools because in the Board's opinion the books were "anti-American, anti-Christian, anti-Semitic, and just plain filthy." Some books included were: *The Fixer*, *Soul on Ice*, *Slaughterhouse Five*, *Go Ask Alice*, *The Best Stories by Negro Writers*, and others. Four students from the high school and one from the junior high school sued the school district, claiming that the removal of the books was a violation of the First Amendment's guarantee of freedom of speech.

Issue

Whether the First Amendment limits a local school board's discretion to remove library books from senior and junior high school libraries.

Opinion

The Supreme Court of the United States ruled in favor of the students, saying that the books were not required reading. According to Justice Brennan, who cited *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943), "Local school boards may not remove books from school library shelves simply because they dislike the ideas contained in these books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." He also cited *Tinker v. Des Moines School District*, 393 U.S. 503 (1969), saying that high school students have First Amendment rights in the classroom. Although the schools have a right to determine the content of their libraries, they may not interfere with a student's right to learn. Therefore, the schools may not control their libraries in a manner that results in a narrow, partisan view of certain matters of opinion. The Court stood against the removal or suppression of ideas in schools.

New Jersey v. T.L.O.

Citation: 469 U.S. 325 (1985)

Concepts: Search & Seizure/State Rights v. Students' Due Process

Facts

In 1980, a teacher at Piscataway High School, New Jersey, discovered two girls smoking in the lavatory. Since smoking was a violation of a school rule, the two students, T.L.O. and a companion, were taken to the principal's office. There they met with the assistant vice-principal who demanded to see T.L.O.'s purse. Upon opening the purse, he found cigarettes and cigarette rolling paper. He proceeded to look through the purse and found marijuana, a pipe, plastic bags, money, lists of names, and two letters that implicated her in drug dealing. T.L.O. argued the search of her purse was unconstitutional.

Issue

Whether the state of New Jersey and its agent, the assistant vice-principal, violated T.L.O.'s Fourth Amendment right of protection from "unreasonable search," her Fifth Amendment right of protection from self-incrimination, and her right to due process as provided in the Fourteenth Amendment.

Opinion

The Supreme Court of the United States held for the school and its assistant vice-principal. The Court reasoned that to maintain discipline in school, the school officials who have "reasonable suspicion" that a student has done something wrong can conduct a reasonable search of the suspicious student. A school's main objective is to educate students in a legal, safe learning environment. Police need "probable cause," a higher standard, to search people, places, and things. School officials, unlike the police, need only "reasonable suspicion" to search students when they believe unlawful conduct is occurring.

Wallace v. Jaffree

Citation: 472 U.S. 38 (1985)

Concepts: Moment of Silence/State Rights v. Establishment Clause

Facts

The parents of three children attending public school in Alabama challenged the constitutionality of an Alabama law which authorized a one minute period of silence in all public schools for meditation or voluntary prayer.

Issue

Whether the Alabama law requiring a one minute silence period encouraged a religious activity in violation of the First Amendment establishment clause.

Opinion

The Supreme Court of the United States held that the Alabama law was a law respecting the establishment of religion and thus violated the First Amendment. The Court said that the First Amendment was adopted to limit the power of Congress to interfere with a person's

freedom to believe, worship, and express himself as his conscience tells him. The Amendment gives an individual the right to choose a religion without having to accept a religion established by the majority or by government.

The Court said that government must be completely neutral toward religion and not endorse any religion. Therefore, statutes like the Alabama law requiring one minute for silence in the schools must have a secular or non-religious purpose to be within the Constitution. Since Senator Holmes, who was the primary sponsor of the bill, testified "that the bill was an effort to return voluntary prayer to our public schools," the Court decided that the purpose of the Alabama law was to endorse religion and was solely an effort to return voluntary prayer to the public schools. It was, therefore, struck down as being inconsistent with the Constitution.

