

**FINAL EXAMINATION
CONSTITUTIONAL LAW
Professor Power
3 ½ Hours - Closed Book**

Question 1 (80 minutes)

The City of Bridgeport is facing a growing crime problem, much of it attributed by experts to drug use by teenagers. The tragedy of crime is equaled by the tragedy of productive lives lost to hopelessness and drug addiction. A number of public and private agencies have proposed solutions. Some of them raise constitutional issues.

One proposal centers on education. Connecticut law now allows students to quit school at age 16. If this proposal were enacted into law, students would be required to remain in school until they receive a high school diploma or reach the age of 21. All public school students reaching the age of 16 without being on track to graduate would be placed in a “Life Skills Program” in the city’s public schools. Roughly ½ of the curriculum in this program would be devoted to job training for skilled and semi-skilled employment. The other ½ would consist of a series of classes designed to help teenagers avoid undesirable behavior. Classes would include Addiction Avoidance (alcohol, drugs and cigarettes), Sex Education (contraception, family planning, health concerns during pregnancy), and Family and Home Responsibility (general duties of adulthood). Students in the Life Skills Program would be subject to a dress code to encourage discipline and group identification. Boys would be required to wear button-down, long or short-sleeve shirts and long trousers; girls would be required to wear blouses and skirts no shorter than knee-length. Teenagers would be permitted to attend private school instead of public school for academic courses, but must attend the Life Skills Program in one of the public schools unless they graduate from private school by the age of 19.

A 2nd proposal centers on law enforcement. If this proposal were enacted into law, an 8 p.m. curfew would be imposed on all teenagers. Only those teenagers on their way to or from employment, job training or church, or in the presence of a parent or legal guardian would be permitted on the streets or sidewalks of the city. In addition, all persons (not just teenagers) convicted of drug-related charges would be denied driver’s licenses. Finally, all firearms would be prohibited, with the exception of those belonging to police officers or fully-trained security guards. Armed members of the National Guard would be assigned to each intersection in high crime areas.

Assume that you are a Supreme Court Justice assigned to write an opinion on the constitutionality of these programs. You may assume that there is a “case or controversy” before the Court, thus you need not address whether the Court has authority to consider the constitutionality of these proposed laws. Make certain that you discuss **all** aspects of the laws that raise constitutional issues. Several constitutional provisions discussed this semester are relevant. Here is one that we did not discuss as such, but which you should discuss based on

your understanding of constitutional interpretation.

Amendment II

“A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

The 2nd Amendment was adopted in 1791 with very little debate. There was no standing army in those days; there were paid police forces in only a few urban areas; most families owned at least 1 firearm; many relied on firearms to obtain food.

As stated above, write an opinion addressing the constitutionality of these proposals.

Question 2 (50 minutes)

Congress and the President tend to butt heads fairly regularly. Some years it is one issue, such as aid to the Nicaraguan rebels; other years it is another issue, such as federal deregulation of industry. Perhaps the most heated confrontations in recent years have concerned the federal budget. Where budgetary conflicts have resulted in constitutional litigation, Congress has usually lost before the Supreme Court. With that in mind, assume that Congress passes the following bill:

Court Reform Act of 1990

Findings:

1. Congress hereby finds that litigation concerning the federal budget has an adverse impact on interstate commerce by creating uncertainty in the financial markets and undermining confidence in the nation's economy;
2. Congress hereby finds that the federal courts are generally overburdened and cannot properly dispose of all cases and controversies before them.

THEREFORE, It is hereby enacted:

A. No United States District Court or Court of Appeals shall have jurisdiction over any suit in law or equity that challenges any congressional statute or other action relating to the federal budget.

B. The United States Supreme Court shall have no appellate jurisdiction of a final decision of a state court that relates to any Act of Congress concerning the federal budget.

President Bush reluctantly signs the bill into law.

Discuss all constitutional issues raised by the new law, taking care to address the arguments on both sides.

Question 3 (80 minutes)

On March 24, 1989, the supertanker Exxon Valdez hit a reef in Prince William Sound, which is within Alaska. Some 260,000 barrels of oil escaped from the ship and, as of several weeks later, covered hundreds of square miles of the Sound and fouled many small islands and shore areas. Roughly ½ of the sea otters in the stricken area were killed, along with thousands of birds and fish. Salmon fisheries in the area were closed down and hundreds of people lost their jobs, at least temporarily.

The Captain of the Exxon Valdez, Joseph Hazelwood, was apparently drunk and not in control of his ship when the collision occurred. He has been charged with the federal misdemeanor of negligently handling petroleum products, resulting in waste. This law was enacted in 1974 as part of a broader law known as the Energy Conservation Act. One provision of that law states as follows: "Congress recognizes that an ample supply of petroleum products is necessary to assure the efficient transportation of people and industrial products throughout the United States."

Alaska, which has a state government strongly committed to environmental preservation, has a statute making it a criminal offense to wantonly damage the aquatic environment. Alaska has charged Hazelwood with a violation of this statute. He faces several years in prison if convicted.

The federal government has also brought a civil enforcement proceeding against the Exxon Corporation. A federal statute provides that any oil company responsible for pollution that adversely affects the nation's environment shall pay all expenses of cleaning up the pollution and is also liable for an equal amount in fines. The fines go into a general federal fund used to pay for environmental cleanups in which the responsible parties cannot be identified.

Immediately after the catastrophe, public reaction to the oil spill resulted in Congress passing and President Bush signing 2 new federal statutes. One is a flat ban on any further oil exploration in Alaska. The 2nd authorizes the expenditure of \$100 million in federal funds to develop techniques to clean up oil spills quickly in order to protect shorelines. Because of the massive federal deficit, this expenditure is to be financed by a special tax of \$.02 on each gallon of motor gasoline sold at retail gas stations. Both laws went into effect on April 15 of this year.

Hazelwood challenges the federal and state prosecutions for the Prince William Sound oil spillage. Exxon challenges the federal suit seeking expenses and fines. Exxon also files an action challenging the new federal law banning further Alaskan oil development and the new federal law taxing motor gasoline sales to fund research into new cleanup techniques.

Discuss the constitutional law issues raised by Hazelwood's challenges to the 2 prosecutions, Exxon's challenges to the civil suit, and the company's suit challenging the new federal statutes.