

Exam # _____

PERSPECTIVES

PROFESSOR DEWOLF

SPRING 2012

May 4, 2012

FINAL EXAM

INSTRUCTIONS:

DO NOT GO BEYOND THIS PAGE UNTIL THE EXAM BEGINS.

THIS IS A CLOSED BOOK EXAM.

MAKE SURE YOUR **EXAM #** is included at the top of this page.

MULTIPLE CHOICE

1. This portion of the exam counts 80% of the total.
2. Read each answer before selecting the best one.
3. Identify the BEST answer.
4. WRITE the correct answer on the answer sheet – the last page. You may detach the page to enter your answer but make sure before doing so that you write your EXAM NUMBER on the answer sheet.

ESSAY QUESTION

This portion of the exam counts 20% of the total.

GOOD LUCK! ENJOY THE SUMMER!

MULTIPLE CHOICE

1. In 1943, in *West Virginia v. Barnette* (the 2nd of the "flag salute" cases), the majority opinion emphasized:

- (a) Requiring a person to say something he or she does not believe is equivalent to preventing that person from expressing an opinion;
 - (b) Allegedly false statements of fact are protected by the first amendment in the same way that allegedly false opinions are protected;
 - (c) Parents have the right to decide whether their children attend school or not;
 - (d) All of the above;
 - (e) None of the above.
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2. Justice Frankfurter dissented in *Barnette* because

- (a) Legislatures, not courts, are the best judges of what is constitutional;
 - (b) The West Virginia law punished actions, not beliefs;
 - (c) The first amendment only included those rights essential to "ordered liberty";
 - (d) All of the above;
 - (e) None of the above.
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3. In *Hirabayashi v. U.S.* the U.S. Supreme Court permitted a curfew order to be imposed on racially discriminatory lines. In response to the majority opinion, Justice Murphy

- (a) Dissented, based upon the government's failure to impose equal treatment upon Europeans who might be disloyal for similar reasons;
 - (b) Dissented, based upon the lack of evidence establishing the need for a curfew;
 - (c) Concurred, based on the requirement that courts defer to the military during wartime;
 - (d) Concurred, while pointing out how the military commander's actions were inconsistent with the principles upon which our country was founded.
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4. The case of *Olmstead v. U.S.*, decided in 1928, is significant for which of the following reasons?

- (a) It established that the 4th amendment applied not only to methods of “search and seizure” known to the authors of the Bill of Rights, but also to modern methods of surveillance;
 - (b) It held that a violation of constitutional rights could not be justified by a purportedly beneficent purpose;
 - (c) It rejected the claim that the 14th amendment incorporates all of the rights enumerated in the first ten amendments to the U.S. Constitution;
 - (d) All of the above;
 - (e) None of the above..
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5. *Brown v. Board of Education* relied each of the following EXCEPT:

- (a) Evidence regarding the effect of segregation upon children;
 - (b) Congress’ authority to promote civil rights;
 - (c) Precedents involving higher education;
 - (d) None of the above – all were incorporated into the Court’s opinion.
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6. In *Abrams v. United States*, Justice Holmes rejected the government’s claim that Abrams deserved to be convicted of violating the Sedition Act, because

- (a) All speech is protected by the First Amendment;
 - (b) Abrams’ speech didn’t present a “clear and imminent danger” to the nation;
 - (c) While the government may constitutionally limit *actions* based upon the advocacy of ideas, it may not limit the advocacy of the ideas themselves;
 - (d) All of the above;
 - (e) None of the above.
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7. In *Muller v. Oregon*, the “Brandeis brief” was used effectively to

- (a) Justify the authority of states to protect their workers from exploitation;
 - (b) Show how the 14th amendment “incorporated” the Bill of Rights;
 - (c) Demonstrate that women were equal to men;
 - (d) All of the above;
 - (e) None of the above.
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8. Before the “switch in time that saved nine,” the U.S. Supreme Court treated economic regulation by the states:

- (a) As an unconstitutional intrusion upon Congress’ power to regulate interstate commerce;
 - (b) As an unconstitutional restriction on the liberty of contract;
 - (c) More permissively than Congressional regulations, because of the limited nature of Congressional power;
 - (d) More permissively than Congressional regulations, because of the 14th Amendment
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9. President Roosevelt justified his “court-packing” plan by claiming that:

- (a) The current members of the Court were too old;
 - (b) More justices would allow the Court to hear more cases;
 - (c) Some of the members of the court weren’t following the Constitution;
 - (d) All of the above;
 - (e) None of the above.
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10. When the Supreme Court decided *West Coast Hotel v. Parrish* in 1937, the most important question for the court was:

- (a) What were the limitations that the Constitution places on the power of Congress to intervene in the economy based on the regulation of interstate commerce?
 - (b) Are the powers of Congress limited by the enumeration of specific powers, or may it act in order to promote the “general welfare”?
 - (c) May Congress delegate to regulatory agencies decisions that had previously been exercised by Congress?
 - (d) All of the above;
 - (e) None of the above.
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11. According to Martin Luther King's *Letter from a Birmingham Jail*, a person would be morally justified in doing which of the following?

