

2011 Total list of questions for ACC Constitution Day

Issue 1 (Janice Sumler-Edmond) The state of Vermont recognizes the marriage of two individuals of the same sex. Two women were married in Vermont then moved to Mississippi. Ten years later, one of them found out that her “spouse” was cheating on her and sued for a divorce under Mississippi law. The Mississippi AG intervened saying that since his state does not recognize same sex marriage it did not have the authority to grant them a divorce. The couple argued that Mississippi must recognize a legal marriage in Vermont under the “full faith and credit” clause of the U.S. Constitution. The AG cited the Defense of Marriage Act, signed into law by President Clinton in 1996. That Act states that “No state...may be required to recognize as marriage a same-sex relationship considered a marriage in another state.” *Article IV, Section 1 states: Full Faith and Credit shall be given in each state to the public acts, records and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.* Who is correct?

Issue 2 (April Farris, Mike Lynch) The Texas legislature passed several Constitutional Amendments last session to be submitted to the voters for approval in November. Because of the budget shortfall, an amendment was adopted that the ballot would be printed only in English, saving the taxpayers \$15 million dollars. Mexican American legislators objected, claiming that many of their constituents would not be able to read the ballot language and that would be tantamount to depriving them of the right to vote. A Vietnamese legislator offered an amendment that the ballot be printed in Vietnamese. His amendment was defeated. **Is state government constitutionally required to provide ballots in a language every citizen can read and understand?** *Amendment XIV “...nor shall any State...deny any person within its jurisdiction the equal protection of the laws” Amendment X “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States...or to the people”*

Issue 3 (Katherine Cary) In 2012, the town of Liberty, Texas is so overwhelmed by suburban growth from Houston that no school facility can hold the Liberty High School graduating class of 2012, and all the parents, relatives and friends that will attend commencement. In fact, the only facility in town that is able to hold such a crowd with adequate parking is the sanctuary of the new non-denominational church “THE ROCK of FAITH.” Therefore, Liberty ISD rents the church sanctuary and has signs made for the front of the church, the entrances to the parking lots, and the main entrance to the sanctuary saying: “Liberty ISD endorses no religious faith, denomination or sect. We are using this facility for school purposes only.” However, the church will not take down any religious Christian symbols or sayings on display in the sanctuary. Based on these facts, atheist and Muslim parents sue the district to stop use of this facility because using this facility by the public schools for a school event violates the 1st Amendment. / *Amendment “...make no law respecting the establishment of religion”*

Issue 4 (Robert Alden, Susan Morrison) In Texas, 45% of African Americans and 51% of Hispanics drop out before they graduate compared to 25% of Anglo children. The NAACP and MALDEF believe that this is the result of tests all students must pass before they can be promoted to a higher grade. They claim the tests amount to an unconstitutional violation of the Equal Protection Clause of the XIV Amendment. The state claims that the tests are race neutral and given for the sole purpose of determining if students are learning. They say the constitution requires equal treatment, not equal outcomes. **Which side is correct?** *Amendment XIV "...nor shall any State...deny any person within its jurisdiction the equal protection of the laws"*

Issue 5 (Elisabeth Earle) Ronald Reagan high school was known as a school with a drug problem. One day, a student went to the Principal and told him that she heard a rumor that three girls were selling marijuana in the girl's bathroom during the lunch hour. The three girls were brought to the principal's office where a nurse conducted a private strip search of each girl. No drugs were found on two of the girls, but a marijuana cigarette was discovered in the panties of one of the girls. School officials knew the three girls were close friends and had gotten in trouble before for talking to each other during class. The girls were questioned by school administrators for an hour. One of the girls told them she wanted to call her parents but her request was denied. All three were eventually suspended for two weeks. The girl's parents hired a lawyer to sue to have the girls reinstated and for damages for violating their constitutional rights under the fourth amendment. The school defended its actions based on the principal of in loco parentis, i.e. the doctrine that when a minor is in school, the school has the duties and rights of a parent and may do what it believes to be in the best interests of the child. **Does this incident violate rights protected under both the Fourth and Fifth Amendments?** *IV Amendment..."The right of the people to be secure in their...effects, against unreasonable searches and seizures, shall not be violated,... but upon probable cause, supported by Oath or affirmation..."V Amendment...No person...shall be compelled in any criminal case to be a witness against himself, nor deprived of...liberty...without due process of law."* **Did the school have a right to suspend all three girls or just the one found with drugs?**

