

# Constitutional Law I

## Mock Final Exam

Prof. Pi • Spring 2024

### Instructions

- Carefully read the fact pattern below.
- Your answer should consist of possible arguments for both the petitioner and respondent.
- You will be awarded one point for each sound argument you produce.
- An “argument” consists of a major premise, minor premises, and a conclusion.
- Fractional points may be awarded for defective arguments.
- Duplicative, trivial, and redundant arguments will not be awarded points.
- Your analysis may be based on any part of the main text of the Constitution. You may find the following sections especially helpful in your analysis:
  - Art. I, Sec. 1, 7, 8, 9;
  - Art. II, Sec. 1, 2;
  - Art. III, Sec. 1, 2;
  - Art. IV, Sec. 2
  - Art. VI
- Disregard all Amendments except the Tenth Amendment.
- Use of ChatGPT (or other language models) is permitted on this exam.
- This exam is open-book / open-internet.
- The length of your exam may not exceed 2,500 words.
- You will have 24 hours to complete the exam.
- Do *not* write your name anywhere in your exam file.

### Fact Pattern

On September 1, 2024, in response to a spate of anticompetitive state legislation aimed at promoting local small businesses across the country, the U.S. Congress passed the Free and Fair Business Act. In addition to establishes several funding initiatives aimed at simulating new businesses, the law creates a new administrative agency—the Federal Commerce Authority

(“FCA”)—which is charged with “overseeing state commercial practices to ensure that they do not burden interstate commerce.”

On February 1, 2025, the FCA begins investigating a Vermont law, which requires all maple syrup produced, transported, or sold in the state to be “harvested humanely.” These “humane harvesting” practices limit the maximum diameter of taps that can be used to gather maple sap. In order to facilitate the transition to “humane harvesting,” the state offers to provide free replacement taps of the acceptable size to any Vermont business or resident upon request.

On March 30, 2025, upon concluding that the Vermont “humane harvesting” statute was designed to advantage in-state maple syrup producers, the FCA issues a new regulation 31 CFR 415.9 which proclaims:

Any State law which purports to prevent “cruelty” to trees, shrubs, or other flora hereby lacks a legitimate government purpose as a matter of law. Any State enforcing such a law may be (1) subject to a monetary fine equivalent to the burden imposed upon interstate commerce thereby; (2) denied any funding otherwise due to the State under the Free and Fair Business Act; or (3) obliged to fund outreach programs to encourage the entrance of out-of-state businesses into the State’s market.

The Governor of Vermont, in a televised address, responds to the FCA:

Citizens of Vermont! The feds are telling us that our trees don’t have feelings. But we know better, don’t we? Vermonters know. Trees can be just as emotional as—maybe even *more* emotional than—human beings. I promise you this, dudes: we

will resist the FCA. I promise you that! Let me tell you a story. It's got a twist. I have a ficus in my office, which was wilting. I watered it with some crushed up Zolof, and it perked right up. Now is that proof that plants have feelings? You bet it is. So maybe the federal government should spend more time looking into this whole alien situation and less time protecting tree abusers! How about that, man? And just to be clear: I mean space aliens—not immigrants.

On April 14, 2025, the FCA determines that the State of Vermont has violated 31 CFR 415.9. It imposes a \$10 million fine, demands a return of any federal funds received under the Free and Fair Business Act, and requires that Vermont cease collection of sales taxes on any out-of-state maple syrup sold in the State.

The FCA action triggers a nationwide response from People for the Ethical Treatment of Herbage (“PETH”). Activists associated with PETH hold demonstrations across the country, and PETH representatives lobby members of Congress in Washington. In addition, several states, outraged by the perceived overreach of the federal government, threaten to secede from the Union. The collective pressure results in passage of the Saving Plants and Trees Act (“SPLAT”) in the House and Senate. However, the bill is ultimately vetoed by the President.

The Governor of Vermont sues the federal government. The Supreme Court grants *certiorari*.