

FINAL EXAMINATION
Constitutional Law I
Professor Marc Stickgold
Spring 2005

1. You have **three (3) hours** to complete this exam.
2. This is a **closed** book exam. No materials may be used during this exam.
3. There are 3 parts to this exam:

PART I: Consists of **18 multiple choice** questions. PART I is a total of **36 points**. Be certain to read each question fully and carefully. Often one word may make a difference. There is one best answer for each question. You must choose among the answers provided. Suggested time: 60 minutes.

PART II: Consists of **one (1) essay** question and is worth a total of **34 points**. Suggested time: 60 minutes. Think about the question before you begin to write.

PART III: Consists of **two (2) short answer essay** questions. The 2 questions are worth 15 points each, for a total of **30 points**. Clearly state the constitutional principles that apply and then BRIEFLY address the specifics of the problem. *Each answer should be brief and to the point!* Suggested time: 60 minutes.

It is wise to outline and organize your answer before beginning.

Correct multiple choice answers are to be marked on the separate "ParSCORE TEST FORM" using pen or pencil and following the instructions on that form. If you change your answer, place a clear **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as a wrong answer.

Please use pen and write the responses to your essay questions in the blue books provided. Please write on one side of each page and on every other line. Please write legibly.

4. Write your exam number on your exam envelope. Put your correct class section and student exam # at the top of this page, each page of questions, each blue book, and the "ParSCORE TEST FORM." **Do not** use your name, student ID number or Social Security Number on any exam materials.

5. At the conclusion of the exam, return all exam materials to the exam envelope and submit it to the proctor. Do not seal the envelope. Students who do not return all exam materials at the end of the exam will not be graded.

GOOD LUCK!

PART II: ESSAY QUESTION
(34 points; 60 minutes)

Alice and Robert, young lovers who are not married, decide to go on a vacation to beautiful Miami Beach, Florida. They drive from their home in New York for a wonderful, romantic, two-week vacation. While there, they indulge in some lovemaking on a secluded beach nearby their hotel. However, they are discovered by a policeman and arrested. "Sexual intercourse between unmarried adults" is considered the crime of "Fornication" in Florida. When the Miami Beach police discover Alice and Robert are both from New York, and in Florida on a vacation, they turn them over to the F.B.I. (a U.S. government police agency), who under President Bush has been spending much more time prosecuting "morals" offenses. Based on the fact that they had traveled from one state to another, and that fornication is a crime in Florida, they are charged by the federal government with a violation of a 1910 federal statute which says in pertinent part:

18 U.S.C. § 2421. Transportation generally

Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

While this statute's constitutionality was upheld by the Supreme Court many years ago, it was well before a number of major Supreme Court cases, in two relevant areas, which significantly changed some of the Supreme Court's analysis that might directly affect Alice and Robert's case.

Discuss what constitutional challenges to the federal statute may exist for Alice and Robert in light of current Supreme Court holdings on issues fairly raised by this problem. Explore the current state of the governing law, and then apply it to this problem, being sure to discuss all sides of any debatable issue.

END OF ESSAY QUESTION

PART III: SHORT ANSWER ESSAY QUESTIONS

1. **(15 points; 30 minutes)** Two years after the invasion of Iraq, Congress subpoenas (there is no dispute that Congress has the power to hold hearings and subpoena information when it is pursuing its constitutional responsibilities) a secret report on Iraq's weapons of mass destruction from the President because it feels "out of the loop" on important foreign policy matters. The report was prepared as part of the Iraq war plans. Congress authorized the President to take "any necessary steps, including the use of the

armed forces” to respond to the threat of weapons of mass destruction.” It is now concerned that since there has been no discovery of any WMD at all, they need to explore the matter. The President refused to furnish the report, claiming it is privileged. A series of cases, beginning with U.S. v. Nixon, established a constitutional claim of "executive privilege" that allows the President to refuse to provide information to other branches of government in some circumstances. What is the test announced in Nixon that the Court uses in evaluating such claims? Assess how the Court would evaluate Congress’ demand and the President’s claim of privilege!

2. **(15 points; 30 minutes)** The City of Santa Cruz, California, has a city owned and operated marijuana greenhouse, which produces and distributes marijuana to persons with illnesses that entitle them to "medical marijuana" prescriptions under California law. (California makes the use of marijuana for medical purposes, when authorized by a physician, legal under California law.) Congress has a statute making it illegal for "anyone, including a government official or agency," to produce or distribute a "controlled substance," including marijuana, for any reason whatsoever. The feds seize the greenhouse and its contents, and prosecute Dr. B. Ware, Health Department Director who supervises the project. According to the Supreme Court, what are the Tenth Amendment rules likely to govern this case?

END OF EXAM