

## **Constitutional Law Exam 4**

### **Fact Pattern:**

Representative Ryan proposed the legislation known as the Wheat Fields for Fun Bill. The idea for the bill was to encourage wheat farmers to give up harvesting wheat and instead create crop circles or baseball fields which would generate valuable tourism revenue. Farmer Fred protested the bill to no avail. Representative Ryan even made fun of Farmer Fred during debate on the bill. "Congress recognizes Farmer Fred as being the worst farmer and protester imaginable," he said.

The bill was passed by both houses of Congress. The President threatened to veto the bill, but the President's daughter convinced the President to sign the bill as it was "totally hilarious." The Act read as follows:

### **Wheat Fields for Fun**

Section 1. This Act shall be known as the Wheat Fields for Fun Act.

Section 2. All wheat which is exported from the U.S. shall incur a 10% tax.

Section 3. The owner of any wheat field on which crop circles appear, be they man-made or alien created shall receive \$10,000 per acre.

Section 4. The owner of any wheat field on which a baseball field is set up shall receive \$25,000 per baseball field. If ghosts start playing baseball on the field, the owner shall receive a bonus of \$500,000.

Section 5. The import duties on wheat shall be abolished in all states except Kansas as Kansas has plenty of wheat and wants to protect its farmers.

Section 6. All states shall enact a special wheat sales tax of 2%. The money generated from the wheat sales tax will go to fund local schools.

Farmer Fred was freaking furious when he found out about the new law, and the disparaging comments made about him. Fred filed a lawsuit in federal court against Representative Ryan for slander. He filed a second lawsuit against the President for destroying his wheat farming business and taking the advice of his daughter and signing the bill into law.

A secret service agent got angry at Fred when he learned of the lawsuit against the President. The secret service agent attempted to shoot and kill Fred in cold blood, but missed. No charges were filed against the secret service agent, but the President pardoned him anyway.

**Questions:**

Which sections of the Act can be constitutionally challenged? Discuss.

Discuss Farmer Fred's claims against Representative Ryan and the President.

Discuss the Presidential pardon of the secret service agent.

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## **Example Answer**

### **Section 2**

#### **Taxing Power**

Is Section 2 of the Act within Congresses' taxing power?

Under the Constitution, Congress has the power to raise revenue. Congresses' taxing power, however is not limitless. Congress may not tax exports and all import duties must be uniform throughout the U.S.

Here, Section 2 provides that wheat exports will be taxed. Taxing exports is not within Congresses taxing power.

Section 2 can be challenged constitutionally as it is an improper use of Congress' taxing power.

### **Sections 3 & 4**

#### **Spending Power**

Are Sections 3 & 4 of the Act within Congresses' spending power?

Under the Constitution, Congress has the power to spend revenue for the common defense and the general welfare. This power may not be used to violate individual liberties and any conditions for the receipt of funds must be reasonably related to the purpose of the funds.

Here, as ridiculous as this bill sounds, attempting to increase tourism is a legitimate attempt to provide for the general welfare. The payment of money for crop circles and field of dreams baseball fields does not violate any individual liberties. In addition, the receipt of the funds is only conditioned on the creation of the tourist attraction which is reasonably related to the purpose of the funds.

Sections 3 & 4 are within Congress' spending power.

### **Section 5**

#### **Taxing Power**

Is Section 5 of the Act within Congresses' taxing power?

Under the Constitution, Congress has the power to raise revenue. This includes collecting duties on imports. As stated above, however, Congresses' taxing

power, is not limitless. Congress may not tax exports and all import duties must be uniform throughout the U.S.

Here, Section 5 provides that all import duties on wheat will be abolished except in Kansas. This is a non-uniform import duty which is not within Congressional power under the Constitution.

Section 2 can be challenged constitutionally as it is an improper use of Congress' taxing power.

## **Section 6**

### **Commerce Power**

Is Section 6 of the Act within Congresses' commerce power?

Under the Constitution, Congress can regulate foreign commerce, interstate commerce and even commerce wholly within a state if it affects interstate commerce. Congresses' commerce power is not absolute. Congress may not violate individual liberties in the process and Congress may not force states to enact laws.

Here, Section 6 provides that all states shall enact a special wheat sales tax of 2% and that the money generate from the wheat sales tax will go to fund local schools. With this provision Congress is overstepping its bounds by forcing the several states to enact a particular state law.

Section 6 can be challenged constitutionally as it is an improper use of Congress' commerce power.

## **Lawsuits against Representative Ryan and the President**

Can Farmer Fred bring lawsuits against Representative Ryan and/or the President?

Members of Congress may not be sued civil or criminally charged for their legislative acts. This includes committee work, conducting hearings, preparing reports or giving speeches inside Congress.

Similarly, the President is immune from civil litigation for his official acts.

Here Representative Ryan was giving a speech inside Congress when he disparaged Farmer Fred. Because Representative Ryan was acting in his official duties he cannot be sued civilly by Farmer Fred.

Likewise, the President was acting in his official capacity when he signed the bill into law. The President cannot be sued civilly by Farmer Fred for this action.

Farmer Fred cannot bring lawsuits against Representative Ryan or the President for their actions.

**Pardon of secret service agent**

Can the President pardon the secret service agent.

The President may pardon federal crimes, even if the person has not been tried. Here it is unclear what crime the secret service agent could be charged with and whether or not the crime would be a federal crime. Assuming, the secret service agent could be charged with a federal crime, the presidential pardon is proper even though no charges have yet been filed.

The President can pardon the secret service agent, but only for potential federal crimes.