

In the wake of massive terrorist attacks carried out inside the United States by foreign citizens, Congress declared war on the terrorists' nation of origin. It also passed a statute requiring every permanent resident who is a citizen of the enemy nation to either immediately leave the United States voluntarily or be subject to deportation. An inseverable provision of the new statute provides that the United States Supreme Court will have original and exclusive jurisdiction over any action brought to challenge the validity of the statute.

Is the new statute constitutional?

- A. No, because cases brought under the statute do not fall within the categories of cases specified in Article III as those over which the Supreme Court shall have original jurisdiction.
- B. No, because the statute violates the equal protection component of the Fifth Amendment.
- C. Yes, because among the powers of Congress enumerated in Article I, Section 8, is the power to enact laws governing immigration and naturalization.
- D. Yes, because Article III specifically provides that the jurisdiction of the Supreme Court shall be subject to such exceptions and regulations as Congress shall make.

## Explanation:

### SCOTUS jurisdiction

Type	Definition	Applicability
<b>Original</b>  (Congress cannot adjust)	Case filed directly in SCOTUS	Cases involving either: <ul style="list-style-type: none"><li>• ambassador/public minister/consul <i>or</i></li><li>• state as party</li></ul>
<b>Appellate</b>  (Congress may limit)	Case filed after decision by either: <ul style="list-style-type: none"><li>• lower federal court <i>or</i></li><li>• highest state court</li></ul>	All other cases by either: <ul style="list-style-type: none"><li>• writ of certiorari <i>or</i></li><li>• direct appeal (rare)</li></ul>

**SCOTUS** = Supreme Court of the United States.

**Original jurisdiction** is a court's power to hear and decide a case first—ie, before any appellate review. Article III provides that the **U.S. Supreme Court** (SCOTUS) has original jurisdiction over:

- cases involving **foreign ambassadors, public ministers, or consuls** and
- cases in which a **state is a party**.

And though Congress has the power to limit SCOTUS's *appellate jurisdiction*, **Congress cannot alter** SCOTUS's *original* jurisdiction (**Choice D**).

Here, Congress passed a statute requiring every permanent resident who is a citizen of the enemy nation to leave the United States voluntarily or be subject to deportation. The statute provides that SCOTUS will have original and exclusive jurisdiction over any action challenging the statute's validity. Since this inseverable provision purports to expand SCOTUS's original jurisdiction beyond the categories of cases specified in Article III, the statute is unconstitutional.

**(Choice B)** Federal classifications based on *citizenship* are subject to mere rational basis scrutiny under the equal protection component of the Fifth Amendment. That is because Congress has plenary (ie, exclusive) authority to make immigration policy. And since the deportation order is rationally related to the government's legitimate interest in national security, the statute does not violate this component.

**(Choice C)** Article I, Section 8 enumerates *Congress's powers*, including the power to enact laws governing immigration and naturalization. But Congress cannot violate other constitutional provisions when exercising these powers (as seen here).

**Educational objective:**

The United States Supreme Court has original jurisdiction over (1) cases in which a state is a party and (2) cases involving foreign ambassadors, public ministers, or consuls. Congress cannot expand or limit this jurisdiction.

**References**

- Marbury v. Madison, 5 U.S. 137, 174–76 (1803) (holding that Congress cannot expand the Supreme Court's original jurisdiction).
- 32 Am. Jur. 2d Federal Courts § 453 (2019) (defining original and appellate jurisdiction).

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