Issue 6 (David Smith) Public school officials are constitutionally prohibited from coordinating school prayers. But at Mark White High School in East Texas, the principal encouraged a student leader to organize a referendum on whether there should be a prayer at graduation ceremonies. The student does so and a majority of students vote in favor of having a non-denominational prayer that merely refers to a Deity. One of the graduating seniors protests saying that even a non-denominational prayer would violate his right to not participate in a religious exercise at a secular event. **Does allowing the vote for a prayer protect the school from being guilty of organizing a religious exercise? Does the majority's vote outweigh the objecting student's rights? Does it matter that students are not required to attend graduation? Does the fact that the prayer made no reference to any particular religion satisfy the constitutional prohibition preventing the government from establishing a religion?** *"I Amendment Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."*

Issue 7 (David Richards) The Texas Legislature recently directed the Texas Board of Education to adopt rules for teaching the theory of creationism, i.e. the theory that a supreme being had a role in the creation of man, in addition to the theory of evolution. They also asked the State Board to adopt rules for religious history courses and courses on comparative religion. The ACLU says that creationism is not a scientific theory and nothing more than a backdoor way to teaching religious beliefs. They also argue that the line between teaching religion and the history of religion and its role in our culture is too vague and violates the Establishment clause of the 1st Amendment. **Is it possible to teach creationism, the history of a religion or a comparative religion course in public school without violating the 1st Amendment?** *Amendment I "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;"*

Issue 8 (David Halpern) Five former UT football players, having finished their NFL careers, return to Austin and form a corporation, Paradise, Inc. for the purpose of developing property in Western Travis County. They withdraw all of their pension money and savings to put into the venture and buy 5000 acres of land for \$15 Million. They put \$5 million down for the land and borrow \$10 million from Peck Young. Bill Hunch, a local environmental activist goes onto the property, captures a rat and takes it to a UT professor who says the rat is a unique subspecies of rat that likely lives nowhere else and this sub-species will disappear if its habitat is disturbed. U.S. Fish and Wildlife begins investigating and reports that they may place the rat on the endangered species list. Hunch files a federal lawsuit to enjoin any work on the land until Fish and Wildlife makes a determination. **Can he prevail on this suit? If the land is eventually set aside as habitat for the rat, the land will be worth only \$1 million. Is this a taking of their land without compensation under the 5th Amendment or simply result of Public interest regulations under the Commerce and "necessary and proper" clauses of Article I Section 8?** The football players also tell the judge that they are Black and every other real estate developer in Austin has been White. **Now that Blacks have a chance to finally make some money, is it racial discrimination for a group of White environmentalist to deprive them of this opportunity in violation of the 14th Amendment?** *Amendment V "...nor shall private property be taken for public use, without just compensation" Article I Section 8 Paragraph 3 " {Congress shall have Power} To regulate Commerce..." Article I Section 8 Paragraph 3 "{Congress shall have power} To make all Laws which shall be necessary and proper for carrying into Execution...all...Powers vested by this Constitution." Amendment XIV "No State shall...deny to any person within its jurisdiction the equal protection under the laws."*

