

CPPPS Constitutional questions from the Headlines IV

1. The state of Vermont recognizes as legal the marriage of two individuals of the same sex and allows such couples to adopt children. Two women were married to each other in Vermont under its laws and adopted a little boy. They then moved to Mississippi. After ten years in Mississippi, the couple sued for a divorce under Mississippi law. Mississippi argues that it does not recognize same sex marriages under its state constitution. However, under the “full faith and credit” clause of the U.S. Constitution the couple argues that the state of Mississippi must recognize a legal marriage in Vermont. Therefore, they have a right to a divorce in Mississippi even if they can’t get married again in Mississippi. Who is correct? *Article IV, Section 1 Full Faith and Credit shall be given in each state to the public acts, records and judicial proceedings of every other State.*”
2. Hector Munoz of Roma Texas traveled to Bisbee, Arizona to attend the funeral of his grandson killed in Afghanistan. Hector is 72, a Vietnam veteran, and a 6th generation Texan who has always lived on the Texas border, so he speaks English with a pronounced Texas accent. A police officer noticed Hector driving his son’s old pickup, and that Hector was wearing a straw cowboy hat, was Hispanic, and not local. Therefore, under Arizona law, the officer stopped Hector and asked him to produce four sources of identification that proved he was an American citizen. Hector was only carrying his Texas Drivers License and a Texas Voter Registration card; enough for identification purposes in Texas. He had left his Social Security Card in Roma. He did have one other ID...a card that identified him as a recipient of the Medal of Honor. The local police officer felt that these documents did not meet the Arizona state law’s requirements, so he arrested Hector on suspicion of being an undocumented alien. After Mr. Munoz family got him out of jail, they brought an action claiming that Hector’s constitutional rights were violated under the Fourteenth Amendment. *Amendment 14 “No state...shall...deprive any person of...liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws”*
3. If a state passed a law making English the “official language” of that state, would the state’s refusal to provide legal documents or ballots translated into a language (other than English) citizens can understand, violate those citizens’ constitutional rights under the Equal Protection Clause of the Fourteenth Amendment? *Amendment XIV “...nor shall any State...deny any person within its jurisdiction the equal protection of the laws”*
4. 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, the 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. *I Amendment “...make no law respecting the establishment of religion”*
5. At an elementary school in Austin, the school office received an anonymous call warning of “violence on the play ground.” Administrators immediately went outside and observed two Hispanic second grade boys pointing their thumb and first finger at each other as if they were holding guns, and an Anglo third grade boy making a motion at another boy as if he had a knife in his hand. Under the schools Zero Tolerance Rule adopted after the Columbine shootings, “any violent act or act promoting violence by one student toward another student will not be tolerated.” Applying this Zero Tolerance Rule, the school suspended both the Hispanic boys for an act that “promoted violence,” but only warned the Anglo boy about suggestive actions. Did this school violate the Hispanic boys’ right to equal protection, and more important is the Zero Tolerance Policy as enforced, infliction of cruel and unusual punishment? *“XIV Amendment...No state shall make or enforce any law, which shall abridge...deny to any person within its jurisdiction the equal protection of the laws.” VIII Amendment...nor cruel and unusual punishment inflicted.”*

6. A former state employee sued the Texas Education Agency that fired her for violating her First and Fourteenth Amendment rights because they fired her when she sent an email to supervisors and Board members pointing out that the Board was refusing to include in U.S. History texts that one, the word God is never mentioned in the U.S. Constitution, two, religion is mentioned twice (in Article VI in the “no religious test clause” and Amendment I “no...establishment of religion” clause”), and three, the Delegates at the Constitutional Convention rejected the idea of a chaplain for the Convention...Does she have a suit? **Note: Texas is an ‘at will’ state, you can be fired at will.** Amendment I “Congress shall make no law respecting an establishment of religion...or abridging the freedom of speech.” Amendment XIV’ ...No States shall...enforce any law which shall abridge the privileges or immunities of citizens of the United States...”

7. In Texas under the current system of high stakes testing used in the public schools, 45% of African Americans and 51% of Hispanics drop out before they graduate compared to 25% of Anglo children. Many claim that this is defacto resegregation of the school and therefore an unconstitutional violation of the Equal Protection Clause of the XIV Amendment. What do you think? Amendment XIV “...nor shall any State...deny any person within its jurisdiction the equal protection of the laws”

8. It is July 4, 2012, and President Obama is in St. Louis when Iran launches massive nuclear attacks against Saudi oilfields and production facilities. Then, Iranian backed Al Qaeda terrorists set off an atomic bomb in St. Louis killing the President and destroying the city. President Biden orders swift retaliation, but in a month, the price of gasoline shoots to \$20 per gallon. Transportation in the center of the nation by plane, rail, truck and river has been disrupted by the destruction of what was St. Louis, so food prices not only shoot up in some places, but food actually becomes scares. All of these issues lead to riots and other civil unrest. Therefore, without Congressional action because they are dispersed on summer break, the President, under the provisions of the Constitution to “insure domestic tranquility, provide for the common defense, promote the general welfare and secure the Blessings of Liberty to ourselves and our Posterity,” nationalizes all state national guard units to supplement the U.S. Armed Forces for both foreign and domestic service, nationalizes all trucking, railroads and freight airlines to better organize the distribution of critical supplies nationwide like food and medicine, and nationalizes all energy companies to get a control on prices and distribution of critical energy both to the military, transportation, and citizens. Is this legal under the Constitution under these extreme circumstances?

