MONTEREY COLLEGE OF LAW

CONSTITUTIONAL LAW I

FINAL EXAMINATION

FALL 2025

Prof. K. Migdal

EXAM INSTRUCTIONS

You will have three hours to complete this exam. There are two essay questions to be answered in Questions 1 and 2; Question 3 consists of four short answer questions. Each question will count for 1/3 of your exam grade.

Unless expressly stated, assume that there are no Federal or State statutes on the subjects addressed.

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines that are not pertinent to the solution of the problem.

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Question No. 1

The Department of Defense promulgated the following regulation:

"The Department may experiment on animals in trauma skills testing for defense purposes."

Pursuant to the regulation, the Department plans to begin experiments on chimpanzees early next year at its Fort Ketrick facility in California, north of San Diego. The Department hopes to learn from the experiments how fighter pilots will react in combat when exposed to potentially lethal doses of radiation.

In the Fort Ketrick experiments, some 40 chimpanzees will be trained to perform on flight simulation machines. After the chimpanzees have achieved a certain level of proficiency on the simulator, they will be placed in a flight simulator in a sealed radiation chamber and exposed to lethal doses of radiation. Various monitoring devices will be strapped to the chimps and their reactions will be videotaped for later observation and analysis.

The experiment, which has received the personal approval of the President, will cost taxpayers about $240 million.

Sue Goodall, President of Friends of Animals, a public interest organization promoting the humane treatment of animals, heard about the Department's plans and was shocked. Goodall is certain that her organization's membership, totally 20,000 nationwide, would support any legal action that might be taken to block the proposed experiments at Fort Ketrick.

Goodall has asked you to represent her organization in a suit to enjoin the Department of Defense's experiments. Your research has turned up a law that might be the basis for a legal challenge, California Primate Experimentation Act. Relevant sections from the law appear below:

California Primate Experimentation Act

§ 121 No experiment using non-human primates may be conducted in the state of California without a permit issued by the state Director of Agriculture.

§ 124(b) No permit shall be issued for an experiment which subjects non-human primates to unreasonable pain or distress.

(c) No permit shall be issued for an experiment which will cause, or is likely to cause, the death of non-human primates unless the benefits of the experiment to human health are clear and substantial.

§ 166 It shall be unlawful to transport into the state of California non-human primates for purposes of experimentation, except in compliance with the provisions of this Act.

§ 301 Any citizen may be bring suit in the courts of this state to enforce any provision of this Act.

You have discovered that some fifty chimpanzees were air shipped from Virginia for participation in the experiment. They arrived at Fort Ketrick on December 12. The Secretary of Defense has not applied to the California Department of Agriculture for an experimental permit, and has stated his clear intention not to do so.

Please answer each of the following questions:

A. Will the court consider the merits of the Friends of Animal's case? What are the principal issues that need to be resolved before the merits are reached and what is the likely outcome of each issue?

B. The Department of Defense will probably argue that the California Humane Experimentation Act cannot lawfully be applied against its proposed experiment. What are the bases for the contention, and how will the court likely resolve the issues, assuming it reaches the merits?

C. Wally Cox, a California Congressman, has introduced legislation in the House that would specifically prohibit the Department of Defense from using its appropriations to fund experiments using chimpanzees. The President has indicated that he considers the proposed legislation an unconstitutional limitation of his inherent powers and powers as Commander-in-Chief of the Armed Forces. Does the President have a strong argument? Why or why not?

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Question 2

On December 1, 2025, Congress passed the Child Gender Protection Act ("the Act"). The law prohibits a healthcare provider from "[s]urgically removing, modifying, altering, or entering into tissues, cavities, or organs of a human being under the age of 18," or "[p]rescribing, administering, or dispensing any puberty blocker or hormone," for the purpose of (1) "[e]nabling a minor to identify with, or live as, a purported identity inconsistent with the minor's sex," or (2) "[t]reating purported discomfort or distress from a discordance between the minor's sex and asserted identity." Among other things, the Act notes that these prohibitions are intended to "protec[t] minors from physical and emotional harm" by "encouraging minors to appreciate," rather than "become disdainful of," their sex. Under the Act, a healthcare provider may administer puberty blockers or hormones to treat a minor's congenital defect, precocious (or early) puberty, disease, or physical injury. The Act takes effect on January 1. 2026.

