

The National Ecological Balance Act prohibits the destruction or removal of any wild animals located on lands owned by the United States without express permission from the Federal Bureau of Land Management. Violators are subject to fines of up to \$1,000 per offense.

After substantial property damage was inflicted on residents of a state by hungry coyotes, the state legislature passed the Coyote Bounty Bill, which offers \$25 for each coyote killed or captured within the state. A national forest, owned by the federal government, is located entirely within the state. Many coyotes live in the national forest.

Without seeking permission from the Bureau of Land Management, a hunter shot several coyotes in the national forest and collected the bounty from the state. As a result, he was subsequently tried in federal district court, convicted, and fined \$1,000 for violating the National Ecological Balance Act. The hunter appealed his conviction to the United States Court of Appeals.

On appeal, should the Court of Appeals hold the National Ecological Balance Act constitutional as applied to the hunter?

- A. No, because Congress may not use its delegated powers to override the Tenth Amendment right of the state to legislate in areas of traditional state governmental functions, such as the protection of the property of its residents.
- B. No, because Congress violates the full faith and credit clause of Article IV when it punishes conduct that has been authorized by state action.
- C. Yes, because Article I, Section 8, of the Constitution authorizes Congress to enact all laws necessary and proper to advance the general welfare.
- D. Yes, because the property clause of Article IV, Section 3, of the Constitution authorizes such federal statutory controls and sanctions.

Explanation:

Article IV clauses

Clause	Requirements
Full faith & credit	States must recognize public acts, records & judicial proceedings of other states
Privileges & immunities	States cannot deny rights of state citizenship to citizens of other states
Property	Congress can dispose of & regulate federal land/territories
Guarantee	Federal government must guarantee states republican form of government & protect states from invasion

The Article IV, section 3 **property clause** gives **Congress *complete power*** to dispose of and **regulate federally owned land** and territories—including the wildlife living thereon. As a result, Congress can prohibit the destruction or removal of wild animals on federal land without permission from the Federal Bureau of Land Management. And since the hunter shot coyotes in a national forest without permission, he can be prosecuted under this statute. Therefore, the court should hold this statute constitutional **as applied** to the hunter.

(Choice A) The Tenth Amendment reserves to the states (or to the people) all powers not expressly given to the federal government by the Constitution—including the police power to protect residents' property. But Congress can use its delegated powers to override a state's Tenth Amendment powers. And when it does so, the Article VI **supremacy clause** prescribes that the federal law supersedes the conflicting state law.

(Choice B) The full faith and credit clause of Article IV requires *states* to respect public acts, records, and judicial proceedings of other states. Therefore, *Congress* does not violate this clause by punishing conduct that has been authorized by a state.

(Choice C) Article I, section 8 authorizes Congress to enact laws that are "necessary and proper" to carry out its **enumerated powers**—including the power to *tax and spend* for the general welfare. But Congress is not taxing or spending here, so the necessary and proper clause cannot justify the statute.

Educational objective:

Under the property clause, Congress has absolute power over federally owned land and territories—including the power to prohibit the destruction or removal of wild animals living thereon.

References

- Kleppe v. New Mexico, 426 U.S. 529, 540–41 (1976) (stating that Congress's plenary power over federal lands "includes the power to regulate and protect the wildlife living there").

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