9. Three girls were accused by others of being drug distributors without any evidence being produced, or the accusers being required to swear to their statements. All three accused girls, based on these unsubstantiated accusations, were strip-searched and no drugs we found. Then they were interrogated by administrators for three hours without access to their parents before they were released. 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.”

10. The State Legislature is debating a law that would require voters to present a government-issued photo identification card in order to be able to vote in public elections. Presently, voters must provide (non-photo) identification when registering to vote, but once registered they do not have to prove identity. Proponents of the new law claim it will prevent voter fraud at the ballot box, although they can’t point to evidence showing specifically that such fraud is occurring in significant numbers. As many as 12 percent of eligible voters nationwide do not have a government-issued photo ID; the percentage is even higher for seniors, people of color, people with disabilities, low-income voters, and homeless persons. Further, political scientists point out that those voters who will have the greatest problems with this law if passed, predominately vote for the Democratic Party. Moreover, 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. Because of this, opponents claim such voters will be deterred from exercising their constitutional right to vote. In these circumstances, 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”

11. Public school officials know that the Supreme Court has prohibited them from coordinating a prayer at graduation, so instead they ask the students to vote on whether there should be a prayer at graduation ceremonies, and, if so, who should give it. A majority of students voted in favor of having a prayer at graduation ceremonies. One of the graduating seniors protested saying the student vote didn't have any bearing on the issue, that a prayer would violate the First Amendment guarantee that government cannot require them to participate in a religious exercise. Does coordinating the vote instead of the prayer itself distance the school from the religious exercise? Does the majority's vote outweigh the objecting student's First Amendment right? Does it matter that students are not technically required to attend graduation? The majority also chose the valedictorian to give the prayer, but she was Buddhist and chose to give a prayer from her faith. Was she trying to "establish" her religion or freely exercise her faith, and how was that impacted by the First amendment? *"I Amendment Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."*
12. The Texas Legislature recently directed the Texas Board of Education to adopt standards for the teaching of religion in the public schools. If the Board of Education adopted standards for teaching fundamental Judeo-Christian religious principles, some would argue that these standards violated the 1st Amendment while others would argue that teaching any religion in public schools violates the principles of the 1st Amendment laid down by Pres. Thomas Jefferson in a letter to a Baptist Association. That letter stated "the act of the whole American people [*in adopting the 1st Amendment*]... declared that their legislature should make no law respecting an establishment of religion or prohibiting the free exercise... building a wall between church and state" *Amendment I "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;"*
13. In Texas from 1989-2005, 14 individuals on death row were exonerated and released because of DNA testing. Further, repeated studies show that those on death row are disproportionately poor and minority. From these facts, can't it be shown that the death penalty presents a real risk of killing innocent people, as well as a disproportionate number of those who simply cannot afford the best defense? If this is true, has not the death penalty become under the 8th Amendment "cruel and unusual punishment?" *8th Amendment "Cruel and unusual punishments [shall not be] inflicted"*
14. National Security conducted a warrant-less wiretap of an international trader suspected of doing business with terrorist fronts. However, these taps developed reliable evidence of the planning of a major stock fraud scheme to cheat a large bank that had received substantial bailout funds. No terrorists were involved, just individuals interested in conducting a bank/stock swindle to take advantage of the Federal money. Can the evidence obtained about the stock/bank scheme be used in court or was it obtained in violation of the 4th Amendment? *IV Amendment "The right of the people to be secure in their persons, houses,... and effects against unreasonable searches...shall not be violated and no Warrants shall issue, but upon probable cause..."*
15. The Texas Legislature, after the election of a secession Governor in 2014, decides that one of the ways out of its annual budget crisis is to print Texas State currency and require banks doing business in Texas to accept it as legal tender of payment of State transactions. This money is backed by the value of all public lands in Texas, and the royalties from all minerals obtained from Texas lands on or off-shore. Texas leaders point out that "Texas Longhorns," as the currency is called, won't be used in interstate commerce. Further, for years in the Berkshires of Massachusetts, "Berkshire Bucks," issued by local banks, have been in circulation for local commerce. Does this action violate Article I, Section 8 of the Constitution giving Congress the right to coin money? *Article I, Section 8 "The Congress shall have the Power...To coin Money, regulate the Value thereof..."*

16. A small advertising agency brought suit in a Federal Court arguing that it had been denied its 14th Amendment rights to equal protection under the law by the application of the Federal Tax Code that charged his corporation a tax rate of 39% while giant corporations like Exxon-Mobil and BP were taxed at 35%. Specifically, his business made \$300,000 in profits this year, and for every amount over \$100,000, he was taxed at 39%. Giant corporations making 18,333,333 or more in profits (and Exxon –Mobil made in 2009 \$42.220 Billion) paid 35%. Because the Supreme Court rulings have given corporations the same status as persons in protecting such rights as free speech, the ad agency argues that their corporation has the right to equal protection under the law. Does this difference in the tax rate violate the 4th Amendment and this corporation a person? *Amendment XIV “any State... deny to any person... the equal protection of the laws.”*
17. 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 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”*



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