The Act also compels State officials to create and maintain a registry of all medical facilities in their State who have offered gender affirming care to minors in the last five years and to report the data they obtain to the U.S. Secretary of Health and Human Services.

A 17 year-old transgender girl who goes only by the name, "Syxseven," has been receiving gender affirming care in the State of California since she was 13, which care includes hormone therapy. As she turns 18 on December 31, 2025, she is eager to bring suit to enjoin enforcement of the Act, and she files suit on December 30, 2025.

Please answer each of the following questions:

A. Will the court consider the merits of Syxseven's case? What are the principal issues that need to be resolved before the merits are reached and what is the likely outcome of each issue?

B. Assuming that the court reaches the merits of the case, analyze Syxseven's Equal Protection claim and state how the Court is likely to rule on that issue and why.

C. The governors of California, Illinois, New York, and Minnesota bring suit to enjoin enforcement of the Act on the basis of the 10th amendment. Analyze the governors' Tenth Amendment claim and state how the Court is likely to rule on that issue and why.

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Question 3

Write a short answer to questions A, B, C, and D; Each question is worth 25 points.

A. The State of Georgia enacts a statute that prohibits persons who have been residents of the State for fewer than 6 months from applying for a liquor licenses in the State. Sheila Lushacre moved to Georgia a month ago, but wishes to open and manage a wine bar that would require her to apply for a liquor license. When she discovers that she is prohibited from doing so, she brings suit. How is the court likely to analyze and rule on the issues raised in Sheila's lawsuit?

B. A new fungus that affects only species of the fig plant develops and begins to spread in the United States. In response, Congress enacts a statute prohibiting the cultivation of any species of the fig plant. Romulus Remus has been growing figs in his backyard solely for personal consumption for years prior to the enactment of the statute and brings suit claiming that Congress does not have the power to regulate his backyard figs. How is the court likely to analyze and rule on the issues raised in Romulus's lawsuit?

C. Without presenting it to the Senate for ratification, the President of the United States enters into an executive agreement with the island nation of Nauru with the aim of cultivating mutual tourism between the two nations. U.S. Senator Mazer Rackham brings suit to enjoin the executive agreement. How is a court likely to rule on the Constitutional issue presented by Senator Rackham's suit?

D. A contractor sues the the sitting President of the United States, who was a businessman before becoming President, for failing to pay him for work he performed on one of the President's golf courses before the President was elected. The President moves to dismiss the suit claiming that he is immune from civil suits while in office. How should the court rule on the President's motion to dismiss and why?

Constitutional Law Final Exam Answer Outline Fall 2025

Question 1

A.

Standing issue- does the nonprofit have standing to challenge the law? They are arguably "injured" directly or indirectly. Can they assert third-party standing?

Ripeness- Nothing injurious to the chimps has yet occurred. Is injury imminent (*Abbott Laboratories v. Gardner- drug labelling cases for imminent harm*)?

B.

Dormant Commerce Clause- Federal preemption, no need to reach discrimination/balancing

Supremacy Clause- implied preemption: conflict preemption/impeding a federal objective (*Florida Lime & Avocado Growers, Inc. v. Paul*- no conflict preemption where one can comply with both laws/rules)

C.

While the President's inherent authority over the executive branch is broad, Congress controls the power of the purse and the President's power is significantly weakened where Congress has acted prohibiting the President's (or Sec. of Defense's) proposed action. The President's arguments re: inherent powers and status as commander-in-chief would be very weak against a Congressional act directly prohiniting his action.

The best answers will include mention of

a. Federal property clause- Congress has broad authority to manage and regulate federal lands.

b. General foreign policy/military affairs/separation of powers issues. Is this foreign policy (i.e. fighter jets=foreign deployment)? If so, can Congress contradict the executive branch position re: how best to prepare its pilots ala *Zivotofsky v. Kerry*?

Question 2

A.

Standing- S will be over the age of 18 before any action taken on her case. She will neither suffer injury, nor imminently suffer injury. Also not a case likely to be repeated, but evading review as other, younger transgender minors can challenge the law.

Ripeness- the law has not gone into effect at the time of the filing of the suit. However, a court will know whether the law has gone into effect by the time any action is taken on a demurrer.

Mootness- at any major point in the litigation, the law will not apply to S as she will have turned 18 shortly after filing suit.

B.

Note that under *Bolling v. Sharpe*, the EP clause of the 14th amendment applies to the federal government under the Due Process clause of the 5th amendment.