Issue 9 (Nancy Hohengarten, John Vasquez) Due to the economic hard times, a hotel located east and directly adjacent to the Alamo property in San Antonio closed. A Catholic group looking for a facility to house indigent Hispanic (overwhelmingly Mexican) immigrants, give them training in English, access to health care and other social and spiritual services, received funding for these activities from the Catholic Archdiocese and other Catholic charities. However, a coalition of Protestant groups and Texas history devotees, including descendants of those who died in the Alamo objected that such a facility would be erected so close to Texas' most sacred shrine. They objected, because in their opinion, this facility would assist the descendants of the people who massacred the men in the Alamo, and promote the faith of the tyrant Santa Anna and his troops. The protestors consider the facility disrespectful to the memory and sacrifice of the men who died in the Alamo. Seemingly in response, the San Antonio City Council postponed their final approval of the old hotel's permits and zoning, preventing the Catholic group from beginning operations. The Catholic group sued San Antonio on the grounds that their 1st and 14th Amendment rights were being violated. **Is the Catholic group correct?** *Amendment I "...make no law respecting...religion, or prohibiting the free exercise thereof; Amendment XIV"...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State...deny to any person within its jurisdiction the equal protection of the laws"*

Issue 10 (Kevin Lashus, John Worley) An ACC student named Joseph Salem, returning from a summer exchange program in Turkey, had his laptop seized without explanation or a warrant by Homeland Security Officers when he arrived at the airport in Houston. All the contents of his laptop were copied including his financial records, medical data, and personal emails. Further, his laptop was held for 48 hours before it was returned. When he requested an explanation, initially he was told that Homeland Security did not need to give him one. Finally, he was told that his name looked Arabic and that he had been to a Middle Eastern nation. Joseph pointed out he was an 8th generation American, a 4th generation Texan, and the nation he was a student in was a U.S. ally and NATO member. **Was this seizure a violation of Joseph's rights under Amendment IV? Further, should Joseph at least get the Office of Homeland Security to destroy any of his personal material that is not pertinent to an ongoing criminal investigation?** *Amendment IV "The right of the people to be secure in their...papers and effects against unreasonable searches and seizures, shall not be violated,...but upon probable cause, supported by Oath or affirmation and particularly describing the place to be searched...or thing to be seized"*

Issue 11 (Jim Bailey) President Obama committed U.S. troops to support rebels in Libya who are attempting to overthrow the government. United States troops are not on the ground in Libya, but are providing logistical, technical, and intelligence gathering support to the rebels. To date, U.S. operations have cost about \$1 billion. In 1973, Congress passed the War Powers Act that required the President to obtain an authorization from Congress within 60 days of the beginning of hostilities with another country. Some have argued that the War Powers Act is unconstitutional because it infringes on the President's powers as Commander in Chief. President Obama has not gone that far, but has said that the War Powers Act does not apply in this case because American troops are merely supporting the effort and are not involved in actual combat. He has refused to ask Congress for an authorization of war. **Is the War Powers Act unconstitutional? If it is constitutional, should it apply in situations like Libya?** *Article I, Section 8 "The Congress shall have the Power to...declare War..."*

Issue 12 (Ramey Ko, Chris Johnson) Texas and several other states have recently passed bills requiring doctors to perform sonograms on pregnant women seeking an abortion and explain what the sonogram depicts 72 hours before an abortion is performed. Women can close their eyes or look away, but they will have to listen to the presentation. Under the law, any doctor who fails to go through the explanation can lose his medical license. Doctors argue that such a law intrudes into the doctor/patient relationship and violates the 1st and 14th amendment because it abridges their privilege and duty to practice their profession to the best of their ability, and in the best interest of their patient. In addition, it adds restrictions on what they may say to their patients. Women argue that the government should not be allowed to force them to listen to something they don't care to hear, and make two trips to the hospital. Proponents claim that they are merely mandating that women receive all the information they need before they make the decision to terminate a life. *1st Amendment "...no law abridging the freedom of speech..." 14th Amendment, Section 1" ... No State shall make or enforce any law which shall abridge the privileges...of citizens of the United States."*

