

Constitutional Law I Final Exam

Prof. Pi • Spring 2024

Instructions

- Carefully read the fact pattern below.
- Your answer should consist of possible arguments for both the petitioner and respondent.
- You will be awarded one point for each sound argument you produce.
- An “argument” consists of a major premise, minor premises, and a conclusion.
- Fractional points may be awarded for defective arguments.
- Duplicative, trivial, and redundant arguments will not be awarded points.
- Your analysis may be based on any part of the main text of the Constitution. You may find the following sections especially helpful in your analysis:
 - Art. I, Sec. 1, 3, 4, 5, 8
 - Art. II, Sec. 1
 - Art. III, Sec. 1, 2
 - Art. IV, Sec. 1, 4
 - Art. VI
- Disregard all Amendments except the Tenth Amendment.
- Use of ChatGPT (or other language models) is permitted on this exam.
- This exam is open-book / open-internet.
- The length of your exam may not exceed 2,500 words.
- You will have 24 hours to complete the exam.
- Do *not* write your name anywhere in your exam file.

Fact Pattern

The Help America Vote Act of 2002 (“HAVA”) provides federal funding for states to upgrade their election infrastructure. Among the conditions for receiving federal funds is that any new electronic systems adopted by the state must produce a voter-verified paper audit trail (“VVPAT”)—a paper record of each ballot.

In June of 2024, motivated by concerns over potential election fraud, Congress enacted the Election Integrity Act (“EIA”), which

- (1) authorizes the Federal Election Commission (“FEC”) to take control of federal elections in circumstances where a state recipient of federal funding refuses to comply with the requirements of HAVA.
- (2) establishes “FEC Administrative Courts” to adjudicate disputes arising from the HAVA or the EIA;
- (3) establishes “FEC Law Panels” with appellate jurisdiction over disputes arising from the HAVA or the EIA and tried in an FEC Administrative Court.

In September of 2024, the State of Florida announced its intention to defy the HAVA, implementing polling machines which do not produce a VVPAT. The Florida Secretary of State contended that VVPATs could be used to undermine the legitimacy and finality of the electronic vote-counting system, potentially embroiling the State in future vote-counting controversies. He remarked, “We do not want another hanging chad situation.”

After Florida failed to respond to repeated threats that future HAVA funding would be discontinued, the President ordered the FEC to wrest control of all Florida polling locations from the State. He argued that if Florida resisted its obligations under the HAVA, the legitimacy of the 2024 elections could be irreparably undermined. On October 14, 2024, agents of the FEC forcibly occupied polling locations across the State, ejecting Florida election officials from the sites. The Governor of Florida condemned the federal government’s actions.

On October 21, 2024, the Florida legislature enacted the Floridians for Florida Act (“FFFA”), establishing new alternate polling sites across the State. The Governor of Florida announced that the polling locations managed by the FEC had been unconstitutionally seized, and that any votes cast at those sites would not be counted. The President in turn announced that

the Florida polling locations were illegitimate, and that any votes cast at *those* sites would not be counted.

On November 5, 2024, the FEC and the State of Florida held parallel elections across the State. Among the offices being decided was a seat in the U.S. Senate. Upon counting the votes, the Chair of the FEC announced that Johnny Sims had been elected to the Senate. Shortly thereafter, the Florida Secretary of State announced that Tricia Tan had won the Senate race. Both candidates declared victory, urging the other to concede defeat.

The outcome of the election was litigated simultaneously in a Florida court and an FEC Administrative Court. The FEC court claimed jurisdiction over the matter under the authority of the EIA. The Florida court claimed jurisdiction under the authority of the Elections Clause, Art. I, Sec. 4 and the Tenth Amendment. Both cases were appealed. On December 28, 2024, an FEC Law Panel held that the election of Tan was unconstitutional, recognizing Sims as the Senator Elect from Florida. On December 29, the Supreme Court of Florida ruled that Tan was the legitimate Senator Elect from Florida.

On January 5, 2025, both Sims and Tan appeared at the U.S. Capitol to take the oath of office. Much heated argument ensued. Unable to agree upon who legitimately held the seat, the Senate ultimately voted to temporarily seat *both Sims and Tan*, pending further investigation of the matter. This circumstance was utterly without precedent.

On January 6, 2025, the Halt Federal Hegemony Act (“HFHA”) was introduced in the House of Representatives. The legislation stripped the U.S. Supreme Court of appellate jurisdiction to hear cases arising from the HAVA and the EIA. Additionally, the HFHA made the decisions of FEC Law Panels unreviewable by any Article III court, invalidating any federal court decisions relating to the HAVA or the EIA. The HFHA was swiftly approved by the House.

On January 7, 2025, the Senate also passed the HFHA. The vote count in the Senate was 45 in favor, 45 against, with eleven senators not voting. Sims voted in favor of the HFHA. Tan voted against the HFHA. The tie was broken by the Vice President. The President promptly signed it into law.

Tan sues both the FEC and the Senate of the United States, and petitions the U.S. Supreme Court, alleging various constitutional violations. The Court grants *certiorari*.