Hazelwood School District v. Kuhlmeier

Citation: 484 U.S. 260, 108 S.Ct. 562 (1988) **Concepts:** Censorship/State Rights v. Students' Free Press Rights

Facts

Kathy Kuhlmeier and two other journalism students wrote articles on pregnancy and divorce for their school newspaper. Their teacher submitted page proofs to the principal for approval. The principal objected to the articles because he felt that the students described in the article on pregnancy, although not named, could be identified, and the father discussed in the article on divorce was not allowed to respond to the derogatory article. The principal also said that the language used was not appropriate for younger students. When the newspaper was printed, two pages containing the articles in question as well as four other articles approved by the principal were deleted.

Issue

Whether the Hazelwood School District violated the freedom of expression right of the First Amendment by regulating the content of its school newspaper.

Opinion

The Supreme Court of the United States held that the Hazelwood School District did not violate the First Amendment right of the students. The Court ruled that although schools may not limit the personal expression of students that happens to occur on school grounds, *Tinker v. Des Moines*, 393 U.S. 503 (1969), they do not have to promote student speech that they do not agree with. This decision gave schools the power to censor activities such as school plays and school newspapers as long as the school finances the activities and there are grounds for the censorship. The Court said in *Tinker* that in order to censor a student's expression, the expression must substantially disrupt the school's educational process, or impinge upon the rights of others. This case broadened that guideline to include censorship of unprofessional, ungrammatical or obscene speech, or speech that goes against the fundamental purpose of a school.

Texas v. Johnson

Citation: 491 U.S. 397 (1989)

Concepts: Flag Burning/Free Speech

Facts

In 1984, Gregory Lee Johnson burned an American flag in front of the Dallas City Hall. He burned the flag as a means of protest against the policies of President Ronald Reagan's Administration. Under Texas law desecration of the American flag is a criminal offense. Mr. Johnson was convicted and sentenced to one year in jail and a \$2,000 fine.

Issue

Does a law against desecration of the American flag violate an individual's right to freedom of speech as found in the First Amendment?

Opinion

In a 5-4 decision the Supreme Court of the United States found that desecrating the flag as an act of protest is an act of expression, an act protected by the First Amendment. The Court found that burning the American flag was political speech which Justice Brennan wrote "...is the bedrock principle underlying the First Amendment. Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

Webster v. Reproductive Health Services

Citation: 492 U.S. 490 (1989)

Concepts: Abortion/Right to Privacy

Facts

In 1986, the State of Missouri passed laws barring the use of public funds, public facilities or public employees to perform abortions, unless the life of the mother was in question. The Missouri law also required all doctor's to test fetal viability. Black's Law Dictionary defines viability as "when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems." The Missouri law outlawed abortions if viability existed.

Issue

Did the Missouri laws infringe upon a women's right to privacy and an abortion as provided for through the Fourth and Fourteenth Amendments?

Opinion

In a 5-4 decision, the Supreme Court of the United States upheld Missouri's significant restrictions on abortion and ruled that prohibiting the use of public funds to support abortions does not deny an individual the right to an abortion as established in *Roe v. Wade* 410 U.S. 113 (1973). The Court ruled nothing in the Constitution requires a state to support funding an abortion. The Court also ruled that a state's interest in viability testing is allowable.

Cruzan v. Director, Missouri Dept. of Health

Citation: 497 U.S. 261 (1990)

Concepts: Right to Die/State Police Powers

Facts

In 1983, Nancy Beth Cruzan was involved in an automobile accident which left her in a "persistent vegetative state" with no sign of recovery. In the hospital her life support system consisted of artificial feedings through a gastronomy tube. After several weeks, Ms. Cruzan's parents attempted to terminate the life-support system based on statements Nancy had made before the accident that she would not want to live "as a vegetable." State hospital officials refused to terminate the life-support systems arguing that they were bound to preserve human life.

