

Constitutional Law 17.245: Paper #1
Due: Friday, March 15, 5pm

In the fall of 2014, Democrats take control of the House of Representatives and retain control of the Senate. In the first week of the new Congress, the House Energy and Commerce Committee holds a series of hearings on global warming. The Committee finds that greenhouse gases are causing global warming. Moreover, the Committee finds that global warming is an urgent threat to the American economy. As a result, Congress quickly passes a comprehensive bill to address global warming called the "Climate Stabilization Act" (CSA).

The law has the following sections:

- 1) All commercial establishments, with the following exceptions, shall pay a tax of \$20 per ton of carbon dioxide emissions. Exceptions include:
 - a. Commercial establishments in California and Oregon shall only be required to pay a tax of \$10 because these states are subject to heightened competition from low-cost manufacturers in China.
 - b. Establishments that manufacture or service textiles (clothes) shall only be required to pay a tax of \$5 because these industries are particularly vulnerable to competition from low-cost manufacturers in China.
- 2) All commercial establishments that employ more than 5 people shall be required to install advanced technologies to reduce their greenhouse gas emissions. Town or county building inspectors shall inspect businesses for compliance with this section of the CSA, and report non-complying businesses to the Environmental Protection Agency.
- 3) States shall have the opportunity to develop comprehensive plans to reduce their greenhouse gas emissions by 50% by 2030. States that do not establish these plans will lose access to 30% of their federal highway funding.

President Obama signs the new bill into law in February 2015. The law is immediately challenged by a small dry cleaner in Cambridge Massachusetts. The dry cleaner has 6 employees. It asserts that it serves only local residents and does not engage in interstate commerce except through its greenhouse gas emissions. It challenges each section of the law as beyond Congress's Constitutional powers.

Imagine that you are a member of the United States Supreme Court. You are asked by your colleagues to write the opinion of the Court in this case. Please write a persuasive 7-page essay in which you address the constitutionality of each section of the CSA.

On the last page of your essay, please briefly address the policy implications of your decision for federalism (i.e., the balance of power between the states and the federal government) and the future of greenhouse gas regulations.

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