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Chapter 2

Constitutional Law

N.B.: TYPE indicates that a question is new, modified, or unchanged, as follows.

- N A question new to this edition of the Test Bank.
- + A question modified from the previous edition of the Test Bank,
- = A question included in the previous edition of the Test Bank.

TRUE/FALSE QUESTIONS

1. A confederal form of government is a confederation of independent states with a central government of very limited powers.

ANSWER: T PAGE: 34 TYPE: +
 BUSPROG: Analytic LO: 2-1 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Critical Thinking

2. In a country with a federal form of government, the national government and the states share sovereign power.

ANSWER: T PAGE: 34 TYPE: N
 BUSPROG: Analytic LO: 2-1 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Critical Thinking

3. All powers not specifically delegated to the federal government are reserved to the states.

ANSWER: T PAGE: 34 TYPE: +
 BUSPROG: Analytic LO: 2-1 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

4. The checks and balances in the U.S. Constitution prevent any one branch of government from exercising too much power.

ANSWER: T PAGE: 34 TYPE: =
 BUSPROG: Analytic LO: 2-1 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

5. Under the Constitution, the judicial branch interprets the laws.

ANSWER: T PAGE: 34 TYPE: =
 BUSPROG: Analytic LO: 2-1 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

6. Under the Constitution, the judicial branch is responsible for foreign affairs.

ANSWER: F PAGE: 34 TYPE: N
 BUSPROG: Analytic LO: 2-1 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

7. The President determines the jurisdiction of the federal courts.

10. Article I, Section 8, of the U.S. Constitution permits Congress to regulate interstate commerce.

ANSWER: T PAGE: 35 TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Moderate AICPA: BB-Legal

11. At least in theory, Congress can regulate every commercial enterprise in the United States.

ANSWER: T PAGE: 38 TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Critical Thinking

12. Under their police powers, states can regulate only public activities, such as political demonstrations.

ANSWER: F PAGE: 38 TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Critical Thinking

13. When there is a direct conflict between a federal and a state law, the state law is rendered invalid.

ANSWER: T PAGE: 39 TYPE: =
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

14. Preemption occurs when Congress chooses to act exclusively in a concurrent area and a valid federal statute or regulation takes precedence over a conflicting state or local law.

ANSWER: T PAGE: 39 TYPE: N
BUSPROG: Analytic LO: 2-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Critical Thinking

15. The Second Amendment to the U.S. Constitution reserves all powers not delegated to the national government to the states.

ANSWER: F PAGE: 40 TYPE: N

ANSWER: T

BUSPROG: Reflective

DIF: Easy

PAGE: 44

LO: 2-4

TYPE: N

BLOOM'S: Knowledge

AICPA: BB-Critical Thinking

22. The First Amendment protects defamatory speech.

ANSWER: F PAGE: 45 TYPE: +
BUSPROG: Reflective LO: 2-4 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

23. The Children's Internet Protection Act requires public schools and libraries to use filtering software to block children's access to adult content on Web sites.

ANSWER: T PAGE: 46 TYPE: N
BUSPROG: Reflective LO: 2-4 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

24. The First Amendment requires a complete separation of church and state.

ANSWER: F PAGE: 47 TYPE: =
BUSPROG: Reflective LO: 2-4 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

25. The establishment clause of the U.S. Constitution prohibits the federal government from establishing a state-sponsored religion.

ANSWER: T PAGE: 47 TYPE: +
BUSPROG: Analytic LO: 2-4 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

26. A law that has any impact on religion is unconstitutional.

ANSWER: F PAGE: 47 TYPE: N
BUSPROG: Reflective LO: 2-4 BLOOM'S: Comprehension
DIF: Easy AICPA: BB-Critical Thinking

27. The Fourteenth Amendment guarantees a right to due process of law.

ANSWER: T PAGE: 49 TYPE: N
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

28. Procedural due process requires that any government decision to take a person's property must be made fairly.

ANSWER: T PAGE: 49 TYPE: +
 BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

29. Substantive due process focuses on the substance of legislation.

ANSWER: T PAGE: 50 TYPE: N
 BUSPROG: Analytic LO: 2-5 BLOOM'S: Comprehension
 DIF: Easy AICPA: BB-Legal

30. The terms "due process" and "equal protection" mean the same thing.

ANSWER: F PAGE: 50 TYPE: =
 BUSPROG: Analytic LO: 2-5 BLOOM'S: Comprehension
 DIF: Moderate AICPA: BB-Legal

31. A law that limits only some persons' exercise of a fundamental right is valid under any circumstances.

ANSWER: F PAGE: 50 TYPE: N
 BUSPROG: Analytic LO: 2-5 BLOOM'S: Comprehension
 DIF: Moderate AICPA: BB-Legal

32. A law that limits the liberty of all persons may violate substantive due process.

ANSWER: F PAGE: 50 TYPE: N
 BUSPROG: Analytic LO: 2-5 BLOOM'S: Comprehension
 DIF: Moderate AICPA: BB-Legal

33. A law that restricts people of a certain national origin from doing something will be carefully examined to make sure it promotes a compelling government interest before it is allowed to stand.