Issue

Did the state's refusal to terminate Nancy's life support system violate the Cruzan's Fourteenth Amendment due process and liberty interest rights to refuse unwanted medical treatment?

Opinion

In a 6-3 decision, the Supreme Court of the United States found that a person did have a liberty interest under the due process clause of the Fourteenth Amendment to refuse medical treatment, provided they were competent and there was "clear and convincing" evidence the person did not want artificial support to keep them alive. Without this evidence a state obligation to preserve human life overrules the wishes of the patient or parents. In this case, the Cruzans had no "clear or convincing" evidence like a "living will" to terminate the life support system.

Metro Broadcasting v. Federal Communications Commission

Citation: 497 U.S. 547 (1990)

Concepts: Civil Rights/Equal Protection

Facts

Under Congressional authority, the Federal Communications Commission (FCC) adopted policies which favored minority-owned stations for broadcasting licenses. These policies gave minority applicants preferential treatment for "new" licenses and existing licenses which were up for sale. The policies were considered a form of affirmative action which helped the Federal government achieve their objective to create broadcast diversity. Metro Broadcasting appealed the FCC policy which awarded a television license to Rainbow Broadcasting.

Issue

Did the preferential treatment policies of the United States Congress and the Federal Communications Commission violate the equal protection clause of the Fourteenth Amendment?

Opinion

In a 5-4 decision, the Supreme Court of the United States said that Congress has the power to authorize preferential treatment policies if they serve an important specific governmental interest. The specific interest here is to promote broadcast diversity and increase the ownership of minority broadcasting companies. In this case the Court recognized that broadcast diversity is essential to a democracy and upheld the FCC license of Rainbow broadcasting.

Harmelin v. Michigan

Citation: 501 U.S. 957 (1991)

Concepts: Cruel and Unusual/
Proportionality

Facts

Under Michigan law any person found in possession of more than 650 grams of cocaine will be sentenced to a mandatory term of life in prison without the possibility of parole. Mr. Harmelin was convicted of possessing 672 grams of cocaine and was sentenced to life in prison. He claimed his sentence was unconstitutional because it was "cruel and unusual," and "significantly disproportionate" to the crime he committed, which was nonviolent and victimless. Further, he claimed the judge should be required by law to impose the sentence after considering the criminal record of the defendant.

Issue

Does Michigan's mandatory life in prison sentence violate the Eighth Amendment's protection against cruel and unusual punishment?

Opinion

In a 5-4 decision, the Supreme Court of the United States held that the Eighth Amendment only requires a state to consider whether a person deserves a particular penalty in capital crimes (death penalty). Harmelin's sentence was life in prison without parole (non-capital). The Court claimed that a sentence can be cruel as long as it is not also unusual. The Court responded to Mr. Harmelin's claim that his crime was nonviolent and victimless, pointing out that studies confirmed illegal drugs, particularly cocaine, pose a threat to society in terms of violence, crime, and social displacement. The Court reasoned that the cocaine Harmelin possessed had a yield of up to 65,000 doses which justified the life sentence without parole. The Court concluded in this case that the state of Michigan did not need to consider the defendant's lack of a prior criminal record.

Lee v. Weisman

Citation: 505 U.S. 577 (1992)

Concepts: School Prayer/
Freedom of Religion
Establishment Clause

Facts

In June of 1989, Deborah Weisman, a 14 year old, graduated from Nathan Bishop Middle school; a public school in Providence, Rhode Island. For years, the superintendent of schools permitted the middle school's principals to invite members of the clergy to give invocation and benediction prayers at the graduation ceremony. The principal of Nathan Bishop Middle School invited a rabbi to deliver prayers at Deborah's class graduation ceremony. The Weisman's went to court to stop the school officials from inviting clergy to pray at the graduation.

Issue

Do school officials, who invite clergy to provide prayer at a graduation ceremony, violate the Establishment clause of the First Amendment?