Under the Court's new ruling in *U.S. v. Skrmetti*, this law does not present a gender discrimination issue or a gender identity discrimination issue, but rather an age and a medical use discrimination issue. Both age and medical use discrimination get rational basis review. This law survives an EP claim under rational basis review and the *Skrmetti* rule.

C.
10th amendment- Is this a *Baker v. Carr*/*Reno v. Condon* incidental use of State officials, or a *Printz* commandeering? Students should discuss why it is one or the other.

Question 3:

Q 3 A

Dormant commerce clause- facial discrimination ala *Tennessee Wine and Spirits Retailers Association*= presumption against validity and the State must show that it is narrowly tailored to advance a legitimate local purpose (which it cannot do under that case's rule/reasoning).

Privileges and Immunities Clause- discrimination against out-of-staters' right to earn a living.

Students can get either or both, but only one is sufficient for full credit.

Q 3 B

This is a *Wickard v. Filburn* cumulative effect interstate commerce clause case or, if you like, a *Raich v. Gonzalez* case. Congress can legislate even if the thing in commerce is never sold or transported interstate if lots of people like Romulus, in the aggregate, grew figs for personal consumption in their backyards, it could have a substantial effect on interstate commerce.

Q 3 C

Executive agreements need not be presented to nor ratified by the Senate to be valid. Treaties must; executive agreements do not have to be.

Q 3.D

Under *Clinton v. Jones*, a sitting President can be sued civilly while in office for acts performed prior to his having become President.

1)

1.) Will the Court Consider the Merits of the Friends of Animal's Case? Likely Outcome?

Standing

Standing is the capacity to bring a suit to court. Standing is acquired through the test described in Lujan v. Defender's of Wildlife which states that to have standing, a party must (1) suffer a concrete injury or be in imminent harm of suffering an injury, (2) display that the conduct of another adverse party has a causal connection to that injury, and (3) present an injury that can actually be redressed by the court so the matter can be remedied.

Here, the injury here is concrete because it is imminent and certain, the chimpanzees will be killed by a lethal dose of radiation. The causal connection between the lethal dose of radiation and the chimpanzee's death is certain. Whether Sue Goodall can assert a claim on behalf of these chimpanzee's though is the real issue. Only humans can assert a claim in court.

Prudential Standing - Third Party/Organization

Normally, a third party does not have standing to sue on behalf of another. However, when a third party is aggrieved by an injury sustained by someone else and they have a substantially close relationship to that injured party who is not likely to bring a lawsuit themselves, they can bring suit on behalf of the injured party as long as they would litigate just as the injured party would under the circumstances.

Here, Sue Goodall is the president of an organization that promotes the humane treatment of animals. It can be reasonably inferred that this organization detests animal

testing. Goodall will argue that her and her organization are personally affected by the Department of Defense's act because it involves animal testing. Additionally, Goodall will argue that the animals can not reasonably bring a lawsuit themselves. While Goodall may be successful in those arguments, Goodall will have difficulty proving to the court that she and the organization has a substantially close relationship to animals seeing as she or the organization had knowledge the primates would even be tested on, being shocked by the departments plan.

Ripeness

The justiciable doctrine of ripeness ensures that only actual cases and controversies between adversarial parties are brought before the court. A party may not bring an action that is unripe due to speculative injury. Additionally, cases may be unripe and non-justiciable when the conduct causing injury is contingent on unknown factors.

Here, If Goodall and Friends of Animals do have standing, the case brought against the Department of defense will likely be ripe because the department plans on beginning the experiments against the chimpanzee's early next year. Even though an injury has not happened yet, it is imminent and forseeable that the injury will occur if the suit is not brought to trial.

Mootness

The justiciable doctrine of mootness prevents claims from being asserted in court that are unredressable by the court due to the fact that no remedy would redress the injured party any longer. However, a case is not moot despite no active threat of injury in class actions, when the conduct causing injury was voluntarily ceased, or when the injury can forseeably reappear.

Here, Goodall and Friends of Animals (Goodall and Friends) would not be asserting a moot claim because they intend to enjoin the Department of Defense (DOD) and stop

the chimpanezee experiments. As of now, the court may redress the injury because they can provide injunctive relief to Goodall and Friends should that be the proper ruling.

Political Question

Due to the separation of powers, courts do not provide rulings on political questions because that is outside the jurisdiction of the court.

