

Department of Justice, Law and Society
Master's Comprehensive Examination
Jurisprudence and Social Thought
October 27, 2011

INSTRUCTIONS: Answer any **two** of the following four questions. Include in your answers references to the relevant literature, case law, and/or other sources. Label each answer by number. Please begin each answer on a new page. Remember to write your 4-digit ID number on all pages.

1. While the Constitution forbids public schools from promoting a particular religious view, the states are free to decide what science curricula they will offer. Intelligent Design has lately been offered as an alternative "scientific explanation" to the theory of evolution. The basic premise of intelligent design is that creatures which inhabit the earth are too complicated for them to have evolved into their present form by chance. Therefore, some intelligent being (ie., some transcendent being) must have been behind our creation.

If Intelligent Design is indeed a scientific theory it can be taught in public schools without any constitutional concern. If, however, the foundations of this belief ultimately rest on religious foundations of faith, then it cannot be taught in public schools.

Does Intelligent Design satisfy any criteria for empirical or analytic truth? In explaining why it does or does not, use at least one author from each column below. You may invoke the views of more than one author but make sure the views of the two you have chosen are described in some detail.

Column A **Column B**

Ayer	Lukes
Freedman	Winch
Quine	Taylor

2. After the financial crisis of 2007, Congress established the Consumer Financial Protection Bureau. According to its own website, one of the primary purposes of the agency is to protect the integrity of the financial markets by ensuring that debtors have full information about the nature and conditions of the loans they agree to borrow. Taking this goal into consideration, explain how this agency would be viewed by the following schools of legal thought.

- 1) Law and Economics
- 2) Critical Legal Studies (Critical Jurisprudence)
- 3) Legal Realism (Pragmatic Jurisprudence)

3. Many critics of American Jurisprudence argue that it has always favored the rights of the individual over the group rights of associations or communal organizations. The legal historian Liam O'Melinn has argued that a major exception to this liberal orientation has been the regulation of Corporations. Here, the court has consistently upheld the group rights of the corporate entity over individual claims against it. The recent case of *Citizens United vs. FEC* was considered noteworthy for regarding corporate political donations as a form of free speech. While this has important political implications, what is noteworthy about Citizens United is that it secured this right for corporations by giving them "privileges and immunities" formerly reserved for individuals. The decision did not explain the limits of this elevation of the status of corporations or which privileges and immunities, if any, a corporation could not have. If it has the right to free speech, could it also have the right to vote or even marry?

Should corporations have the same free speech rights as individual citizens who can vote, run for office and potentially be drafted into military service? In answering this question consider the views of Locke, Rousseau, Nozick and Walzer.

4. "Nothing is more destructive of respect for the government and the law of the land than passing laws which cannot be enforced" - Albert Einstein.

With reference to the readings in the Theories of Justice section, delineate the limits of the authority of the law and under which conditions we are obliged and ought to follow the dictates of the law. Be sure to cite the relevant literature.