

Constitutional Law, Spring 2006
Professor Jeff Roy
Midterm Examination

Instructions—please read carefully.

1. You have one hour and thirty minutes to complete the exam. Please hand in your exam books promptly at the end of that time.
2. The exam consists of one question with two parts. Part 1 will count for approximately 30% of the grade, and Part 2 for approximately 70% of the grade.
3. The exam is open book. You may refer to the casebook (Sullivan & Gunther, Constitutional Law, 15th ed.) and any notes you have prepared for the class. You may not refer to any other materials or use any electronic devices.
4. Limit your answers to the federal constitutional issues that we have covered so far in the course. Ignore any other issues that might seem present. A question may raise more than one constitutional issue. If it does, you should address all issues presented even if you believe that one of them is dispositive.
5. The scenario presented in the exam question is fictional. Use only the facts I give you in answering the question. Do not assume any other facts you may know independently. If you think your answer depends on some material fact that is ambiguous or missing, state what it is and why it matters.
6. Conciseness, clarity, and legibility will be counted in grading. You should think about and organize your answers carefully before you begin writing. You may want to outline the answer on a separate sheet of paper prior to writing your full answer in the blue book. Use section headings to make the organization of your answers clear.
7. Please use a separate blue book for each of the two parts of the question. Remember to write your examination number only (not your name) on each blue book that you use. Your answer should be double spaced, and you should write on only one side of each page.

Good Luck!

DO NOT TURN TO PAGE 2 UNTIL THE PROCTOR TELLS YOU TO BEGIN

Midterm Examination

The state of Kansas has long had a strong agricultural industry and, in particular, a tradition of family farming. Recently, some state legislators have become concerned about the rise of big agribusiness and the perceived demise of the family farm. The state legislature holds hearings regarding family farms in Kansas. Evidence introduced at the hearing includes the following facts:

Considerable consolidation has occurred in the U.S. farming and ranching industries over the past twenty years. In 1980, there were 2.3 million farms in the United States. Today, there are fewer than 1 million. In 1980, four firms controlled 36% of the beef slaughter industry. Today, the same four firms control 80%.

Large commercial farms enjoy economies of scale, and therefore are typically more economically efficient than family-owned farms. Currently, the largest 6% of farms in the US receive 60% of total farm receipts.

Approximately 75% of Kansas farms are family owned. However, the 25% that are not family owned account for nearly two-thirds of all agricultural production in the state. Virtually all of the non-family farms are owned by corporations located outside of Kansas.

Family farms provide benefits to the state. For example, locally-owned farms are more likely to use environmentally responsible farming methods since they have a vested interest in the health of the state's ecology. Decentralized land ownership produces more equitable opportunities for people in rural communities. Family farms can also be nurturing environments for children to grow up in and acquire the values of responsibility and hard work.

Based on this evidence, the legislature proposes Initiative 150, to be placed on the ballot in the next election. The Initiative will become law if approved by a majority of voters.

Initiative 150 amends the Kansas Constitution to include the following provisions:

No corporation, other than a family farm corporation, shall engage in farming or acquire an interest in any real property used for farming in this state.

A "family farm corporation" is defined as

a corporation engaged in farming in which the majority of voting stock is held by members of a family, at least one of whom is a person residing on or actively engaged in the day to day labor and management of a farm.

The Initiative includes a "grandfather clause" that excludes interests in land that existed at the time the Initiative was passed.

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A Voter's Guide accompanying the ballot includes an argument in favor and an argument against Initiative 150. The argument in favor reads, in part,

- Protect our environment!
- Protect small farmers!
- Keep rich corporations from ruining Kansas!

VOTE YES ON INITIATIVE 150!

The Initiative is approved by a majority of voters at the next election and becomes part of the state constitution.

Jim Johnson is a Kansas resident who has been engaged in farming for the past 40 years. He currently owns all of the shares in a corporation that owns and operates his family farm. Jim no longer resides or works on the farm property, and its day-to-day operations are overseen by his son Gordon, who lives and works on the farm. Gordon has applied to graduate school beginning next fall, and if accepted he would like to move off of the property, in which case the family corporation would no longer meet the "family farm" exception of Initiative 150. While his current holdings would be protected by the Initiative's grandfather clause, Jim thinks he might want to buy additional farmland in the future and will be prohibited by the new amendment if he doesn't fall within the family farm exception. The amendment would also limit to whom he could see his property if he ever wanted to sell. Finally, Jim happens to be a state senator, and voted against the proposed Initiative while it was being considered by the legislature.

Jim Johnson would like to bring a lawsuit challenging the constitutionality of Initiative 150, and has come to you for legal advice. In particular, he would like answers to the following questions:

- (1) **Would a federal court have the power to hear the claim?** (25 minutes)
- (2) **Is the law constitutional?** (65 minutes).

In answering these questions, you specifically do not need to discuss any issues involving Article IV of the federal constitution.