Here, there is no political question present.

Advisory Opinion

Courts do not offer advisory opinions, or rulings when no injury based on adversarial conduct in a case or controversy exists.

Here, Goodall and Friends, if they have standing, will not be requesting the court to provide an advisory opinion because they are adverse to the DOD and the threat of imminent injury to the chimpanzees is present.

Conclusion

While third parties may bring suits on behalf of injured parties, it is unlikely if Goodall and Friends have prudential standing to sue to enjoin the DOD. Despite a probable lack of standing, the case is judiciable on all other relevant grounds because it is not moot, it is ripe, it is not a political question and it is not an advisory opinion

2.) Can the California Humane Experimentation Act be Applied Against the Experiment?

Preemption

Under the supremacy clause and doctrine of preemption, federal law overrides state law. This can happen either through express preemption, where congress enacts a statute that explicitly overrules a state statute, or through implied preemption, where there is a federal statute or presence that is supreme to available state statutes.

Here, Goodall and Friends will have great difficulty utilizing the California Primate Experimentation Act (CPEA) because the Department of Defense has promulgated their own animal testing law.

Express Preemption

Here, The DOD's regulation states that the department may experiment on animals for defense purposes. This is in opposition with the CPEA's many provisions which state that experiment on non-human primates may not be tested on. While it is uncertain if the DOD's regulation was enacted in response to the CPEA, the facts suggest that the CPEA is expressly preempted by federal law due to the difference of the federal and state laws.

Implied Preemption - Field

State law is impliedly preempted by the field preemption when federal law occupies the legal atmosphere of the act's topic and has customarily done so.

Here, no facts suggest that the DOD regularly has made or has made a number of regulations regarding animal testing, so the CPEA may not be impliedly preempted by a field preemption.

Implied Preemption - Conflict

State law is impliedly preempted when there is a conflict between federal and state laws that make it impossible to obey each simultaneously.

Here, Goodall and Friends would argue that CPEA is not impliedly preempted through this type of preemption because it would be possible to test on animals for defense purposes without violating CPEA. Goodall and Friends would argue that CPEA could be complied with if the primates do not suffer unreasonable pain and distress, wont die unless the benefits to human health are clear, arn't shipped in from out of state, and the proper permits are obtained.

The DOD will argue that CPEA is impliedly preempted through due to a conflict, though they will not be successful in their argument because their regulation is, facially, not in conflict with CPEA. Though the intent and manner in which the DOD would want to conduct the chimpanzee experiments would violate CPEA, the regulation's language does not give rise to a conflict preemption due to its ambiguous and brief language.

Implied Preemption - Obstacle

State law is preempted when it poses an obstacle to federal law or legislative intent.

Here, the DOD will be successful in arguing that while the regulation does not facially conflict with CPEA, the intent behind the regulation and manner in which the federal government would want to conduct the chimpanzee experiments would be frustrated by the CPEA. As such, the CPEA is mainly preempted by the implied obstacle preemption.

Conclusion

The DOD is correct in that CPEA can not lawfully be applied against the regulation and experiment because it is preempted by the obstacle preemption. The court will likely rule that CPEA is to be overruled by the regulation and the federal law will govern in regard to animal testing.

3.) The President's Argument

Article II - The Enumerated Powers of the Executive Branch

Article II of the US Constitution defines the enumerated powers of the executive branch, including the president, executive agencies and executive officers. The President is the commander in chief, has the power to appoint ambassadors and public ministers, has the power to remove those executive officers, may enact executive agreements and orders, and may conduct foreign policy. Additionally, the president can deploy troops. The president possesses inherent powers which allow for the carrying out of all enumerated powers.

Limits of the President's Power

When the president exercises his inherent powers to carry out those enumerated, the president has varying levels of authority in doing so depending on the conduct of congress. As described in Youngstown Sheet Metal and Tube Co. v. Sawyer, when the president's conduct is in line with congressional acts or their approval, the president has full authority to exercise inherent powers. When congress is silent, the president exists in the twilight zone and potentially has authority. When the president's exercise of inherent power would be in opposition to congressional acts or intent, then the president has little authority.

Here, The president has the enumerated power to be the commander in chief the military. The president may exercise inherent power related to the carrying out of that power. Currently, Congressman Cox has only proposed legislation prohibiting the DOD from funding chimpanzee experiments, but this legislation has not been enacted. Additionally, no facts suggest that congress has passed any legislation approving of the chimpanzee experiments or more broadly, approving of animal testing.

