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The Court will now consider four cases that question the constitutionality of the Americans Just Horizons Act.

**New York v. SAA Enterprises**

The first case brings up multiple issues regarding the actions of the President, the Secretary of State, and the Senate, resulting in the ultimate dispute between New York and SAA Enterprises. The initial problem stems from the delegation of power outlined in Provisions 1 and 2 of the Act, therefore, the Court determines that the main constitutional question is whether the Act is properly delegating powers to the President and the Senate, or are these provisions needlessly eroding at the Separation of Powers outlined in first three Articles of the Constitution?

One of the main issues in this case is that the President included Sanzu on his list of favored nations, however Sanzu’s status was rejected by the Senate, resulting in the President’s subsequent executive order and the firing of the Director of the Office of Global Corporate Responsibility. This issue derives from Provision 1, which establishes the Office of Global Corporate Responsibility under the Department of State, making it a part of the Executive Branch. Although this itself is not problematic, Provision 1 also states that the codes that are developed by this Office are to be reviewed and approved by the Senate. Provision 2 has a similar issue, as it delegates the authority to develop the list of nations to the President, but then stipulates that the Senate must also review and approve this list. In both provisions, authority is delegated to the President or the Executive Branch, but checks are implemented by a mandatory review by the Senate, meaning the Act is creating an opportunity for a “legislative veto” by one House of Congress, the Senate. Congressional veto provisions are problematic because they disrupt the bicameral nature of the Constitutional design and undermine the Presentment Clause outlined in the Constitution.

The Court will evaluate the constitutionality of this issue according to the precedent established in *Immigration and Naturalization Service v. Chadha*. Analogous to the current provision, *INS v. Chadha* debates the constitutionality of a provision within the Immigration and Naturalization Act, which allowed one House within Congress to veto the suspension of deportation orders, therefore overriding the Attorney General (*INS v. Chadha* O’Brien 11th ed: 442). Analogous to the current case, the Attorney General is housed under the Executive Branch, therefore, allowing one House to invalidate the Attorney General’s decision results in the undermining of the Executive Power. However, the bicameral roles outlined in Article I Sections 1 and 7 stipulate that both the House and Senate must take part in the legislative process (O’Brien 11th ed: 6 and 9). According to Justice White, the bicameral requirements and the Presentment Clause combine to ensure full consideration of enacted legislation and maximize checks of power (*INS v. Chadha* O’Brien 11th ed: 445). To determine if either House is solely exercising legislative power, Justice White determined that the action must be “regarded as legislative in its character and effect” (*INS v. Chadha* O’Brien 11th ed: 446). He states that the House’s actions altered legal rights and duties relating to the Executive Branch, Chadha, and others outside of the legislative branch, therefore the one-House veto is essentially resulting in new legislation (*INS v. Chadha* O’Brien 11th ed: 446). Justice White and his peers determined that the Constitution explicitly outlines when one House of Congress may act “alone and outside of its prescribed bicameral legislative role”, citing the House’s power to initiate impeachments and the Senate’s power to conduct impeachment proceedings, review presidential appointments, and to ratify treaties (*INS v. Chadha* O’Brien 11th ed: 447). Thus, the authority to legislatively veto authorized in both provisions was rejected, on the grounds that this one-House veto is not within the explicit exceptions to bicameral requirements outlined in the Constitution (*INS v. Chadha* O’Brien 11th ed: 448).  Evaluating Provisions 1 and 2 according to this precedent, Justices Baca, Denniston and Cohen agree that both Provisions 1 and 2 cannot endow the Executive with the power to establish a code of guidelines and a list of favored nations but also stipulate the approval of the Senate, as this creates the opportunity for a one-House veto and violates the bicameral nature of the Constitution.

**Congress v. The President**

This case brings up Congress’s investigatory powers, prompting the question of whether the President can be subpoenaed for both information about the covert operation in Sanzu and information regarding his financial holdings in Sanzu? These two questions have implications regarding the privileges of the Executive and Congress, and therefore must be carefully considered by the Court, as they have implications regarding the Separation of Powers established in the form and text of the first three articles of the Constitution. To address these questions regarding the subpoena power of Congress, the Court will draw upon the precedent set in *United States v. Nixon* and *Trump v. Mazars*.

