

SULTAN  
Constitutional Law I  
Spring 1997

ESSAY QUESTION (50 Points)

An investigation into the outbreak of hepatitis among school children, largely in Michigan and the Los Angeles area, traced the disease to frozen strawberries that were picked in Mexico and processed and shipped to the schools by a firm in San Diego, California, just across the border from Mexico. In addition to the fact that the shipments violated an Agriculture Department Regulation requiring that all food sold to school systems be grown in the U.S., the investigation found that the sanitary conditions in the Mexican fields where the strawberries were picked were simply atrocious: open pits in the ground for latrines without toilet paper, and similar conditions.

In order to help guarantee that a similar situation does not reoccur regarding food products grown in the United States, Congress promulgates, with President Clinton's approval, an amendment to the Pure Food and Drug Act first passed during the administration of Franklin Roosevelt. The amendment establishes a new division in the Department of Health and Human Services with jurisdiction to set minimum standards of sanitation for all workers who harvest foodstuff, including migratory workers. The Executive Branch is also given the power of implementation by means of regional offices that conduct on&mdash;site inspections of workers facilities without notice.

A recent graduate of the University of Dayton Law School, you are employed in the office of the Attorney General in Columbus, Ohio. She informs you that the Ohio Constitution provides for sanitary districts in each county to regulate the same sanitary activities and situations, with centralized assistance, when requested, by the Department of Health of the State of Ohio. She requests that you prepare a memo listing all constitutional issue(s) that would be considered in a challenge to the new Federal law that she is considering undertaking in Federal Court. You are to first list the possible issue(s), with the most important first and the least important last. You are then to discuss them in that order, presenting, whenever present, both sides of the issue(s).

---