What about Congress power of the purse?

As such, the president exists in the twilight zone when using his inherent power to fund defense research in relation to his enumerated power as the commander in chief. The

legislative intent behind the DOD regulation provides a number of reasons for why the experiments would be done in relation to defense purposes because the goal is to understand how radiation affects those engaging in flight conditions. This is relevant to defense because the military uses pilots.

Conclusion

Until Congressman Cox enacts congressional legislation declaring otherwise, the DOD and president's plan to experiment on chimpanzees is within the inherent power and authority of the executive branch due to its close relation to their defense objectives.

2)

1.Will the court consider the merits of the case

Judicial review

Marbury v. Madison established the principal that the judiciary has the authority to review and invalidate actions of the executive and legislative branches so long as those actions are potentially unconstitutional and based on a justiciable case or controversy. The judiciary may not write advisory opinions, their decisions must be based on actual cases or controversies that have actual effects.

Justiciability

In order to establish justifiability, we must examine:

1. Ripeness
2. Not Moot
3. Standing

Ripeness

A case is ripe if actual harm would be done to the plaintiff should the court refuse to hear the case. Ripeness also implies an actual case or decision that is ripe for review.

Here, the act takes effect on 1/1/2026. This is an issue which will negatively impact many individuals on that date and certainly has negative real-world implications. There is an issue however with the harm that would be done to this particular plaintiff. The plaintiff turns 18 on 12/30/2025 and will therefor no longer suffer individual harm as the act does not apply to any individual that is over the age of 18. However, the act passed on 1/1/2025 and she filed one day before she turned 18.

Therefore, because she was still in the class of individuals who would be negatively impacted by the legislation at the time when she filed, the case is still ripe as, forgetting about her imminent birthday, she is still negatively impacted and would suffer harm.

Moot

A case is moot if the defendants have no legal interest in the case. Exceptions to mootness are repeated harms evading review, voluntary ceasing, and class action suits.

Here, the case is moot as the plaintiff is turning 18 prior to the act taking effect. Because the provisions of the act state that it does not apply to individuals over the age of 18, the plaintiff no longer has a legal interest in the case. The plaintiff will likely attempt to argue that she fulfills the exception as this is a harm the is repeatable. However, unlike *roe v. wade*, this harm can never personally happen to her again as she will always be older than 18.

Therefore, because the plaintiff no longer has a legal interest in the case and does not meet an exception, the case is moot.

Standing

Standing examines if a certain party is the correct person to bring a suit. An individual must have:

1. injury in fact
2. causation
3. redress-ability

If there is no standing, than article three prohibits the courts to hear the case. Here, the plaintiff does not have proper standing. She has not suffered an injury in fact as she will be over 18 by the time the law takes effect. Because there is no actual injury, there is no

causation, and a positive judgment from the court would not change any of her circumstances. Therefore, the plaintiff does not have standing.

2.The Plaintiff's Equal Protection Claim

Equal Protection

Equal protection is what protects similarly-situated individuals from differential treatment. The due process clause of the 5th Amendment (Federal Government) and the 14th Amendment (state) protect individuals from being deprived of their life, liberty, and property without due process of law. When analyzing an Equal Protection claim, one must determine

1. the classification
2. the level of scrutiny
3. ask did the government's action match the level of scrutiny

Classification

Here, because this is a law which Congress passed, the due process clause of the 5th Amendment will apply. The court will first determine the classification. We know from a similar recent case (*Skermetti*) that the court is likely to determine the classification as "individuals under the age of 18." The court will hinge their decision on the fact that the law expires for those that have reached the age of majority. The court will also base this decision on the fact, per the statute, that a healthcare may still use puberty blockers to treat other defects, early puberty, disease, or physical injury. This will pave the way for the court to determine that the classification is age.

Next the court will determine the level of scrutiny. There is strict scrutiny, intermediate scrutiny, and rational basis.

Rational Basis Review

Rational basis review is the lowest level of scrutiny and protects the government's action so long as it is at least rationally related to a government interest. While strict and intermediate scrutiny deal with immutable characteristics such as race, national origin, and gender, rational basis covers everything else, including age. Because age-related discrimination is examined using rational basis, the court will use that standard.