Issue 13 (Ken Vitucci) The State Legislature has passed a law that would require voters to present a government-issued photo identification card when voting in public elections. Presently, voters can provide (non-photo) identification when registering to vote, but once registered, they just have to present a card that does not contain their picture when they vote. Proponents of the new law claim the current system is too loose and subject to abuse. Although there is little evidence of voter fraud, proponents argue that we don't really know how much fraud there might be because current law makes it almost impossible to detect fraud. Opponents claim that perhaps 12 percent of eligible voters nationwide do not have a government-issued photo ID, and the percentage is even higher for seniors, people of color, people with disabilities, low-income voters, and homeless persons. They claim that these groups predominately vote for the Democratic Party, the minority party in the legislature. Moreover, they say that many of those individuals find it difficult to obtain photo identification because the necessary documentation—e.g., drivers' license, passport, birth certificate, etc.—is itself difficult or costly to obtain. They claim that this means the new law will deter these voters from exercising their constitutional right to vote. Proponents of the bill responded to these arguments by providing a free ID to anyone who requests one. An eligible voter can now go to any DPS office in the state, show evidence that they are a citizen or eligible voter and they will be given a picture ID by the state that allows them to vote. Proponents say that this is a reasonable requirement to protect the sanctity of elections and a minor inconvenience for those wanting to exercise their vote. **Is the new Voter ID law a violation of the 14th Amendment?** *"XIV Amendment ... No State shall make or enforce any law which shall abridge the privileges...of a citizen of the United States; ...nor deny any person within its jurisdiction the equal protection of the laws"*

Issue 14 (Charlie Baird, Mehron Azarmehr) Less than forty-eight hours before the deadline for raising the nation's debt ceiling to allow the U.S. government to pay its obligations, negotiations between the House and the Senate abruptly end without a resolution. It is possible that the stock market could crash if the U.S. defaults and the credit of the United States is downgraded. To avoid default, Obama raises the limit by executive order citing Sec. 4 of the 14th Amendment. **Does he have the Constitutional authority to do this?** *XIV Amendment Sec.4 "The Validity of the public debt of the United States, authorized by law, including for payments of pensions...,shall not be questioned."*

Issue 15 (Tim Mahoney, Lou McCreary) Doug and Ann are 28 years old and married. Doug works for an air conditioning contracting firm and Ann cuts hair at Sport Clips. Neither of their jobs provides them with health insurance and a private health insurance policy will cost them about \$350.00 per month. Between them, they make \$50,000 per year and can afford to buy health insurance, but they decide they would rather put that money aside for the down payment on a new house. They are both healthy and willing to take the chance that they will not incur major medical expenses in the near future. The cost of a trip to the doctor for the flu or even a broken bone would cost less than the \$4200 per year for insurance. In a few years, when they are a little older, making more money, and are ready to start a family, they plan to buy health insurance.

Obama is elected President, and during his first year in office signs into law healthcare legislation to make sure all Americans have health insurance. The new law provides that if you cannot afford health insurance the government will provide it but, if you are like Doug and Ann, you will be required to buy a policy or pay a fine. The government justifies this on the grounds that in order to make healthcare affordable for all people, the healthy, as well as the sick, must be part of the system. The cost of healthcare must be spread. If only older people or sick people buy insurance the cost would be too great for most people to afford. Also, young, healthy people can have an accident or get cancer and when they do, we don't just let them die. They will receive medical care even if they cannot pay for it and the cost is picked up by the taxpayer. That is not fair to those who buy insurance and also pay high taxes. Doug and Ann are at dinner one evening with friends who work at a law firm and Doug says, "Putting aside the issue of whether requiring people like us to buy insurance is a good idea or not, does the government have the constitutional authority to make me buy something?" His friend says, "Well, courts have ruled that the government can make you buy automobile liability insurance." Doug says: "Not if I don't drive. I can walk to work or take public transportation, and not have to spend my money on car insurance. With this new law, there is nothing I can do to keep from buying it." Doug's friend says, "The commerce clause of the Constitution says that the federal government can regulate commerce between states." Doug says "So what? How is not buying something commerce?" "Congress can also pass laws for the general health and welfare of the people, says his friend." Doug says, "So, the Constitution gives Congress the right to decide what is needed for the general health and welfare of the citizens, and force me to spend my money for that purpose?" His friend says "Maybe. They can force you to pay taxes and spend your taxes how they see fit." Doug says, "I understand that I have to pay for government services. That is different than the government telling me what I have to buy. If they can force me to buy this, what else can they force me to buy?" **Does the government have the authority to make Doug and Ann buy health insurance under Article I Section 8 Paragraph 3, and Paragraph 1 Article I Section 8 Paragraph 1** *"The Congress shall have Power To lay and collect taxes,...and provide for the..General Welfare..." Article I Section 8 Paragraph 3[The Congress shall have Power] To Commerce...among the several states..."*

