Test Bank for Legal Environment of Business A Managerial Approach Theory to Practice 3rd Melvin

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Chapter 02 Business and the Constitution

SHORT ANSWER QUESTIONS

1) The legal authority that a court must have to decide a case is called_____.

2) The right of a state to protect its citizenry is called its_____.

3) The government's system of checks and balances is called_____.

4) Powers granted in the Constitution to the three branches of the federal government are known as _____ powers.

5) Veto power is a power granted to the_____branch of government.

6) The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act is commonly called the_____Act.

7) The case of *Marbury v. Madison* established the federal courts' power of_____.

8) Government acts that affect semi-suspect or quasi-suspect classifications require that a court apply _____ scrutiny to determine the act's validity.

9) Commerce that is wholly contained within a state and has no effect on other states or foreign countries is called_____commerce.

10) A question put to voters during a state election to decide a particular issue may be called a ballot initiative, a referendum, or a[n]_____.

MULTIPLE CHOICE QUESTIONS

11) The Bill of Rights recognizes fundamental constitutional rights of citizens.
A) True
B) False

12) In *U.S. v. Lopez*, the Supreme Court found a legitimate economic interest in making it a federal crime to possess a gun within a certain distance from schools.
A) True
B) False

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13) Congress's broadest powers are derived from the Commerce Clause.
A) True
B) False

14) According to the decision in *Brown v. Entertainment Merchants Association*, the Court applied an intermediate-level scrutiny standard because the state's action was related to a fundamental right —freedom of speech.
A) True
B) False

15) Corporations and other business entities receive the same level of constitutional protection as individuals.
A) True
B) False

16) The Equal Protection Clause requires the government to treat all people the same, regardless of whether they are similarly situated.
A) True
B) False

17) Most privacy rights afforded in the Constitution do not extend to the workplace.
A) True
B) False

18) Strict scrutiny requires that a state prove that it is acting to promote an important government objective and that the proposed act is substantially related to the government's objective.
A) True
B) False

19) Growing marijuana for purely personal medical use while possessing a valid prescription in a state that has approved medical use of marijuana has been found to be interstate commerce.
A) True
B) False

20) The inherent right of the federal government to protect its citizenry's health, safety, and welfare is referred to as the federal government's police powers.
A) True
B) False

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21) States may never regulate commerce that crosses state borders as this is an exclusive federal power.
A) True
B) False

22) Federal legislation or regulation must be authorized by a specific enumerated power in the Constitution.
A) True
B) False

23) In *U.S. v. Morrison*, the Supreme Court found that commerce power was a legitimate justification to validate the right of women to sue their attackers for monetary damages under the Violence Against Women Act.
A) True
B) False

24) Congress may tax activities and property that it might not be authorized to regulate under any of the enumerated regulated powers.
A) True
B) False

25) Congress may place limits on the use of federal money by states as long as the limit does not affect or infringe on a citizen's constitutional rights.
A) True
B) False

26) Both commercial speech and corporate political speech are subject to intermediate scrutiny.
A) True
B) False

27) A business owner's expectation of privacy in commercial property is the same as the privacy interest afforded to a private homeowner.
A) True
B) False

28) The Fourth Amendment protects against all searches or seizures by the government when the government's actions are not supported by a warrant.
A) True
B) False

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29) Substantive due process requires that a state statute must be published for public inspection and be clear and specific.
A) True
B) False

30) Enumerated powers are those rights and powers granted in the Constitution to the individual states.
A) True
B) False

31) Placing conditions on the use of federal money given to states is most often accomplished by interpreting the Commerce Clause.
A) True
B) False

32) The right to privacy is a specifically named right established in the Bill of Rights.
A) True
B) False

33) Obscenity regulation of commercial speech is subject to the same scrutiny as any other government regulation of commercial speech.
A) True
B) False

34) Professor Jones accuses Kim, one of his students, of cheating on an exam. Professor Jones arranges a hearing to be held in front of the university's Academic Honesty Board, and Kim is informed that she must prove her innocence before Professor Jones must prove her guilt. Kim is being denied her substantive due process rights.
A) True
B) False

35) Typically, political speech by corporations is fully protected by the First Amendment.
A) True
B) False

36) Commercial speech has always been afforded protection under the First Amendment.
A) True
B) False

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37) *Marbury v. Madison*, decided in 1803, is no longer considered valid precedent and has been preempted by statute.
A) True
B) False

38) The First Amendment prohibits individuals from encroaching on or prohibiting another person's freedom of speech.
A) True
B) False

39) Under the Constitution, Congress has the enumerated power to appoint federal officers and judges.
A) True
B) False

40) Under the federal system used by the United States, the federal government has only limited power to regulate individuals and businesses.
A) True
B) False

41) The preamble of the Constitution
A) sets out the structure of the government.
B) lays out the procedures by which the government will operate.
C) establishes boundaries of jurisdiction.
D) states the broad objectives of the Constitution.