- (a) Stealing bread to feed a hungry child;
 - (b) Refusing to pay taxes that would be used to conduct an unjust war;
 - (c) Joining a revolutionary army to topple a dictatorship;
 - (d) All of the above.
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12. In *Griswold v. Connecticut*, the U.S. Supreme Court relied upon previous precedents to strike down a state law that restricted the availability of contraceptives. The opinion relied upon each of the following EXCEPT:

- (a) *NAACP v. Alabama* (striking down a law that required disclosure of membership lists);
 - (b) *Pierce v. Society of Sisters* (upholding the right of parents to send their children to private schools);
 - (c) *Lochner v. New York* (striking down a law restricting the right of bakers to work more than 60 hours per week);
 - (d) None of the above – each was part of the Court’s justification for its holding.
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13. *Roe v. Wade* struck down a Texas law that made abortion a crime. In its ruling the Supreme Court relied on which of the following arguments?

- (a) The 14th amendment does not apply to the unborn fetus because there is no “state action” when a woman, in consultation with her physician, decides to terminate a pregnancy;
 - (b) Because of the right to privacy, the state may not interfere with a woman’s decision as to whether, when, and how to terminate a pregnancy;
 - (c) During the first trimester, abortion is less dangerous to the pregnant woman than continuation of the pregnancy;
 - (d) All of the above;
 - (e) None of the above.
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14. In *Citizens United v. Federal Elections Commission*, decided in 2010, the U.S. Supreme Court held

- (a) It is unconstitutional to limit corporate contributions to candidates;
 - (b) A previous case that placed limits on corporate spending for election-related communications was wrongly decided and should be overruled;
 - (c) The first amendment prevents Congress from limiting political speech, but states can impose more stringent regulation if their state constitutions require;
 - (d) All of the above;
 - (e) None of the above.
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15. The dissent in *Citizens United* made each of the following claims EXCEPT:

- (a) The majority had not been faithful to the principle of *stare decisis*;
 - (b) The majority did not take seriously the danger that corporate spending on elections could corrupt the electoral process;
 - (c) There can be such a thing as “too much speech”;
 - (d) None of the above – each of the preceding claims was made by the dissent.
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16. Footnote 4 in *United States v. Carolene Products* is significant because:

- (a) It reaffirmed the Supreme Court's willingness to continue enforcing the limitations on the power of Congress to regulate interstate commerce;
 - (b) It was the "switch in time that saved nine";
 - (c) It announced the "incorporation" doctrine by which the Bill of Rights would be enforced against the states based on the 14th Amendment;
 - (d) All of the above;
 - (e) None of the above.
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17. In what way did *Miranda v. Arizona* differ from *Palko v. Connecticut*?

- (a) *Miranda* held that it was necessary to reverse the defendant's conviction in order to prevent a violation of constitutional rights;
 - (b) *Miranda* recognized the danger of states depriving citizens of fundamental liberties;
 - (c) *Miranda* recognized the importance of due process in order to protect the "ordered liberty" guaranteed by the Constitution;
 - (d) None of the above.
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18. In *City of Richmond v. J.A. Croson Co.*, the Supreme Court relied upon each of the following, EXCEPT

- (a) There was insufficient evidence of past discrimination;
 - (b) The affirmative action plan applied to blacks, but not to Eskimoes and other minorities;
 - (c) The equal protection clause of the constitution does not permit discrimination based on race
 - (d) None of the above – each argument was part of the Court's reasoning.
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19. When Charles Schenck appealed his conviction to the Supreme Court for interfering with the recruitment of soldiers, which of the following is true?

- (a) His appeal was rejected because the first amendment applied to the federal government, but did not bar state prosecutions;
 - (b) The court held he did not have standing to appeal, because constitutional protections are inapplicable in time of war;
 - (c) Justice Holmes rejected his appeal, because the right to free speech does not include the right to bring about the substantive evils that Congress has a right to prevent;
 - (d) None of the above.
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20. According to *The Right to Privacy* by Warren & Brandeis, the right to privacy includes each of the following EXCEPT:

- (a) The right to make decisions about intimate sexual activity;
 - (b) The right not to be subjected to gossip;
 - (c) The right of famous people not to have their images used for commercial purposes;
 - (d) Protection from publication of embarrassing facts, even if true;
 - (e) None of the above – all were included in the right to privacy.
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21. Anita Whitney was convicted of being a Communist. When she appealed to the U.S. Supreme Court,

- (a) The court held that an individual can be punished for what they *do*, but not for what they *are*;
 - (b) The court held that her conduct presented a clear and present danger;
 - (c) The court deferred to the legislature's judgment about the danger of communism;
 - (d) The court held that she had not raised a federal question.
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22. In *Romer v. Evans*, Justice Scalia dissented from the majority's finding that Amendment 2 to the Colorado state constitution was unconstitutional. Which of the following did Justice Scalia argue?