Did the government's action match the level of review

The court will finally examine the government's conduct. Here, the government will argue that it has an important government interest in protecting children. The government will use the argument that puberty blockers do not have a great deal of testing and that few long term studies have been completed around the issue of giving them to children. Were this subject to strict scrutiny, the government would likely fail as it would have a difficult time showing a link to a compelling interest while using the most narrowly tailored solution possible. Here however, the government only needs to show a rationally related interest. The government will be successful in this argument, as demonstrated in *Skermetti.*

3.10th Amendment Analysis

The Tenth Amendment gives the power to the states that is not vested in the federal government. Congress has no general police power and this power is left vested in the states. It is a key principal of federalism and helps to prevent the federal government from becoming too powerful.

Powers of Congress

In order to determine is a law in constitutional, we must examine if it is justified by an enumerated power as outlined in Article 1 Section 8. Congress has the enumerated powers of:

1. spending
2. commerce
3. taxation
4. delegation
5. impeachment
6. regulating federal property
7. speech and debate

Here, Congress will use its powers of commerce to create this law.

Commerce power (Art. 1, Sec 8, Clause 3)

Congress has the power to regulate interstate commerce and commerce with foreign nations. *U.S. v. Lopez* created three areas of commerce.

1. Channels
2. Instrumentalities
3. Actions which have a substantial effect on interstate commerce

The court cases of *Gonzalez. v. Raich* and *Wickard v. Filburn* drastically increased Congress' power to determine what substantially effects commerce. Under the aforementioned cases, even growing crops for personal consumption, in the aggregate, has a substantial effect on interstate commerce.

Actions which have a substantial effect on interstate commerce in the aggregate

Here, the government will argue that prohibiting healthcare providers from helping children under the age of 18 will have a substantial effect on interstate commerce. Without congressional regulation, states would be free to create their own laws, with many likely prohibiting the healthcare providers actions. This would cause individuals residing in those affected states to travel across state lines in order to receive case. This would, in the aggregate, have a substantial effect on interstate commerce because these individuals would need to eat, book hotels, and make many other arrangements which would have an effect on commerce.

The governors of the states would argue that the government is being unduly coercive in their claims

Anti-commandeering doctrine

The Anti-commandeering doctrine prevents the federal government from forcing the states to enact federal regulatory schemes. The federal government can incentives the behavior, however the incentives must be clearly stated and not coercive.

Here, the act compels state officials to maintain a registry of those who have received gender affirming care and report the data to the federal government. This violates the doctrine as the federal government cannot compel the states to do this. The act could grant incentives for the behavior such as increased federal funding, so long as it would not be coercive.

Therefore, because congress passed the legislation through their commerce power, the states would be unsuccessful in their 10th Amendment claim. However, the states would likely be successful in removing the provision which required the states to report to the federal government.

3)

A.) How Will the Court Rule in Sheila's Lawsuit

The Privileges and Immunities Clause

The privileges and immunities clause restricts states from discriminating against non-residents fundamental rights like housing and employment. While discrimination against non residents is permissible when it comes to voting rights or holding public office, states may not discriminate against non-residents when there is no important government reason for doing so. Courts apply intermediate scrutiny to determine if the law has an important government reason and if the benefit of the law outweighs the discriminatory effect.

Here, Sheila moved to the State of Georgia and is being treated as a non-resident by the Georgia statute. The statute's language clearly discriminates against non residents by enforcing a 6 month time period before specifically non-residents can apply for liquor licenses. In applying intermediate scrutiny, the court will place the burden on the State of Georgia to prove that this statute has an important government purpose. Georgia will likely argue that it wishes to protect the business interests of its citizens and not have the liquor market saturated by an influx of non-residents obtaining the licenses and competing with locals. However, the statute also discriminates against residents of Georgia who have only lived there for some time. The state would have a difficult time arguing that a resident of Georgia for 6 months would serve the state of Georgia better than a resident of the state of 5 months with the same license since the month requirement is arbitrary.

Sheila will have a more compelling argument because gaining employment is a fundamental right and the statute is a violation of the Privileges and Immunities Clause. Despite a potential interest by Georgia to protect the business interests of its citizens, the

statute actually prohibits citizens of Georgia anyway. Furthermore, restricting the grant of liquor license has no relation to the welfare of Georgian citizens because a non-resident will act just a resident would with the license. There is little to no harm of a non-resident obtaining a liquor license because the laws regarding liquor and legal drinking ages do not change depending on the state the license is granted in with the exception of Utah.