*United States v. Nixon* parallels the current situation, as President Nixon was subpoenaed by a Senate Committee to hand over tape recordings as evidence related to the Watergate Affair (*United States v. Nixon* O’Brien 11th ed: 479-480)*.* Nixon attempted to quash the subpoena by asserting executive privilege, thus, claiming that the requested tapes dealt with confidential information, that the production of such information would be against American interests, and that he had absolute privilege as a result of the separation of powers doctrine (*United States v. Nixon* O’Brien 11th ed: 482-484).

While the Burger Court recognized the need for confidentiality to an extent, without a specific need to “protect military, diplomatic, or sensitive national security secrets” the Court found the argument for generalized confidentiality to be unconvincing and ruled that giving the President absolute immunity would undermine Article III of the Constitution (*United States v. Nixon* O’Brien 11th ed: 484). Thus, the Court concluded that executive privilege is limited when there is a “demonstrated” and “specific” need for evidence in a pending criminal trial (*United States v. Nixon* O’Brien 11th ed: 486).

However, *Trump v. Mazars* recognized that a “demonstrated and specific need” may not be a satisfactory standard and Justice Roberts established a 4-prong test to evaluate whether Congress has subpoena power over the Executive. The first prong stipulates that the subpoenaed information is not available from another source (*Trump v. Mazars* Con Law Slide 8). The Court recognizes that it is doubtful that Congress can obtain information regarding the operation elsewhere, as the President is Commander in Chief of the military and is also responsible for his own financial holdings; thus, the Court believes that the subpoenas pass the first prong in this test. The second prong stipulates that the Courts must evaluate the scope of the subpoenaed information and determine that it is not overly broad (*Trump v. Mazars* Con Law Slide 8). In this instance, Congress is not requesting specific information regarding the operation or the President’s financial holdings, thus, the Court determines that both subpoenas are overly broad and must be more detailed to pass this prong. The third prong states that the subpoenaed information must serve a valid legislative purpose (*Trump v. Mazars* Con Law Slide 8). Although Congress doubts the intentions behind the President’s actions, suspicion of the President cannot be a valid legislative purpose. Finally, the last prong demands that the subpoenaed information is not overly burdensome for the President to provide (*Trump v. Mazars* Con Law Slide 8). While the President is unwilling to hand over this information, there is no evidence to suggest that doing so will render him incapable of performing his duties as the Executive, therefore the subpoena requests pass this prong.

While the Justices disagreed on the number of prongs that the subpoena requests passed, the majority agreed that both subpoenas fail to pass parts 2 and 3 of the test, therefore the Court agrees that the President cannot be subpoenaed for information regarding the covert operation or for information regarding his financial holdings in Sanzu. If Congress wants this information, then the subpoenas must be narrower in scope and Congress must demonstrate that the requested information is pertinent to a valid legislative interest. Furthermore, Justices Baca and Denniston also argue that the subpoena for information regarding the covert operation has ramifications on both the military and diplomatic relations, and is therefore further protected by a need for confidentiality and executive privilege.

**“L” v. The President**

Before addressing this case, the Court first recognizes that the situation is complex as the President was acting under emergency powers without a formal declaration of war by Congress. Because Congress has neither warranted nor indicated disagreement with the President’s actions, the Court classifies this as within the “zone of twilight” defined by Justice Jackson in *Youngstown Sheet & Tube Co. v. Sawyer* (O’Brien 11th ed: 358). Being classified within this zone makes the Court’s job difficult, and those in support of the President’s actions may turn to the *Prize Cases* and cite the President’s right to “resist force, by force” (*The Prize Cases* O’Brien 11th ed: 299). But while this principle may authorize the President’s military seizure of the Sanzu ships, it does not authorize his use of a military tribunal. Thus, the Court will use the Constitution and an analogous case to evaluate his actions after the seizure of the Sanzu ship.

