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# HOWARD UNIVERSITY SCHOOL OF LAW

## CONSTITUTIONAL LAW I SECTION 2

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202-806-8017

### Spring 2013 Practice Exam Instructions      March 1, 2013

#### **General Instructions**

1. This practice exam counts for **zero points** toward your final grade.
2. You have **50 minutes** for this practice exam.
3. The exam is one (1) page long, excluding this instructions page.
4. Type your answer in a word processing document using a 12 pt font, single spaced.
5. You are limited to 800 words (about 2 pages single spaced).
6. Use headings and paragraphs as appropriate in your answer.
7. Your answer is to be emailed to Prof. Jamar at **stevenjamar@gmail.com** by 11:00 am Friday, March 1, 2013. In the **email subject line put: CL1 2013 practice exam.** Title your exam answer file in the following way: **CL1 2013 Practice Exam [your last name].doc**, e.g., CL1 2013 Practice Exam Smith.doc . (Thompsons – include your first initial as well please.)
8. Respond to the question asked, not to questions that might have been asked. In your responses, do not spend time on matters that are not relevant just to show me how much you know. This exam tests professional judgment as well as knowledge of the material we covered in Constitutional Law I.
9. One or more of the matters you are asked to assess for constitutionality may have a clear answer. For such matters you should provide as complete an explanation as is appropriate so that the reader will understand your analysis and why the matter is not a close one. Other matters may be less certain of outcome and may depend upon filling a gap in the current legal doctrine. For such issues policies and principles at stake are particularly appropriate to discuss.

#### **Permissible exam materials**

The exam is closed book. No materials other than the exam itself, blank scratch paper, computers, and bluebooks are allowed. I will not be policing this rule or the time or any other aspect of this practice exam.

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Professor Steven D. Jamar

SPRING 2013 PRACTICE EXAM

MARCH 1, 2013

**Question 1. 50 points. 50 minutes.**

Assume Congress passes the “Sewage Treatment Overflow Prevention Act” (STOP-Act) that provides funding to states and local governments to address the problem of sewage treatment plants overflowing and dumping untreated sewage into rivers, lakes, and oceans whenever there is a hard rain. This happens because in many cities and towns there is only one sewer that carries both waste sewage and storm water runoff. This legislation requires states and municipalities to separate their sewer systems (1) so that the runoff from rainstorms and melting snow goes into catch basins where runoff contaminants precipitate out before the water reenters the ecosystem, and (2) so that only sewage from the sanitary sewers goes to the treatment plants.

Assume that there is already in place a federal program called “End Dirty Water” (EDW) that pays for 80% of the cost of building sewage treatment facilities and pays for 50% of the operating costs of those treatment plants for 10 years. The STOP-Act was adopted as an amendment to the EDW. Under the STOP Act the United States government will pay 50% of the initial construction costs for separating the sewer lines into sanitary sewers and storm sewers.

In order for a state to qualify for the funding, the state must do the following:

1. Contribute 50% of the construction costs to separate the sewer lines; and
2. Improve sewage treatment plants to reduce by 80% the amount of estrogenic drugs that are put back into the ecosystem after treatment of the sewage.

The STOP Act further amended the EDW law to provide that states and municipalities that do not separate their sewers into storm and sanitary sewers will lose 20% of their funding for operating the sewage treatment plants (i.e., the federal government will only pay 40%, not 50%, of the operating costs for that initial 10 years or howsoever much of it remains).

The State of Floribama sues claiming the STOP Act is an unconstitutional exercise of congressional power under the spending clause. The unamended EDW law accounts for about 2% of the Floribama total state budget, and about 40% of its pollution control budget.

Evaluate the substantive constitutional claims of Floribama.

**End of Exam**