
UNITED STATES CONSTITUTIONAL LAW: HISTORY, THEORY, AND PRACTICE

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Final Examination

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Instructions

Please review the hypothetical below and prepare an answer to the question presented.

Your answer must be typewritten in 12-point font, double-spaced, 5 to 7 pages in length, and must be uploaded to the instructor in PDF format using the hyperlink provided. Please include your full name on the top of the first page.

You must submit your exam answer on or before December 31, 2020.

Hypothetical

The City of New York recently enacted a municipal ordinance to protect the rare “Central Park Tree Squirrel.” The squirrel is a cute little rodent that lives in the trees in Central Park and feasts on acorns. Only a few hundred of the animals remain alive. To protect the squirrels, the new ordinance provides as follows: “No person shall cause harm to any Central Park Tree Squirrel through any act of violence.”

While John Smith was walking through Central Park in October 2020, a Central Park Tree Squirrel jumped out of a tree onto Mr. Smith’s head and started to chew his ear lobe off. Covered in his own blood, Mr. Smith grabbed the vicious squirrel by the tail, spun it around over his head few times, and violently threw it into a nearby pond. The little squirrel drowned. Mr. Smith was arrested for killing the squirrel and taken to the hospital for emergency ear surgery.



Mr. Smith was prosecuted under the new municipal ordinance for causing harm to the now-dead squirrel. His case proceeded to trial. During the trial, Mr. Smith argued that he killed the squirrel only to prevent it from eating his ear lobe. The trial judge, however, found him “guilty as charged.” In so doing the judge ruled as follows: “The new ordinance admits no exceptions. Mr. Smith caused harm to a Central Park Tree Squirrel through an act of violence. He is guilty, and I hereby sentence him to one year in jail.”

Question

Mr. Smith appealed his conviction to the United States Supreme Court. On appeal, Mr. Smith argued that the United States Constitution gave him the individual right to kill the squirrel.

Evaluate Mr. Smith’s argument. In your answer, discuss whether the United States Constitution contains a right to kill a squirrel, and, if so, which provision of the Constitution. Furthermore, compare and contrast how a “Living Constitutionalist” and an “Originalist” might evaluate Mr. Smith’s argument. Please use the text of the Constitution and the reported United States Supreme Court decisions that the instructor assigned during the class. Do not use any other decisions or authorities in drafting your answer.