ANSWER: T PAGE: 50 TYPE: N
 BUSPROG: Analytic LO: 2-5 BLOOM'S: Comprehension
 DIF: Moderate AICPA: BB-Critical Thinking

34. Because the Constitution does not specifically a right to privacy, this right is denied to people.

ANSWER: F PAGE: 51 TYPE: N
BUSPROG: Reflective LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

35. Individuals have a right to obtain access to information about them collected in government files.

ANSWER: T PAGE: 52 TYPE: N
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

MULTIPLE-CHOICE QUESTIONS

1. The Financial Institutions Association would like a certain law enacted, administered, interpreted, and enforced in the best interest of its members, which include banks. Under the Constitution, Congress

- a. administers the laws.
- b. enforces the laws.
- c. interprets the laws.
- d. makes the laws.

ANSWER: D PAGE: 34 TYPE: =
BUSPROG: Analytic LO: 2-1 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

2. The Constitution sets out the authority and the limits of the branches of the government. The term checks and balances means that

- a. Congress writes checks and the other branches balance the budget.
- b. each branch has some power to limit the actions of the others.
- c. the courts balance their authority to the other branches' checklists.
- d. the president "checks" the courts, which "balance" the laws.

ANSWER: B PAGE: 34 TYPE: +
BUSPROG: Analytic LO: 2-1 BLOOM'S: Knowledge

DIF: Easy

AICPA: BB-Legal

3. Antonin, a federal judge, retires. The vacant position will be filled by a judge
- appointed by the United States Supreme Court.
 - elected by voters.
 - appointed by the President.
 - appointed by Congress.

ANSWER: C

PAGE: 34

TYPE: N

BUSPROG: Analytic

LO: 2-1

BLOOM'S: Comprehension

DIF: Easy

AICPA: BB-Critical Thinking

4. The commerce clause of the U.S. Constitution is found in
- Article I, Section 8.
 - Article I, Section 2.
 - Article VIII, Section 1.
 - Article II, Section 8.

ANSWER: A

PAGE: 35

TYPE: N

BUSPROG: Analytic

LO: 2-2

BLOOM'S: Knowledge

DIF: Easy

AICPA: BB-Legal

5. Savers Mart, Inc., distributes its merchandise to retail outlets on an inter- state basis. Under the commerce clause, Congress has the power to regulate
- any commercial activity in the United States.
 - only activities that are in intrastate commerce.
 - only activities that are in local commerce.
 - only activities that are not in commerce.

ANSWER: A

PAGE: 38

TYPE: =

BUSPROG: Analytic

LO: 2-2

BLOOM'S: Comprehension

DIF: Moderate

AICPA: BB-Legal

9. Congress enacts a law that sets out a rigorous medical-device premarket approval process for the U.S. Food and Drug Administration to follow. The law includes a preemption provision. Moe is injured by a device that underwent the process and files a claim under New Hampshire state law to recover for the injury. The court will most likely rule that
- Moe's state law claim preempts the federal law.
 - the federal law and state law claim are concurrent.
 - the federal and state law claim cancel each other out.
 - the federal law preempts Moe's state law claim.

ANSWER: D PAGE: 39 TYPE: =
 BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
 DIF: Moderate AICPA: BB-Legal

10. A federal law regarding the labeling of pesticides directly conflicts with a state law. The state law will be rendered invalid due to the
- supremacy clause.
 - commerce clause.
 - federal spending power.
 - First Amendment.

ANSWER: A PAGE: 39 TYPE: N
 BUSPROG: Analytic LO: 2-3 BLOOM'S: Comprehension
 DIF: Moderate AICPA: BB-Critical Thinking

11. Congress enacts a law prohibiting toys made in China from being sold in the United States. The Hawaii state legislature enacts a law allowing the sale of Chinese-made toys. Hawaii's law will most likely be struck down under
- the commerce clause.
 - the equal protection clause.
 - the due process power.
 - the supremacy clause.

ANSWER: D PAGE: 39 TYPE: =
 BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
 DIF: Moderate AICPA: BB-Legal

DIF: Easy

AICPA: BB-Critical Thinking

15. The police obtain a search warrant and search Dave's apartment. After yelling obscenities at the officers, Dave confesses to a crime and implicates his friends. The Constitution protects against
- obscene speech only.
 - others' implication only.
 - unreasonable searches only.
 - obscene speech, others' implication, and unreasonable searches.