Opinion

In a 5-4 decision, the Supreme Court of the United States ruled that allowing prayers as part of a school program is unconstitutional. The Court reasoned that allowing such conduct creates subtle and indirect coercion, forcing students to act in a way which may establish a state religion. Students however, are free in a public school to engage in voluntary private prayer.

Planned Parenthood of Southeastern Pennsylvania v. Casey

Citation: 550 U.S. 833 (1992)

Concepts: Abortion/Due Process/Liberty/
Privacy/State Rights

Facts

The Pennsylvania legislature amended its 1982 abortion control law in 1988 and 1989 to add five new regulations. The new provisions required a 24-hour waiting period prior to the abortion. All minors seeking an abortion would need consent of at least one parent. All married women seeking an abortion had to notify their husbands of their intention to abort the fetus. (The law allows for a judicial bypass procedure if the consent and notification requirement create extenuating circumstances.) Final detailed reporting requirements on abortion facilities and services had to be maintained.

Issue

Whether or not the rights of a woman to abort her fetus is "a liberty" protected by the Fourteenth Amendment against "substantial obstacle" established by a state.

Opinion

The Supreme Court of the United States, in a 5-4 decision, reaffirmed a woman's "liberty" to have an abortion as it had in the *Roe v. Wade* decision. The Court, however, upheld most of the state of Pennsylvania's abortion control law provisions reasoning that these provisions do not create an "undue burden" or "substantial obstacle" for women seeking an abortion. Under this new "undue burden" test, the only provision to fail was the husband notification requirement.

Vernonia v. Acton

Citation: 115 S. Ct. 2386 (1995)
Search and

Concepts: Student
Seizure

Facts

Vernonia school district of Oregon, concerned about the drug problem among athletes and students in their own school community and America in general, sought to reduce the problem by creating a student-athlete drug policy. School officials worried that drug use by athletes might produce more risk of sports-related injuries. The Vernonia school district student-athlete drug policy authorized urinalysis drug testing of student athletes. James Acton refused the urinalysis test and was disallowed participation in the school's junior high football program.

Issue

Does drug testing of students athletes violate their protection against unreasonable search and seizure provided in the Fourth Amendment?

Opinion

In a 6-3 decision, the Supreme Court of the United States reasoned that drug testing of student athletes was constitutional. The Court accepted the argument that student rights were lessened at school if it was necessary to maintain student safety and to fulfill the educational mission of the school.

Reno v. A.C.L.U.

Citation: 96-511 (1997)

Concepts: Free Speech/Censorship/
Obscene/Indecent/Cyberspace

Facts

The 1996 Federal Communications Decency Act sought to protect minors from "indecent" and offensive Internet materials. The Act made it a crime to transmit obscene or indecent messages over the Internet.

Issue

Whether the 1996 Communications Decency Act violates the First and Fifth Amendments of the Constitution by being vague in its definition of the types of Internet communications it could find unlawful.

Opinion

The Supreme Court of the United States, in a 7-2 decision, held the Communications Decency Act violated the First Amendment. The Court reasoned the act did not clearly

define "indecent." The Court felt the act could establish a content-based blanket restriction of free speech and the act did not demonstrate an authority on the unique nature of the internet and its social value.

Clinton v. New York City

Citation: 97-1374 (1998)

Concepts: Veto/Separation of Powers

Facts

In 1997, the United States Congress passed The Line Item Veto Act. This act permitted the President of the United States to cancel or veto one provision of an act without vetoing the entire act. Specifically, it gave the President the power to cancel: 1) any dollar amount of discretionary budget; 2) any item of new direct spending; and 3) any limited tax benefit the act would allow. President William J. Clinton exercised his authority by canceling one provision in the Balanced Budget Act of 1997 and two provisions in the Taxpayer Relief Act of 1997.

Issue

Does the Line Item Veto Act violate the separation of powers outlined in Article I, II and III of the Constitution of the United States?

