

CONSTITUTION LAW
MRS. HIMY
FALL 1971

NAME _____
PER _____
DATE _____

EXAMINATION: THE FIRST AMENDMENT AND OTHER RELATED ISSUES.....

Part 1. True and False. Mark clearly O or X in the space provided.

___1. The First Amendment states that Congress shall make no law prohibiting speech except when a clear and present danger exists.

___2. The crisis periods for civil liberties in America have all occurred during or shortly after wars.

___3. Juries decide on questions of law only.

___4. When the Supreme Court decides not to rule on an appeal, they issue a Writ of Certiorari.

___5. The Supreme Court is able to rule on almost all the cases appealed to it.

___6. In a jury trial, the judge should instruct the jury as to how the law(s) involved applies to the facts involved.

___7. The Supreme Court has only appellate jurisdiction.

___8. The "balancing test" in constitutional issues refers to the need for weighing interests society has a right to protect against an individual's right to speech, religion, etc.

___9. A precedent is a final decision handed down from the Supreme Court which is considered binding law until a new decision on the same kind of issue is handed down.

___10. A precedent is binding only if states choose to follow it.

___11. The First Amendment protects only speech.

___12. Picketing and demonstrating are not speech since the spoken word is not necessary to these forms of protest.

___13. The Bill of Rights refers to all the amendments to the Constitution.

___ 14. Only four justices on the Supreme Court need to agree in order to issue a Writ of Certiorari.

___ 15. The Supreme Court in Feiner v. New York decided that the audience was at fault, even though Feiner's speech was inflammatory, and the speaker must be protected at all costs even to the point of arresting members of a hostile audience.

Part II: Short Answers. In the space provided, answer the following questions as briefly, but as completely as possible.

1. What is a criminal case?

2. What is a civil case?

3. Who is the plaintiff and the defendant in the following cases:

Himy v. Sherrill

Wong v. The City of Berkeley

Plaintiffs _____
Defendants _____

4. What are the two areas of controversy over the issue of free speech (The two areas that we have discussed in class)? Explain each.

5. What is the "clear and present danger" test?

6. How did the Court decide (give reasons for decisions) in: Schenck, Dennis, and Brandenburg?

7. How did the Court decide in Feiner, Cox I, and Brown (give reasons for decisions)?

8. What is a precedent?

9. What is:

- a) a majority decision
- b) a concurring opinion
- c) a dissenting opinion

Part III. Contracts.

Define and give a correct example of:

- a. contract
- b. offer or preliminary negotiation
- c. express and implied warranty - distinguish between them
- d. disclaimer

Analyze and apply the proper rule to the following situations:

1. Courts will not enforce contracts unless they are in writing.

2. Minors can buy anything they want without having to worry about paying for it.

3. You overhear an offer to sell a set of skis for \$50.00 and tell the person who made the offer that you will accept it.

Part IV. Voting.

1. How do the following Amendments to the Constitution relate to voting?
 - a. 14
 - b. 15
 - c. 19
 - d. 24

2. State three areas over which states have jurisdiction in the area of voting.
 - a.
 - b.
 - c.
3. State four of the methods used by Southern States after the passage of the Fifteenth Amendment to get around male black suffrage. Explain them.
 - a.
 - b.
 - c.
 - d.
4. List the major provisions of the 1965 Voting Rights Act and show what each provision intended to accomplish.
5. How did the Supreme Court's decision in Katzenbach v. Morgan extend the notion of universal suffrage?
6. Do you think that the Supreme Court overstepped its jurisdiction in deciding on reapportionment in Baker v. Carr? Answer this question by first relating what the decision of the Court was and then by commenting.

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Your paper should be from about five to seven pages in length, ink or typed. If you are doing a research paper, show your bibliography at the end.

Suggested Topics for Your Paper:

1. Preventative Detention--research and discuss the pros and cons of this new plan to help curb crime in America. It involves limiting the use of bail for defendants who have had a past record of crime, thereby keeping them in prison until their trial.
2. Capitol Punishment--pros and cons of this controversial method of punishment.
3. The plea of insanity (not guilty by reason of insanity)--its historical development, opinions pro and con about the validity of its use.
4. Military Tribunals--what is the rationale of the military in its trials for denial of due process of law? Cite some changes in the laws as they apply to the military.
5. Research on the famous trial of Sir Walter Raleigh and discuss the right to confront accusers or witnesses. See Catherine Bowen's The Lion and the Throne.
6. Writs of Assistance--discuss the use of these writs during colonial American history and the final abolition of them. See Perry's Sources of Our Liberties and Bowen, John Adams and the American Revolution.
7. Wiretapping and its use by Federal Agencies--discuss the pros and cons of this issue.
8. Research the history and activities of the Anti-Defamation League and show how this organization has been influential in protecting the basic right of confrontation of accusers.
9. Our crowded Prisons--what to do? Is the current prison scene a denial of fundamental right to a speedy trial? This project would involve interviews with criminologists and law enforcers for various points of view.