Conclusion

The court should rule in favor of Sheila because the fundamental right of employment should not be infringed upon when no reasonable state welfare interest exists.

B.) How will the Court Rule on the Romulus Lawsuit

The Commerce Clause

Under Article I Section 8 of the US Constitution, the enumerated powers of the legislative branch are defined. Under Article I, congress has the power to regulate interstate commerce. Specifically, congress has the power to regulate the channels, instrumentalities, and activities effecting interstate commerce. Congress's power even extends to indirect effects to interstate commerce. The broad nature of congress's power is seen in the case of Wickard v. Filburn, where the court determined that farmers growing grain for their own personal use, even at a small scale, could have an indirect effect on interstate commerce so the government was allowed to regulate.

Here, Romulus is much like the party in the Wickard case who grew crops for their own consumption despite a law prohibiting that conduct. Romulus will be unsuccessful in his suit against the government because Congress does have the authority to prohibit the cultivation of any species of fig plant, seeing as the new fungus could grow on Romulus's figs. Even though Romulus only has a small effect on interstate commerce, his conduct could lead to more figs getting infected and spreading the fungus. This could have

disasterous and exponentially damaging effects on interstate commerce, so Congress is well within their right to regulate Romulus's growing of figs.

Conclusion

The Court should rule against Romulus in his lawsuit because Congress is able to regulate indirect effects on interstate commerce under the Commerce Clause and Wickard v. Filburn.

C.) How will the Court rule on the Rackham Lawsuit

Article II - The Enumerated Powers of the Executive Branch

Article II of the US Constitution defines the enumerated powers of the executive branch, including the president, executive agencies and executive officers. The President is the commander in chief, has the power to appoint ambassadors and public ministers, has the power to remove those executive officers, may enact executive agreements and orders, and may conduct foreign policy. Additionally, the president can deploy troops. The president possesses inherent powers which allow for the carrying out of all enumerated powers.

Here, the president is well within the enumerated powers defined by Article II to enter into executive agreements with foreign sovereigns. While it is true that the legislative branch, including Senators like Rackham, also have enumerated and implied foreign policy powers, the ability to enjoin a president's executive agreement is not one of them. Members of the legislative branch have the power of the purse under the taxing and spending clause of Article I Section 8 of the US Constitution, which allows them the sole power to apportion funding for executive acts and agreements like the one the president made. Rackham and other senators could refuse to fund the executive agreement with Nauru, rendering it difficult to execute.

Political Questions

Due to the separation of powers, courts do not provide rulings on political questions because that is outside the jurisdiction of the court. Political Questions are not justiciable.

Here, Senator Rackham is attempting to use the court to enjoin an executive agreement. The court does not have jurisdiction over this matter because it is a solely political one. The mechanism Rackham would be better suited in using is the power of the purse. Rackham and other senators could refuse to fund the executive agreement with Nauru, rendering it difficult to execute.

Conclusion

The Court can not rule on Senator Rackham's suit because they do not have jurisdiction to hear his case as it is a political question.

D.) How Should the Court Rule on the President's Motion to Dismiss

Article II - The Enumerated Powers of the Executive Branch

Article II of the US Constitution defines the enumerated powers of the executive branch, including the president, executive agencies and executive officers. The President is the commander in chief, has the power to appoint ambassadors and public ministers, has the power to remove those executive officers, may enact executive agreements and orders, and may conduct foreign policy. Additionally, the president can deploy troops. The president possesses inherent powers which allow for the carrying out of all enumerated powers.

The president does not possess an official power, enumerated or inherent, which concerns the president's personal business. As such, the president failing to pay a contractor does not fall under any power of the president.

Presidential Immunity

The President has absolute immunity for any civil misconduct which occurs before or during the president's term in office while the president was engaged in their official duties.

Here, the president does not have immunity for civil misconduct occurring before or during the term in office because the civil misconduct arose while the president was not in the course of official duties. The court should deny the President's motion to dismiss because the conduct occurred before the President's time in office and the failure to compensate under contractual duties did not arise under the course of presidential duties. Additionally, the failure to pay occurred before the president's election so the president could not have been engaging in even unrelated official duties while the contract was unpaid.

Conclusion

The Court should deny the President's motion to dismiss because the conduct occurred before the President's time in office and while the president was not engaging in official duties.

END OF EXAM