

CAPITAL UNIVERSITY LAW SCHOOL

LEGISLATION
PROFESSOR GOOSTREE

FINAL EXAMINATION
Spring - 1990

INSTRUCTIONS:

In all questions, give arguments, including but not limited to statutory construction argued for, but excluding arguments of substantive law except as specifically raised in each question below, for plaintiffs, defendants, and the expected outcome of the case, with reasons therefor. Unless the question calls for a different answer.

This is not a research examination, but reference to your case-book is authorized, provided, however that no such reference may be made to your casebook if notes are contained therein; with reference to any cases or materials in the casebook. Class notes are not authorized for reference to during the writing of the examination, but may be studied prior to their administration, and of course thereafter. No authorities are to be cited in answer to any question hereinafter set out.

The total time allotted for referencing, thinking, organizing and writing the examination is 4 hours.

The Academic Honor Code of the Law School is in full force and effect.

Answer Question I first, and thereafter you may in any order you choose, numbering each answer in *pari materia*. with the question answered. Part B, of Question I shall be answered after the completion of the remainder of the examination, as shall Part C.

Answers shall be written on one side of each page, but both sides may be used for every third page of all of them.

Oral instructions given at the examination are incorporated herein by reference.

DUE DATE AND TIME:

Between 4 & 6 p.m. May 10 in Room 118, graduating seniors mark papers as such.

DO NOT READ BEYOND THESE INSTRUCTIONS UNTIL YOU WISH YOUR ALLOTTED TIME TO BEGIN TO RUN.

I.

- A In plain English, without using any legal terminology, interpret the instructions given above.
- B. Have you construed these instructions? Why or why not?
- C. Have you complied with the instructions in your answers to the following questions? Have you complied with your interpretation of the instructions? If not, why not?

II.

18 U.S.C. Sec. 398 provides in pertinent part that "Any person who shall knowingly transport or cause to be transported in interstate or foreign commerce or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce or compel such woman or girl to become a prostitute, or to give herself up to debauchery, or to engage in any other immoral practice" is guilty of a felony.

The title of the Act provided that it "shall be known and referred to as the 'White Slave Traffic Act.'

The Act was passed in 1910, when it was commonplace to find segregated "red light" districts in American cities. For several years it had been widely reported, especially in the lurid Hearst Sunday Supplement, The American Weekly, that women were procured for prostitution by organized-bands of "white slaves" who operated from coast to coast. The House Report on the bill said that women were forced or induced into the business and became practically slaves in the time sense of the word.

Congressman Mann, the author of the Act, and Chairman of the House Committee on Interstate and-Foreign Commerce, which reported the bill, said on the floor: "All the horrors of the black-slave traffic of the last century are repeated in the so-called 'white-slave' traffic." Congressman Peters, a member of the Committee, said on the floor: "The bill aims to aid in the suppression of the white-slave traffic."

In each of the following cases give the construction argued for by the prosecutor, by the defense and the probable outcome, with reasons.

- A. Caminetti is indicted for inviting a girl to come to Kansas City from New Orleans to become his mistress. He installed her in an apartment for which he paid the rent. He did not pay for her transportation.
- B. Beach is indicted for calling a call-girl to go to a hotel to meet a customer in Washington, D.C. The call-girl paid her own cab fare for the six-block ride, all inside the District.
- C. Mortensen, the operator of a house of prostitution in Grand Island, Nebraska, is indicted for taking two of his staff on a vacation trip to Yellowstone National Park and back. The girls paid their share of the expenses and engaged in no sex acts while on the trip, but resumed their work on their return.
- D. Cleveland, a Mormon who believed in and practiced polygamy transported his plural wives from Utah to Arizona, and is indicted under the Act.
- E. Bell, a cab-driver in Asheville, N.C., is indicted for driving two prostitutes from that city to Knoxville, Tennessee. He was paid the regular fare for the trip. He did not know the women to be prostitutes.

III.

John Vendor was convicted of a misdemeanor for having failed to comply with the provisions of a statute of the State of Franklin which required the seller of any real property to pay a transfer tax based on the value of the property as assessed by the-county auditor. On appeal, Vendor's attorney urges that the law is invalid.

At the trial, Vendor's attorney had offered into evidence the House legislative journal (there being no question about proper passage through the Senate) which showed: "H.B. 822 was thereupon read for the third time;" the bill was referred to the Judiciary Committee but was reported out of the Taxation Committee; the bill was signed by the Speaker of the House 9 days after its passage.