Issue 16 (Peter Plotts) On September 11, 2001, Muslim terrorists carried out a coordinated attack against the United States of America resulting in the catastrophic destruction of the two World Trade Center buildings and the killing of thousands of innocent men, women and children. The attack was planned, coordinated and carried out by a Muslim terrorist group known as Al Qaeda, whose titular head was Osama Bin Laden. The architect of the attack was Khalid Sheikh Mohammed. Following the attacks, the United States launched a coordinated attack against Al Qaeda and its governmental supporters in Afghanistan, known as the Taliban. Over the course of several months and years following, Khalid Sheikh Mohammed was captured and turned over to U.S. intelligence representatives. The U.S. intelligence services utilized a form of enhanced interrogation on Khalid Sheikh Mohammed known as “water boarding.” As a result of this interrogation technique, vital information regarding new Al Qaeda targets and plans for other attacks was learned and these attacks were thwarted. Notwithstanding the success of the enhanced interrogation techniques utilized on Khalid Sheikh Mohammed, many people and organizations including the *Austin American Statesman* and the *American Civil Liberties Union (ACLU)* attacked the Bush Administration, and in particular Attorney General Alberto Gonzales for the authorizations to allow the enhanced interrogation techniques, arguing that it was an unjustified invasion of the constitutional protections that should have been afforded to Khalid Sheikh Mohammed and that to subject him to the enhanced interrogations techniques constituted cruel and unusual punishment. The *Austin American Statesman* editorialized in harshly worded attacks on President Bush’s administration and General Gonzales personally, condemning the enhanced interrogation techniques utilized.

It is now October, 2011 and U.S. intelligence services have confirmed that Mohammed Atta Saleh has smuggled a small atomic explosive device across the border with Mexico and the atomic device is now located in Austin, Texas, whereabouts unknown, with a detonation date preset of October 15, 2011. Mohammed Atta Saleh has been captured and is in the custody of U.S. intelligence authorities who are questioning him seeking to obtain the whereabouts of the atomic explosive device in order to dismantle it; however, Mohammed Atta Saleh is refusing to cooperate and says he is prepared to die a martyr in Austin when the explosion occurs. If it is not dismantled, the device will explode on October 15, 2011 destroying the entire city of Austin and all inhabitants thereof, including, but not limited to the editorial staff of the *Austin American Statesman* as well as the local representative of the ACLU who had also attacked President Bush and General Gonzales in vicious and unrelenting news releases and lawsuits with respect to the utilization of the enhanced interrogation techniques. It is believed that utilizing enhance interrogation techniques, including “water boarding,” will cause Mohammed Atta Saleh to disclose the location of the atomic device, but as a result of the prior lawsuits and public condemnations issued by the editorial staff of the *Austin American Statesman* and the ACLU, the

