ON RESERVE

PROFESSOR MAY CONSTITUTIONAL LAW II SAMPLE EXAM WIDENER UNIVERSITY SCHOOL OF LAW SPRING 2007

PLEASE READ THESE INSTRUCTIONS BEFORE BEGINNING THE EXAM.

Time: You have up to 120 minutes (2 hours) to finish the exam. Parts One and Two are equally weighted. Please adjust your time accordingly.

Materials: You may use your textbook, your notes, the supplement, your outline, and any handouts. These are all you may have. You may not use anything else, including any commercially prepared outlines, hornbooks, nutshells, or other published resources, or copies, reprints or excerpts thereof of anything I've just listed. You may use your textbook and supplement, but not copies, reprints or excerpts thereof. Of course, the sharing of any resources with other students during the exam is forbidden. Your answer should cover only materials that were assigned in this class.

Format: Part One: On the scan sheet provided, please fill in the oval corresponding with the best answer. Part Two: Please write in ink on every line, on the front side of each page. Please do not skip lines. You must write legibly. You will not receive credit for illegible responses. Keep your short answers short.

Test-Taking Tips: Include references to appropriate authority (constitutional, jurisprudential, etc.) in your answers! Needless to say, you could write a book (as others have) to answer some of the questions. For your sake, please refrain from doing so.

Scope: Answer every question based upon what we covered in Constitutional Law II this semester. For example, ignore any Article III "standing" issues you might spot in the essay questions.

Part One: 50 Multiple Choice Questions (Worth One-half of Your Exam Score. Suggested Time: 60 minutes maximum).

[Redacted]

Part Two: Essay. Part Two consists of three short answer questions. If I ask you to discuss how the U.S. Supreme Court would decide an issue, assume that you are arguing the appeal before the current Supreme Court (comprising Chief Justice Roberts and Associate Justices Stevens, Alito, Scalia, Kennedy, Thomas, Souter, Ginsburg, and Breyer).

Short Answer Questions (Estimated Time: 20 minutes each; 60 minutes total. Worth a total of one-quarter of your exam score.) Note on brevity!: Keep

your answers short. This means maybe a maximum of two bluebook pages, or one page typed, per short answer.

Short answer question 1 (30 minutes): Professor Jimmy June teaches Constitutional Law at Whiter University School of Law in Willington, Delawhere, where he lives with his wife Karen, and their son Guinness (age 9) and daughter Isadora (age 5). Jimmy is European American, and his wife is Hispanic. Jimmy and his family practice the Quaker faith. Advocated by William Penn, a central tenet of Quakerism is opposing war and promoting peace.

Professor June makes the following remarks during his Constitutional Law II class at Whiter University School of Law in Willington, Delaware: "There are no weapons of mass destruction. We are not liberators. Saddam Hussein had nothing to do with 9/11. President Bush is a phony, a fake and a liar. He should be removed from office with all deliberate speed!"

Much like many other states, Delawhere has a law prohibiting "syndicalism" that dates back to the "Red Scare" era. To settle an old score, the State Attorney General, Jan Fraidy, a Republican with political ambition for higher office, charges June with violating Delawhere's syndicalism law. A state jury then convicts him, and the judge sentences him to 10 years in jail.

Professor June contests the constitutionality of the prosecution under the Speech Clause of the Constitution. The State Supreme Court upholds the conviction, citing the state's interest in providing peace and security in a time of world terror. Assuming the case makes its way to the Supreme Court, how do you think the court would rule and why?

Short Answer Question 2 (30 minutes): Assume Professor June's conviction is thrown out on constitutional grounds. Nonetheless, afraid of political backlash and loss of corporate funding, Whiter turns its back on Professor June. Disgusted with legal education, Jimmy packs his bags and moves back to his home state of Kansas to pursue his lifelong dream of teaching high school biology and coaching baseball in the public school system. He quickly lands a teaching and coaching job at his alma mater, Darwin South High School, a public high school in Dover, Kansas.

"Intelligent Design" ("ID") is a theory about the origin of life. In essence, it ascribes creation and evolution to the guiding hand or plan of God as described by the Bible. ID is based on the story of creation in the Book of Genesis.

President Bush believes ID ought to be taught in science classes in public school alongside evolution. He believes this approach is valuable because it teaches students to question new information and learn both sides of a controversy. He also believes teaching ID comports with his support of state "faith-based" initiatives.

Earlier this year, the State of Kansas Board of Education voted to require the teaching of ID in public schools in Kansas. The Board says it believes schools in Kansas should "teach the controversy." It also says it believes teaching ID will help instill good morals and values.

Jimmy teaches evolution but not ID. He tells his students: "If anywhere, ID belongs in the private church, not the public classroom." He then repeats his diatribe against President Bush and encourages everyone in his classroom to read both the Communist Manifesto and Al Franken's new book, "The Truth (With Jokes)," a satirical screed against the Bush Administration and the war in Iraq. Jimmy is immediately suspended, and thereafter fired after refusing to take an oath to teach ID.

Jimmy challenges in federal court the school's policy and his termination as violating the Religion Clauses of the Constitution. The federal district judge, however, upholds the conviction, citing the state's need to instill morality and discipline in the classroom. The federal court of appeals reverses. Assuming the case makes its way to the Supreme Court, how do you think the court would rule and why?