

**Final Examination
Constitutional Law II
Professor Marc Stickgold
Spring 2007**

INSTRUCTIONS:

1. You have three (3) hours to complete this exam.
2. This is a closed book exam. No outside materials may be used during this exam.
3. **PART I:** Consists of 16 multiple choice questions. The total number of points allocated to PART I is 32. 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. The fact that there may be an additional unlisted answer which you like better must be ignored. (Recommended time: 50 **minutes**)

PART II: (55-60 minutes) Two essay questions counting for 34 points each, or 68 points total. (Recommended time: **65** minutes per essay question.)

Allocate your time accordingly. Think about the questions before you begin to write. If something is unclear to you, state your assumptions clearly and then proceed.

For the Multiple Choice Questions, darken in the letter corresponding to the correct answer on the **ParScore** answer sheet. If you change your answer, please be sure your erasures are complete. The exam will be scored by machine and any ambiguities will be counted as a wrong answer.

Please use pen for the Essay Question. Write on only **ONE SIDE OF EACH PAGE** if you are writing your answer in a Blue Book. **DOUBLE SPACE** your work, whether written or typed.

4. Write your exam number on your exam envelope, at the top of this exam question packet, your **Par Score** sheet, and any blue books or typed essays. **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 test materials, including blue books, **ParScore** answer sheet, scratch paper, and this exam packet to the 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 may not have their exams graded.

ESSAY QUESTION I (34 points)

U.S. troops have just been sent to fight in a war in a Middle Eastern nation. The President says our national security is at stake because this “axis of evil” nation controls the world supply of pistachio nuts, the source of the new “natural fuel” that has recently been invented which will solve the fossil fuel problem and help fight global warming. In the aftermath of this new war, a number of events occur.

(1) Fred Farmer, a highly decorated veteran of the two Gulf Wars, opposes this new war. He protests by pouring blood over his many military medals laid out on the public sidewalk outside the White House fence. He is prosecuted under a statute that punishes “destroying, defacing or defiling military medals or insignia of the United States.” Some of the medals can be cleaned but others, with ribbons, are ruined.

(2) Hank Hearty, a Marine veteran of the War in Iraq, sees Farmer conduct his protest. It infuriates him. He supports his President and his country and finds it particularly offensive—indeed treasonous—that a veteran would disgrace the uniform by pouring blood on the medals. He crosses the street and begins yelling at Farmer, “You traitorous son-of-a-b----, you won’t fight for your country, but dammit, you’ll have to deal with me. Come and get it!” He advances on Farmer, but before he reaches him, a policeman intervenes and arrests Hearty. He is charged under an ordinance that punishes “offensive verbal provocations or threats.”

(3) As he is being arrested, Hearty calls out to a group of uniformed soldiers he sees nearby. “Get him! Show him what it means to support our enemies. It’s what he deserves. If he acts like our enemy, treat him like our enemy. Get him!” The soldiers begin to walk toward Farmer, but police intervene, and cooler heads prevail. Hearty is additionally charged under a state statute that prevents “incitement to riot or violence

Please analyze and discuss the First Amendment issues raised by these three prosecutions. Indicate the defenses likely to be raised by the defendants, and the government’s likely responses.

ESSAY QUESTION II (34 points)

The City of Santa Ana, California, is a city of about 100,000 people in Southern California. About 80% of the city's residents are immigrants from Mexico or Central American countries, or are the U.S. born children of such folks. A large percentage of these residents do not speak English as their primary language. Census statistics show that 51% of city residents "speak English less than well." About 75% of these residents are not yet citizens. More than half the employees in the city are native Spanish speakers, and nearly every business of more than just a few employees has Spanish-speaking employees.

"Business owners need employees who speak good English," said Mayor John Smith. "English language proficiency would not only help our businesses, but would boost the workers' income. If they were more proficient in English, many of them could be promoted to higher paying jobs, buy houses, start their own businesses," said Councilperson Jill Jeffrey. "While these people are of all colors, races and religions, the two things they have in common is where they come from, and their primary language—Spanish. The first is their birthright, but we can help them with the second by making English classes readily available," Jeffrey added.

In order to promote and facilitate the learning of English as a second language by Spanish speaking workers, the City has appropriated \$4.5 millions dollars to allow the City Community College to provide English classes. It includes money for computers, materials, instructors, advertising and the like. This money was originally scheduled to be used for advanced English literature and writing courses, but the College decided the money was better spent on improving basic English language skills of over half the population, than on refining the skills of a small number of fluent English speakers. "Santa Ana's future prosperity, and the prosperity of its workers and businesses are at stake," said College President Clark Connor. "It is particularly the city's newest arrivals from our neighbor countries to the South who need to learn English quickly," said Connor. Anyone whose primary language is Spanish, and whose English is weak, may take the classes.

Those persons who are U.S. citizens may take the classes free of charge. Those persons who are lawfully admitted immigrant must pay \$100.00 per class. Those persons who cannot show proof of either citizenship or lawful immigrant status must pay \$500.00 per class.

Some faculty and students at the College have filed suit to have this plan declared unconstitutional in violation of the 14th Amendment. Two prospective students, one a lawfully admitted immigrant, and one an immigrant without the necessary papers, also file suit to challenge the tuition schedule. Assume they all have standing. Explore the arguments that might be presented by the challengers to the program, and the likely responses of the City. Reference to, and use, of important cases would be very helpful to the court.