#16

intelligence officers are reluctant to use these enhanced interrogation techniques. **Should the intelligence services utilize enhanced interrogation techniques on Mohammed Atta Saleh in order to obtain the needed information even though it may violate his constitutional rights of due process of not being subjected to cruel and unusual punishment; or should he not be interrogated using enhanced interrogation techniques resulting in the total and complete destruction of the City of Austin and all the inhabitants thereof?** *Amendment V "No person ...shall be compelled in any criminal case to be a witness against himself... without due process of law" Amendment VIII "...nor cruel and unusual punishment inflicted" Amendment XIV "... nor shall any State deprive any person of life, liberty...without due process of law nor deny to any person within its jurisdiction the equal protection of the laws."*

Issue 17 (Walter Prentice) Anwar Al-Aulaqi is a Muslim cleric with dual U.S.-Yemeni citizenship, who is currently believed to be in hiding in Yemen. Anwar Al-Aulaqi was born in New Mexico in 1971, and spent much of his early life in the United States, attending college at Colorado State University and receiving his master's degree from San Diego State University before moving to Yemen in 2004. Media sources have also reported ties between Anwar Al-Aulaqi and Nidal Malik Hasan, the U.S. Army Major suspected of killing 13 people in a November 2009 shooting at Fort Hood, Texas. Recently, Anwar Al-Aulaqi has made numerous public statements calling for "jihad against the West," praising the actions of "his students" Abdulmutallab and Hasan, and asking others to "follow suit." An anonymous U.S. official is reported as stating that Anwar Al-Aulaqi had become "the first U.S. citizen added to a list of suspected terrorists the CIA is authorized to kill." Assuming these facts to be true is the placing of Anwar Al-Aulaqi on a "kill list" a denial of his rights to due process and some form of judicial review before his "execution" by a predator drone. Does this action by the CIA violate Anwar Al-Aulaqi's rights as an American under the 5th and 14th Amendments? *Amendment V "No person shall be held to answer for a crime ...crime, unless on a presentment or indictment of a Grand Jury,...nor be deprived of life...without due process of law" Amendment XIV "No State (shall) deprive any person of life...without due process of law; nor deny to any person...equal protection under the laws."*

Issue 18 (Terral Smith) Cindy Hooper grew up poor. Her father died when she was five years old. Her mother was a waitress and no one in her family had ever been to college but Cindy was smart and desired to be someone. After high school graduation, she was accepted to several top tier universities, but she attended ACC because that was all she could afford. She made good grades and thanks to a part-time secretarial job, she eventually transferred to and graduated near the top of her class from St. Edwards University with a degree in accounting. She wanted to go to law school and become a tax attorney. She only applied to UT because she could not afford to live away from home. UT Law School was under pressure from Black and Hispanic legislators to increase the number of minorities in law school or lose funding. They said that the racial makeup of the law school should reflect the racial makeup of Texas. UT agreed to rectify the problem and started noting the race of every applicant on their file and dividing the files into three groups...Black, Mexican American and Other. The members of each group were then placed in order based on LSAT test scores and their undergraduate GPA. While no hard quota was set by UT for admittance of each group, this system allowed them to identify each student by race and easily manipulate the racial makeup of the law school class. For example, if they wanted another Mexican American student, they took the next one appearing on the Mexican American list. Out of a class of 500, the school ended up with 15 Blacks, 40 Mexican Americans and the rest were Anglos and Asians. Cindy is Italian. Cindy's combined LSAT and undergraduate GPA was better than every minority student accepted by UT and better than 50 Anglos who were accepted. UT claimed that she didn't make the cut because the college she graduated from was not a top tier school. They also claimed that racial diversity was important to the school and they didn't have to decide who they took based solely on test scores. Cindy sued the school for reverse discrimination. **Will she win?** Cindy also complained that UT had scholarships for minority students that were not available to her even though some of those students came from wealthy families. **Were Cindy's rights to equal Protection under the 14th amendment violated?** *Amendment XIV No State shall make or enforce any law {that} ... shall...deny to any person within its jurisdiction the equal protection of the law."*