Opinion

In a 6-3 decision, the Supreme Court of the United States ruled that the Line Item Veto Law was unconstitutional. A law granting the President the ability to cancel provisions of a law would alter the very process by which a bill becomes law under the Constitution according to Article 1, Section 7, Provision 2. This fact would change the very nature of the separation of powers designed by the founding fathers.

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PRE-POST EVALUATION OF CONSTITUTIONAL CASEBOOK

SECTION A: MULTIPLE CHOICE: (Answers Can Be Found in Appendix A.)

DIRECTIONS: In the Answer Section below, Place the letter a, b, c, or d that best answers the multiple choice question.

1. The Supreme Court of the United States is a: a. Trial Court b. Court of Claims c. District Court d. Appeals Court.
2. Who makes the final determination (confirms) whether a person will serve on the Supreme Court: a. The President b. The Chief Justice c. The House of Representatives d. The U.S. Senate
3. Supreme Court Justices can offer what kind of an opinion in a case before them? a. Dissenting Opinion b. Concurring Opinion c. Majority Opinion d. All of the Preceding.
4. A Supreme Court Justice serves for: a. 12 Years b. Life c. 13 Years d. 6 Years
5. In *Brown v. Board of Education* (1954), the Court decided to: a. Improve Textbooks b. Desegregate Our Schools c. Establish Free Public Schools d. Provide for "Separate But Equal" Schools.
6. In *Korematsu v. United States* (1944), the Court upheld the relocation of what group of people to inland relocation camps: a. German Americans b. Italian Americans c. Japanese Americans d. Irish Americans.
7. In *Dennis v. United States* (1951), the Supreme Court of the United States upheld the conviction of members of what party for advocating the forceful overthrow of the American Government: a. Republican Party b. Democratic Party c. Liberal Party d. Communist Party.
8. In *Roe v. Wade* (1973), the Court dealt with what issues? a. Equal Job/Equal Pay b. Privacy/Abortion c. Sex Discrimination/Harassment d. Maternity Leave/Child Care.
9. In *Tinker v. Des Moines* (1965) the Supreme Court explored the Constitutional Rights of what group of people: a. African Americans b. Women c. Students d. Christians.
10. In *Schenck v. United States* (1919), the Court ruled freedom of speech and press can be restricted if it: a. Is Obscene b. Is Disruptive c. Creates a Clear and Present Danger d. Is Funny.
11. In *Watkins v. United States* (1957), the Court ruled that congressional investigations must: a. Aid their Legislative Functions b. Be Pertinent to the Subject Under Investigation c. Spell Out their Purpose d. All of the Above.
12. In *Lochner v. New York* (1905), the Court struck down a New York State law which limited: a. Car Insurance b. Safety Requirements c. Union Shops d. Hours a Person Could Work.
13. In *Miranda v. Arizona* (1966), the Supreme Court ruled all persons who are arrested have all but which one: a. Right to a Lawyer b. Right to Remain Silent c. Right to a Jury Trial d. Right to Free Legal Advice.
14. In *The United States v. Nixon* (1974), the Supreme Court ruled a U.S. President: a. Can Claim Executive Privilege b. Has Separate and Special Powers c. Needs to Maintain Secrets is Protected by Law d. Is Not Above the Law.
15. In *Clinton v. New York City* (1998), the Court held the line item veto was: a. Unconstitutional b. Constitutional c. A Presidential Power d. A Legislative Power.

SECTION B: ANSWERS:

- | | | | | |
|-------------|-------------|-------------|--------------|--------------|
| 1. <u>D</u> | 4. <u>B</u> | 7. <u>D</u> | 10. <u>C</u> | 13. <u>C</u> |
| 2. <u>B</u> | 5. <u>B</u> | 8. <u>B</u> | 11. <u>D</u> | 14. <u>D</u> |
| 3. <u>D</u> | 6. <u>C</u> | 9. <u>C</u> | 12. <u>D</u> | 15. <u>A</u> |