- (a) Colorado could affirm the right to discriminate against homosexuals because homosexual behavior was illegal in other states;
 - (b) The right to privacy does not include the right to engage in behavior harmful to society;
 - (c) *Lawrence v. Texas* was distinguishable because of the difference between criminalizing conduct and refusing to apply rules of non-discrimination;
 - (d) All of the above;
 - (e) None of the above.
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23. The distinguishing feature of the "legal realists" of the early 20th century was:

- (a) They doubted the existence of a "higher law" that should supersede positive law;
 - (b) They questioned whether judicial decisions were based upon analysis of precedent, as distinguished from the preferences of the individual judges;
 - (c) They favored reliance on legislative judgment rather than judicial policymaking;
 - (d) None of the above.
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24. Assisted reproductive technology poses a challenge to family law because

- (a) It raises questions about who should be considered a “parent”;
 - (b) It may result in a conflict between the interests of society and the constitutional rights of individuals;
 - (c) It requires courts to determine the limits on the enforceability of contracts;
 - (d) All of the above.
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25. In *U.S. v. Butler* the Supreme Court considered an appeal challenging part of the Agricultural Adjustment Act. The court held:

- (a) Taxpayers have no standing to decide how their tax dollars are spent;
 - (b) Taxes cannot be used to transfer wealth from one person to another;
 - (c) Congress has limited authority to regulate the economy under the guise of regulating interstate commerce;
 - (d) None of the above.
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26. *NY Times v. Sullivan* was significant because

- (a) It required state tort law to conform to the limitations of the first amendment;
 - (b) It prevented public officials from using libel and slander law from suppressing criticism;
 - (c) It expanded the role of federal law;
 - (d) All of the above.
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27. In *Employment Division v. Smith* the U.S. Supreme Court:

- (a) Made it more difficult for religious believers to obtain exemption from otherwise valid state laws;
 - (b) Disapproved of states granting exemptions based upon religious belief;
 - (c) Required individuals claiming an exemption based upon religious belief to establish the sincerity of such belief;
 - (d) All of the above;
 - (e) None of the above.
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28. When the Supreme Court was asked to recognize the “right to die,” it:

- (a) Held that the state’s interest in preserving life is superior to the assertion of a “right to die”;
 - (b) Left the question to the states to decide;
 - (c) Held that there was no constitutional difference between active and passive euthanasia;
 - (d) All of the above;
 - (e) None of the above.
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29. The American Law Institute:

- (a) Was established to demonstrate the value of sociological jurisprudence;
 - (b) Focused on legal challenges to New Deal legislation;
 - (c) Attempted to cope with the volume of cases that threatened to overwhelm judges and lawyers;
 - (d) All of the above;
 - (e) None of the above.
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30. Karl Llewellyn differed from advocates of “critical legal studies” in that:

- (a) He had experience with the practice of law that supplemented his theoretical perspective;
 - (b) He was more skeptical of the power of courts to arrive at decisions that would benefit society;
 - (c) He thought that “sociological jurisprudence” was more important than legal doctrine;
 - (d) All of the above;
 - (e) None of the above.
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ESSAY QUESTION

On p. 95 of *A Nation Under Lawyers* Mary Ann Glendon states, “Though lawyers cherish and law schools promote the fond belief that a good legal education equips one to perform any type of legal work, the facts are otherwise. The talents and temperament that make for success and personal satisfaction in one branch of the profession do not guarantee distinction or even survival in another. The growing ranks of lawyers in private industry and government include many men and women for whom the rewards of private practice do not outweigh its pressures and risks. Many able judges, such as Learned Hand, were not particularly happy or successful as practitioners. Many gifted practitioners, such as Robert Jackson and Thurgood Marshall, were more comfortable with their roles as advocates than with the public service they gladly rendered as Supreme Court justices.”

What steps have you taken, or do you plan to take, to increase the likelihood that you will find success and personal satisfaction in the legal profession?

ANSWER SHEET

YOU MAY DETACH THIS SHEET, BUT PLEASE MAKE SURE YOU TURN IT IN ALONG
WITH YOUR EXAM!

EXAM NUMBER _____

1. ____A____

20. ____A____

2. ____B____

21. ____D____

3. ____D____

22. ____A____

4. ____E____

23. ____B____

5. ____B____

24. ____D____

6. ____B____

25. ____B____

7. ____A____

26. ____D____

8. ____C____

27. ____A____

9. ____D____

28. ____B____

10. ____E____

29. ____C____

11. ____B____

30. ____A____

12. ____C____

13. ____C____

14. ____B____

15. ____D____

16. ____C or E____

17. ____A____

18. ____B____

19. ____C____

31.