

Saphire

Constitutional Law II

Fall 1988

Part III Essay Question

Recommended Time - 90 Minutes

The White House has announced that President Reagan will soon be visiting your town and that he will be making a speech at noon on May 22nd at the plaza in front of the downtown Civic Center. The plaza is publicly maintained and is located in the heart of downtown; it is surrounded on two sides by office buildings and on two sides by major streets. Security arrangements for the President's visit have been assigned to the White House Staff and the Secret Service, which in turn will be working closely with local law enforcement officials. Arrangements pertaining to the identity and number of persons who will be invited or permitted to be in the audience for the President's speech have been delegated to the White House Staff and security/law enforcement personnel.

After the President's visit was formally announced, I the White House staff member assigned to coordinate Bob Brown, the White House staff member assigned to coordinate the visit, was contacted by the chairperson of the County Republican Party, Tom Smith. Smith indicated that he had received a barrage of calls from state and local officials requesting that they be given special consideration when seating and standing arrangements were formulated for the President's speech. Smith told Brown that similar requests had been received from a number of prominent local Republicans. Smith advised Brown that he thought this would provide the local Republican Party an especially good opportunity to reward local party contributors and activists and to boost their morale by giving them a chance to shake hands with the President or at least an opportunity to see him up close. Brown told Smith that he thought the idea was a good one. He told Smith to use his discretion concerning the arrangements for the President's speech within any guidelines for security established by the Secret Service and others.

Smith proceeded to devise the following plans. Color-coded passes would be sent, along with formal invitations to attend the President's speech and a cocktail reception at Republican Party headquarters after the speech, to a group of approximately 350 people. This group would include state and local office holders and prominent state and local Republican activists and contributors. The passes would be yellow, orange and green, and would correspond to areas in the Civic Center plaza designated by the security

people as yellow, orange and green areas. Smith worked out an arrangement with the security people according to which persons with color-coded passes would be given priority access to the corresponding security areas.

The diagram on the following page was taken from the Secret Service plainning book for the President's appearance at the Civic Center plaza:

- (1) Area "A" - elevated platforms containing Seats for President, President's immediate party, mayor, county commissioners, etc.
- (2) Area "B" - reserved for persons with "White passes" issued by the White House to VIPs.
- (3) Area "C" - reserved for persons with Yellow passes.
- (4) Area "D" - reserved for persons with "orange" passes.
- (5) Area "E" - reserved for persons with "green" passes.
- (6) Area "F" - reserved for general public.
- (7) Point "G" - checkpoint staffed by security people with metal detectors; exclusive point of access to plaza from 10:00 a.m. to 2:00 p.m on May 22
- (8) Shaded areas - security zones; only authorized security people and members of White House staff permitted access.

In the early morning of May 22, local law enforcement officials cordoned off the entire Civic Center plaza area. Strict instructions were given to all security personnel that no one, aside from members of the President's immediate party or entourage was to be permitted access to the open plaza unless they passed through the security checkpoint (Area "G" on the diagram). Each person seeking access to the plaza would be subjected to metal detector examination and, if necessary, to personal search. Any persons possessing

weapons or objects which might be used as weapons would be subject to exclusion from the plaza and, if indicated, detention. Moreover, each of the areas designated for onlookers (Areas B,C,D,E,and F) were roped off; entrance to each was restricted to an access point which would be supervised by persons designated by the Secret Service.

On the morning of May 22, thousands of people came to the Civic Center plaza to see the President and hear him speak. The security personnel were in place; Secret Service personnel were located throughout the area. Some were assigned to the checkpoint (marked "G" on the diagram); others, in plain clothes, were interspersed throughout the entire plaza. The local Secret Service agent in charge of the entire operation selected individuals picked by Tom Smith to supervise the access points to Areas B, C, D and E.

Your clients are a group of local citizens who are members of the local Nuclear Freeze organization. The members of the group are from diverse political backgrounds: some are registered Democrats or Republicans, some are independents, some are apolitical, some are members of small political organizations like the American Socialist and American Communist parties. On the morning of May 22, these people arrived at the plaza (not as group, but individually) to see President Reagan and listen to his speech. Many of them intended to display their concern about the Administration's defense and national security policies. Towards that end, a number of them brought signs and banners expressing concern about the nuclear arms race and calling for disarmament. As they tried to pass through the checkpoint at Area "G," they were told by the security people that they would not be permitted access to the plaza unless they left all of their signs and banners outside. When they asked for an explanation, they were told that the ban on signs and banners was required as a "security precaution." Then they pointed to a number of banners welcoming and praising the President which had already been set up close to the platform where the President was to speak, they were told that these banners, unlike their own, were not affixed to sticks, poles or any other wood or metal supports. Instead of debating the point, each person who brought a sign or banner with him/her acquiesced in the instruction to leave it at the checkpoint.

Once inside the security parameters and into the plaza, your clients attempted to find places as close as possible to Area "A" so that they could hear and see the President as well as possible. Moreover, a number of your clients intended to express verbally their concerns about the arms race and wanted to stand in places where the President could hear their words. In turn, they went to Areas B, C, D and E and were turned away because they did not have the appropriately colored passes. Again, when they protested they were told that the passes were required for "security reasons." Ultimately, all of the members of your client group went to and were permitted access to Area "F." While they stayed through the

President's speech, many found it difficult to hear all of the speech over the crowd noise. Moreover, many found it impossible to see the President due to the crowd, and those who did try to speak out against the arms race are certain that the President and members of his immediate party could not possibly have heard them.

Your clients believe that the actions of the security and related personnel described above violated their first amendment rights. Did they? Why or why not?