

### QUESTION ONE

The Presidential Campaign was heating up. One Candidate in particular had created a stir: billionaire businessman, best-selling author and television celebrity Ronald Rump. He called for a halt to illegal immigration and the building of a wall along the southern border, proclaimed the immutable right to keep and bear arms, seemed to conflate Muslims and terrorists, said things that some observers took to be sexist and even suggested that the current president wasn't an American. Leaders in both political parties were alarmed. The alarm was all the greater because Rump was currying a growing amount of support across party lines. Something had to be done. Debates were had in both houses of Congress. Members of Congress condemned Rump and presented a variety of proposed laws for consideration.

In January of 2016, Congress passed three bills. Saying "that'll fix that horse's rump" to the raucous applause of numerous members of Congress, the President duly signed the legislation. The legislation took effect as law on February 1, 2016. The three new laws were as follows:

1. *The De-Commercialization of Elections Act*. It prohibited the sale of books by candidates for federal office one year prior to an election, unless the books were printed in the States where they were sold.

2. *The Love Enforcement Act*. It prohibited "Hate Speech." "Hate Speech" was defined as any speech that impugns any person on the basis of race, religion, ethnicity, national origin, disability, sex and sexual preference.

3. *The International Amity Act*. It barred candidates for national office from interfering in affairs of state, including criticizing United State immigration and anti-terrorism policies, and advocating actions that would tend to worsen the nation's relations with neighboring countries, including but not limited to Mexico.

On February 4, 2016, Ronald Rump attended a massive rally of supporters. Rump had trumpeted the event before hand and indicated that he would be the same old Rump. Federal agents were present to monitor the event. Vendors were also present, selling Rump's various books. As his books were being sold he got up and said, among other things, that "Mexican invaders must be stopped," "a wall must be built," "many Muslims are terrorists and cannot be allowed into the country," and "I will stop the invasion and the terrorists like you won't believe when I'm elected." Mid-way through the speech, federal agents ascended the podium and placed Mr. Rump under arrest. He was charged with violation of all three of the aforementioned laws.

Discuss the following:

- \* Any arguments Rump might make that the *De-Commercialization of Elections Act* is an *invalid* exercise of the Commerce Clause, or is *invalid* as applied to him.
- \* Any arguments Rump might make that any or all of the three laws (and/or their enforcement) *violate* rights protected by the Bill of Rights?
- \* Can Rump argue that any one of the three laws is a Bill of Attainder?

## QUESTION TWO

California's drought was showing no signs of abating. Throughout the Central Valley thousands of square miles of productive agricultural land had disappeared. Once the leading exporter of numerous food staples, California had become a net importer of food. Prices of foodstuffs from outside the State were lower than prices for food produced in the State. However, lower prices for out-of-State food threatened to drive the remaining domestic food producers out of business.

In response, the State Legislature enacted two laws:

1. *The Agriculture Protection Act*. It imposed a tax on all foodstuffs imported into the State equal to the difference between the price of food produced in California and the price of the import. The tax was payable by whoever sold the imported food in California. The law also required those who imported or sold food grown or manufactured outside of California to pay a hefty licensing fee. The fee was not imposed on sellers of food grown or manufactured in California.

2. *The Irrigation Reform Act*. It increased by up to 5% the amount of water derived from rivers and wells that California farmers could use for crop irrigation each year.

After the laws took effect, out-of-State-based commercial food producers and importers joined forces to challenge the *Agriculture Protection Act*.

Additionally, the Federal government started sending notices to California farmers indicating that increased water usage would run afoul of Federal environmental regulations (not laws) designed to protect seasonal wet lands. The regulations were based on a provision in the existing *Environmental Protection Act* that the Federal Environmental Protection Agency could enact whatever regulations it believed were "appropriate to further the ends of the law."

Discuss the following:

- \* Does the *Agriculture Protection Act* violate the so-called Dormant Commerce Clause?
- \* Does the *Agriculture Protection Act* violate Article IV's Privileges & Immunities Clause?
- \* Is the *Irrigation Reform Act* preempted by Federal law?

### QUESTION THREE

After Ronald Rump was elected president, he gave an address to Congress, calling for the building of a wall along the border with Mexico. He said the wall was essential to protecting the nation's security and putting a halt to illegal immigration. Though a bill was drafted and debated, it failed to gain majority support in either house of Congress.

The President then negotiated an agreement with Mexico. The United States and Mexico agreed to build a wall along the border, to be paid for by both nations. The agreement was sent to the Senate for approval. A majority of senators approved of the agreement.

As preparations for construction were being made, projected costs ballooned. Congress passed a joint resolution condemning the wall.

Though the agreement called for joint-funding of the wall, President Rump eventually managed to convince Mexico to pay all construction costs. Not a dime of American money was going to be used to build the wall.

After construction commenced, American and Mexican pro-immigration activists entered the construction zone and attempted to demolish parts of the wall. They were taken into custody and charged with vandalism pursuant to a Federal law that made it a crime to deface national monuments. After a Court ordered the activists released, the President opined that the activists were enemies of the United States who were properly subject to internment for their acts of sabotage and aggression.

Discuss the following:

- \* Is the agreement between Mexico and the United States to build a wall a valid treaty?
- \* Could the agreement be valid as an Executive Agreement?
- \* Relying on Justice Jackson's *Youngstown Sheet* test, is the agreement with Mexico for Mexico to pay all construction costs a valid exercise of presidential power?
- \* If President Rump and the U.S. government were to maintain custody of the activists after the Court ordered their release, what might the activists argue in response?