This case prompts two constitutional questions: Does the President have the right to create a military tribunal for “L”? Furthermore, does “L” have the right to bring forth a habeas corpus suit? These constitutional questions have ramifications for our current democracy, as answering the first question in the affirmative would give the President more power over the judiciary than has previously been accepted, therefore blurring the lines between the three branches of government. Furthermore, the Framers, having taken issue with the abuses of Britain’s judicial system, have firmly established the right to a trial by jury, as stated in Article III, which explicitly states that “The Trial of all Crimes, except in Cases of Impeachment, shall be by jury” (O’Brien 11th ed: 15). The 6th Amendment also assures the accused of a “speedy” and “public” trial “by an impartial jury of the State and district wherein the crime shall have been committed”, therefore affirming the right to a jury of one’s peers (O’Brien 11th ed: 18). Thus, denying “L” this right while the civil courts are still functioning and dismissing his habeas corpus suit will undoubtedly impact the very foundations of our judicial system.

The Court views this case to be analogous to *Ex parte Milligan.* The fact patterns between these cases are analogous because in both the current case and in *Ex parte Milligan*, the President attempted to use a military tribunal to try a U.S. citizen, despite the fact that the civil courts were fully functioning at the time (O’Brien 11th ed: 299). Additionally, both cases resulted in a suit, where the citizen being tried appealed for a writ of habeas corpus (*Ex parte Milligan* O’Brien 11th ed: 299). In *Ex parte Milligan*, Justice Davis cites Article III of the Constitution, which dictates Congress's ability to “ordain and establish” “inferior courts,” and notes that the President does not have this power (*Ex parte Milligan* O’Brien 11th ed: 300-301). Justice Davis admits that the jurisdiction of the President may be expanded in wartime, however he notes that these expanded powers cannot be applied “where the courts are open and their process unobstructed” (*Ex parte Milligan* O’Brien 11th ed: 301). Furthermore, Justice Davis reaffirms that the right to a trial by jury “is preserved to every one accused of a crime who is not attached to the army, or navy, or militia in actual service” (*Ex parte Milligan* O’Brien 11th ed: 302). Furthermore, Justice Davis states that a trial by a military tribunal may only be condoned in cases of “foreign invasion or civil war”, if the courts are actually closed, and if the United States is in the “theatre of active military operations” (*Ex parte Milligan* O’Brien 11th ed: 304).

Evaluating the current case according to this framework, we know that “L” is a U.S. citizen who is not connected to the military and that the civil courts are functioning. In *Milligan*, it was argued that it was a time of “War” or “Public danger”, and thus, according to the 5th Amendment, Milligan’s rights could be limited because of martial law (*Ex parte Milligan* O’Brien 11th ed: 302). However, in answer to this claim, Justice Davis stated that limitations to a citizen’s rights require that the civil courts are closed and that the U.S. is actively engaged in war (*Ex parte Milligan* O’Brien 11th ed: 303-304). While Sanzu’s attack on California may be considered a “foreign invasion,” the U.S. military has seized control of the ships and there is no indication of immediate danger, therefore the Court cannot define the situation as a “theatre of active military operations” and there is no need to use martial law to establish a military tribunal and suspend the writ of habeas corpus. Justice Chorny dissented to this, stating that there is no means of determining if the threat is over, however, all other Justices disagreed. Similarly, Article III Section 2 dictates that when a crime is not committed “within any State”, Congress shall decide the place of the trial, giving further evidence that the President was overstepping his power in establishing a military tribunal in which to try “L’ (O’Brien 11th ed: 15).

The Suspension Clause outlined in Article I Section 9 of the Constitution declares that the privilege of the writ of habeas corpus can only be suspended in “cases of rebellion”, “invasion” or when the “public safety may require it” (O’Brien 11th ed: 11). As previously established, the current situation can no longer be considered dangerous, therefore, denying “L” the privilege of the writ of habeas corpus is unconstitutional. Regardless, Milligan establishes that “[t]he suspension of the privilege of the writ of habeas corpus does not suspend the writ itself. The writ issues as a matter of course; and on the return made to it the court decides whether the party applying is denied the right of proceeding any further with it.” (*Ex parte Milligan* O’Brien 11th ed: 304). Thus, even if “L” is denied the privilege of the writ, he is still entitled to a habeas corpus suit.