ANSWER: C

PAGE: 40

TYPE: =

BUSPROG: Reflective

LO: 2-4

BLOOM'S: Comprehension

DIF: Moderate

AICPA: BB-Legal

16. Mary creates a t-shirt design that expresses her support for a presidential candidate and distributes t-shirts to all her friends. The t-shirts are an example of
- unprotected speech.
 - controlled speech.
 - symbolic speech.
 - illegal speech.

ANSWER: C

PAGE: 41

TYPE: N

BUSPROG: Analytic

LO: 2-4

BLOOM'S: Comprehension

DIF: Moderate

AICPA: BB-Critical Thinking

17. George burns an American flag in his backyard. He films his actions and posts the video on YouTube.com. George's actions are
- expressly prohibited by the U.S. Constitution.
 - protected by the First Amendment of the U.S. Constitution.
 - considered to be a form of treason.
 - illegal in some states.

ANSWER: B

PAGE: 41

TYPE: N

BUSPROG: Analytic

LO: 2-4

BLOOM'S: Comprehension

DIF: Easy

AICPA: BB-Critical Thinking

21. California enacts a statute to ban advertising in “bad taste.” This statute would likely be held by a court to be
- an unconstitutional restriction of speech.
 - constitutional under the First Amendment.
 - justified by the need to protect individual rights.
 - necessary to protect national interests.

ANSWER: A PAGE: 44 TYPE: =
 BUSPROG: Reflective LO: 2-4 BLOOM’S: Comprehension
 DIF: Moderate AICPA: BB-Decision Modeling

22. Machismo Motor Sales Corporation regularly advertises its off-the-road vehicles, all-terrain vehicles, and other products. Under the First Amendment, these ads and other commercial speech are given
- less extensive protection than noncommercial speech.
 - more extensive protection than symbolic speech.
 - no protection.
 - the same protection as defamatory speech.

ANSWER: A PAGE: 44 TYPE: =
 BUSPROG: Reflective LO: 2-4 BLOOM’S: Comprehension
 DIF: Moderate AICPA: BB-Critical Thinking

23. ViolentVideoGames, Inc. markets a variety of shooting, fighting and hunting video games. A state statute is enacted that requires all video game manufacturers to label any games with an option to kill something as “excessively violent.” A court would likely hold this regulation to be
- an unconstitutional restriction of speech.
 - constitutional under the First Amendment.
 - justified by the need to protect individual rights.
 - necessary to protect national interests.

ANSWER: A PAGE: 44 TYPE: N
 BUSPROG: Reflective LO: 2-4 BLOOM’S: Application
 DIF: Moderate AICPA: BB-Legal

ESSAY QUESTIONS

1. Jim operates Jim's Fruits & Vegetables, a small market stocked entirely with produce grown on his adjacent farm. Under what clause of the Constitution can the federal government regulate Jim's activities? What is Jim's best argument against federal regulation of his farm and business?

ANSWER: Under the commerce clause, at least in theory, Congress has the power to regulate any activity—interstate or intrastate—that affects interstate commerce. Thus, under that clause, it could be argued that the farmer's growing and selling of produce is subject to federal regulation because these activities affect interstate commerce. The farmer-vendor's best argument against federal regulation of his farm and business in this problem might be that in his case these activities and their effects are purely local. But because of the economic character of these activities, and hence their effect on interstate commerce, however minimal and despite their local character, it is unlikely that a court would accept this argument.

PAGES: 36–38

TYPE: =

BUSPROG: Reflective

LO: 2-1 &2

BLOOM'S: Analysis

DIF: Challenging

AICPA: BB-Decision Modeling

2. The Arkansas state legislature enacts a statute that prohibits the advertising of video games "because the games might be harmful to minors." Despite this new statute, the president of Games Marketing, Inc. (GMI), orders GMI marketers to place ads in various media. When a GMI ad appears on HDTV, a local television station, GMI and HDTV are charged with violating the statute. What is the defendants' best defense against a conviction?

ANSWER: GMI and HDTV cannot be convicted because a state legislature cannot enact a statute that restricts commercial speech (in this problem, marketing video games) to this extent. The First Amendment protects commercial speech. Commercial speech does not receive as much protection as noncommercial speech, however, so states can place some restraints on the former. For example, to protect consumers, a state may ban certain kinds of marketing practices, such as deceptive or misleading advertising. Generally, a restriction on commercial speech will be considered valid as long as it (1) seeks to implement a substantial government interest, (2)

directly advances that interest, and (3) goes no further than necessary to accomplish the objective. Here, the complete ban on ads for video games “because the games might be harmful to minors” is too restrictive: it goes too far in attempting to protect minors for an apparently unsubstantiated purpose.

PAGES: 44–45

BUSPROG: Reflective

DIF: Challenging

LO: 2-4

TYPE: =

BLOOM’S: Analysis

AICPA: BB-Decision Modeling