Also, at the trial, Vendor's attorney had Mr. Mish, the clerk who reads bills, take the stand and give an example of his bill reading ability. After he had finished, the Judge leaned over and said, "Mr. Mish, do you call that a 'distinct' reading? You mumbled every other word".

In his brief, Vendor's attorney cites the following provisions:

- 1 "Every bill shall be fully and distinctly read on three
- 2 Different days. Sec. 12, Art. II, Franklin Constitution.
- 3 Every bill shall be referred to a standing committee, acted upon by such committee, and returned therefrom: Sec. 13, Art. II, Constitution.
- 4 "No bill shall be signed by the Speaker until 10 days from the date of its passage have elapsed, for the purpose of allowing time for its reconsideration". House Rule 23, Franklin House of Representatives.

What result? Why?

IV.

The municipal ordinance involved herein is to be treated in all respects as though it were an Act of the State Legislature. No question of pre-emption by State action need be considered, although it should be if any case under the ordinance were presented to you.

A general issue presented to all cases need be discussed only when it first arises. Esculentum City is a bedroom suburb of Franklin City, with which it shares a common boundary to the north and west. The Franklin City Almanac has published an extensive series of articles on juvenile crime and substance abuse in the city and its suburbs. It concluded that there is much reciprocal juvenile crime and drug abuse involving residents of the city and its suburbs. On February 14th, 1989, the City Council of Esculentum passed and the mayor signed, an ordinance which became effective on May 10th, 1989. The schools of the city were in official session until June 14th, 1989 High School students who completed their examinations on June 12th were under School Board regulations not required to attend on June 13th and 14th.

The Ordinance, in pertinent parts, provided:

Title: An Ordinance to provide a daytime curfew during the school year and an evening curfew at all times for certain juveniles.

Preamble: Whereas, it is desirable for the peace, welfare, and public safety of Esculentum City to regulate the times of presence on the public streets of juveniles as defined herein; and

Whereas studies show a high incidence of truancy in the city schools; and

Whereas studies show that a high percentage of juvenile crime is committed by tenants and by juveniles during the night hours;

Therefore be it enacted and ordained by the City Council of Esculentum that:

Sec. 1. Presence upon the public streets or in commercial establishments, or otherwise, not upon the home premises, of, persons between the ages of 5 and 18, between the hours of 8:00 a.m. and 3 p.m. during the days when the public schools are in session, or between the hours of 11 p.m. and 7 a.m. throughout the calendar year, shall constitute the fourth degree misdemeanor of curfew violation, except as provided hereafter.

Sec. 2. The provisions of Section 1 shall not apply to persons within the ages specified therein;

a) if accompanied by parent or legal guardian; or

b) if actually engaged in lawful employment for compensation;

or

c) if en route to school from home or from home to school, or provided by school board regulations.

Sec. 3. violators of this ordinance shall be subject to fine not to exceed \$30 for each offense, and may, at the discretion of the Mayor, holding court or Mayor's Court, be bound over to the Juvenile Division of the Municipal Court of Franklin County for consideration as juvenile delinquent.

Officer "Kid" Hassler of the Esculentun Policy makes arrests under the following conditions.

Mayor Burger of Esculentun has found the defendants guilty of violating the above ordinance, has invoked the fine, bound over to the County Court which has found all defendants

delinquents. These actions have been upheld in the District Court of Appeals, where Judge George Patton, writing for the majority, said: "It is high time localities engaged in rigorous control of these punk kids".

On appeal to the Supreme Court of Franklin, give prosecutor's arguments, defense arguments, and decide the case with reasons in each of the following cases.

A. Laura, a 17-year old high school graduate, currently a college freshman on vacation between 3 days before Thanksgiving and 3 days before Christmas is arrested during school hours on a day when Esculentum schools are in session.

B. Sam, a 15-year old middle school student, is arrested, at 2.a.m. at an all-night drugstore while obtaining medicine for his ill, widowed mother.

C. Mike, a 15-year old, with a delinquency record, who has been suspended from middle school, is arrested while playing "Space Invaders" at a local drugstore, at 11 a.m.

D. Fred, a 16-year old high school senior, on the way home from work at Rhodes' Hamburgers, is within three minutes slow walk of home when he is stopped at 10:59p.m. by Hassler for questioning; questioned until 11:01, and then arrested for the curfew violation.

E. Cynthia, a paper-girl for the Franklin City Almanac, is arrested at 6:30 a.m. on a school day while delivering papers.

END