However, a critical difference between the current case and *Milligan*, is that “L” was captured on a Sanzu submarine and detained not on a U.S. navy vessel off the coast of California. This difference forces the Court to draw upon the precedent established in *Boumediene v. Bush*, since this case evaluates the application of the Suspension Clause in an instance where the detainees, who were not U.S. citizens, were held in Guantanamo Bay (*Boumediene v. Bush* O’Brien 11th ed: 318-319). The Court established that the application of the Suspension Clause depends on the “citizenship and status of the detainee, the nature of the sites where apprehension and detention took place, and the practical obstacles involved in resolving the prisoner’s entitlement to the writ (*Boumediene v. Bush* O’Brien 11th ed: 325). Using these standards, the Court decided that in the case of non-citizens, the protections of the Constitution do not necessarily stop where *de jure* sovereignty ends, and the Court decided that the Constitution still applies in Guantanamo Bay and ruled in favor of the detainees (*Boumediene v. Bush* O’Brien 11th ed: 323-326). As a U.S. citizen, “L” is entitled to the full protection of the Constitution, and although he was arrested on a foreign submarine, his detention on a U.S. ship is still considered by the Court to be under the sovereignty of the United States. Thus, the privilege of the writ of habeas corpus should not have been suspended, and “L” has the right to file a habeas corpus suit.

**Cook County Law Enforcement Officers v. United States**

The constitutional question arising from this case is whether Provision 3 of the Act, which requires local police to conduct identity checks on foreigners volunteering with Americorps in order to ensure that they are from a country listed as a favored nation, is overly burdensome. Determining the burden of this requirement has implications regarding the separation between state and federal power, therefore, fundamentally challenging the dual sovereignty system established by the Framers.

The Court will analyze the present case according to the ruling made in *Printz v. United States and Mack v. United States*. These cases have similar fact patterns to the current case, as both Printz and Mack argued that the Brady Act, which directed law enforcement officers to temporarily conduct background checks on handgun purchasers, was unconstitutional because the federal government was illegally forcing state officials to carry out a federal mandate (*Printz v. United States/Mack v. United States* O’Brien 11th ed: 735). In deciding the case, Justice Scalia asserts that the structure of the Constitution establishes limitations on the federal government because the Framers agreed that “using the States as the instruments of federal governance was both ineffectual and provocative of federal-state conflict” (*Printz v. United States/Mack v. United States* O’Brien 11th ed: 738). Thus, the Court held that the Brady Act was violating the principle of dual sovereignty and that “Congress cannot compel the States to enact or enforce a federal regulatory program” (*Printz v. United States/Mack v. United States* O’Brien 11th ed: 740). The justices relied heavily on *New York v. United States* in this decision, in which Justice O’Connor asserted that the Constitution does not give Congress the ability to dictate state governance (*New York v. United States* O’Brien 11th ed: 732). Although “coercion” is unconstitutional, Congress may encourage state governments to comply with a federal agenda by attaching conditions to the receipt of federal funds or using other encouraging means; however, simply forcing state governments to comply “commandeers the legislative process of the States” (*New York v. United States* O’Brien 11th ed: 732-733).

Provision 3 of the Americans Just Horizons Act, like the Brady Act, does not attempt to encourage compliance with a federal regulatory program and instead blatantly uses local officers to enforce the federal program. In doing so, the Act is impeding the officers from fulfilling their other duties and is “commandeering” the political and legislative process by usurping the political will of the local population. This disrupts the dual sovereignty system, agitates the relationship between state and federal governments, and violates the 10th Amendment, which stipulates that powers not delegated to the federal government are reserved for the States (O’Brien 11th ed: 19). Thus, the Court rules in favor of the Cook County Law Enforcement Officers and the third provision of the Act is declared unconstitutional.

In conclusion, the majority of the Court has determined that Provisions 1 and 2 of the Act violate delegations of power outlined in the Constitution, that Congress cannot subpoena the President for information regarding the operation in Sanzu or his non-privileged financial records, that the President violated the Constitutional rights of “L” when he ordered him to be tried in a military tribunal and suspended the writ of habeas corpus, and that Provision 3 is unconstitutional because Congress cannot use state officers to enforce a federal program. The Court’s rulings on the above cases demonstrate that Justices Cohen, Baca, and Denniston object to all 3 of the Provisions included in the Americans Just Horizons Act. Therefore, the majority declares the Act unconstitutional and strikes down the law in full.