

1973

Constitutional Law II (A): Final Examination (January 1973)

William & Mary Law School

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*Examiner*Final Examination

There are five questions; it is suggested that in the period of three hours (180 minutes) you allow 30 minutes for each question and a "grace period" of 30 minutes for looking over the completed examination. The instructor will pick up all blue books at noon.

Casebook, supplement and your own notes may be consulted.

I

What conditions in the individual are constitutionally required to be treated equally in all individuals? Define each right -- social, political, economic, etc. -- and summarize the constitutional arguments for and against the application of the equal protection doctrine to each.

II

Discuss the standards of constitutional rights and duties in matters of search and seizure, double jeopardy, and the right to answer to clear and specific charges.

III

A, B and C are arrested and charged with a felony. A and B confessed to police at the time of their arrest, but C declined at all times to make any statement and demanded that he be provided with counsel, which was done. Counsel was present at the time of C's indictment, after which C was confined to a cell with another prisoner, actually a disguised policeman, to whom in due time C made a confession. At the trial, C's confession was introduced by the disguised policeman as witness. C objected, through his counsel that he had been denied benefit of counsel during the period of his post-indictment incarceration. What would be the constitutional arguments pro and con?

IV

An ordinance of the Jamestown Metropolitan Area requires that any meeting in the city park of the municipality be permitted only when the meeting sponsors obtain a permit from the police department. The permit is free for the first hour, \$10 for the second hour and \$25 for any meeting beyond three hours in length. A policeman is detailed to the meeting to keep time and fix the overtime fee. The ordinance also provides that the police may terminate any meeting where (1) the size of the crowd creates a traffic hazard or threatens public disorder, and/or (2) the speakers advocate the committing of an illegal act.

A meeting of Militant Pacifists is held in the city park at which the principal speaker addresses a crowd estimated at 250 persons, saying that (1) the sponsors deliberately refused to take out a permit because this would have been submitting to abridgment of free speech; (2) any passers-by who refuse to listen should be compelled by the audience to stop and hear what is being said; and (3) since war is immoral all peacelovers have the right to use any means, legal or illegal, to impede the government in its attempt to conduct a war. Discuss the various constitutional issues which may grow out of this situation.

V

Draft a state statute for the control of obscene publications which will accommodate prevailing constitutional criteria on the subject. Discuss each of the criteria and the manner in which the hypothetical statute may accommodate them.