42) Which of the following is not a coequal branch of the U.S. government as specified in the Constitution?
A) the legislative branch
B) the executive branch
C) the administrative branch
D) the judicial branch

43) Judicial review is the
A) power or right of a court to hear a case.
B) power of a state or federal court to declare a statute unconstitutional.
C) power of an appellate court to reverse a decision made in a lower court.
D) power of a federal court to declare a state or federal statute invalid if inconsistent with the Constitution.

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44) The power to impeach and remove is a check and balance power
A) of the executive branch.
B) of the legislative branch.
C) of the judicial branch.
D) that is shared by all three government branches.

45) Assume that the state of Georgia raised the fee for registration of motor vehicles to $5 per year. If challenged, this new statute would be reviewed using
A) rational basis scrutiny.
B) intermediate scrutiny.
C) strict scrutiny.
D) no particular form of scrutiny (none is required in this situation).

46) The primary authorization of constitutional powers is given to Congress under
A) the Preamble to the Constitution.
B) Article I of the Constitution.
C) Article VI of the Constitution.
D) the Bill of Rights.

47) The power to carry out foreign policy is an enumerated power granted to
A) the executive branch.
B) the legislative branch.
C) the judicial branch.
D) all three branches.

48) The state of Kansas has enacted a new law requiring all commercial trucks driving on Kansas roads to have special mud flaps installed. These mud flaps have been proved to make driving in the rain significantly safer as they reduce mist created by trucks in the rain, although data regarding accidents and injuries have not yet been determined. Any truck entering Kansas must have these flaps installed or will be subject to a significant fine and delay. The cost for purchase and installation of these flaps is $1,000 per truck. In short, trucks must have these flaps or go around the state. This Kansas law
A) is valid because it applies only to Kansas roads and such a law is entirely intrastate.
B) is valid because Kansas's right to protect its citizens under its police powers will override any outside challenges to this law.
C) is invalid because this law is intended to regulate interstate commerce, an enumerated federal power.
D) is invalid because, although on its face it's an intrastate law, this statute will have a significant economic effect on interstate commerce, causing an undue burden.

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49) In *Gonzalez v. Raich*, patients who were prescribed medical marijuana sought to prevent enforcement of the federal Controlled Substances Act (CSA) in medical marijuana cases. They claimed enforcement violated the Commerce Clause because the medical marijuana was cultivated and possessed within state borders and did not enter the stream of commerce. The U.S. Supreme Court decided
A) the government had a rational basis for believing that locally cultivated marijuana would end up in interstate commerce.
B) the intrastate, noncommercial cultivation and possession of marijuana was not intended to enter interstate commerce.
C) California's medical marijuana law was unconstitutional.
D) enforcement unreasonably burdened interstate commerce.

50) In *Pagan v. Fruchey and Village of Glendale*, Pagan sued, questioning a village ordinance prohibiting the parking of a car on a public street for the purpose of displaying it for sale. Pagan won because
A) Glendale's law violated Pagan's commercial speech rights, which are absolute.
B) Glendale was unable to prove that Pagan's speech was unlawful.
C) Glendale's ordinance was broader than necessary to accomplish the village's government interest.
D) Glendale did not prove that the ordinance directly advanced the village's claimed government interest because Glendale based its argument on opinion rather than data.

51) In the cases of *Heart of Atlanta Motel v. U.S.* and *Katzenbach v. McClung*, the Supreme Court found illegal discrimination under the Civil Rights Act of 1964 by applying
A) the Commerce Clause.
B) the Supremacy Clause.
C) the Necessary and Proper Clause.
D) the Equal Protection Clause.

52) When Bad Frog Brewery, Inc., placed a label on its product showing a frog with unwebbed fingers with its middle finger extended, New York State sued to prohibit the use of the label, claiming it to be obscene and claiming an interest in protecting the state's children. The court found
A) for Bad Frog because children cannot purchase beer, so any exposure would be incidental.
B) for Bad Frog because the label did not concern an unlawful activity and the state did not prove its interest in protecting children from vulgarity.
C) for New York State because once the product was purchased, the labels would be exposed in refrigerators or in rooms while children were present.
D) for New York State because it proved a substantial effort to advance a valid state interest amounting to more than "not merely the removal of a few grains of sand from the beach of vulgarity."

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53) If a city refuses to issue a permit for a political demonstration because it would block traffic in the area's largest intersection, that decision would be reviewed using
A) rational basis scrutiny.
B) intermediate scrutiny.
C) strict scrutiny.
D) no particular form of scrutiny (none is required in this situation).

54) Treaties
A) may be entered into by the president without oversight or approval.
B) are entered into by the president subject to House approval.
C) are entered into by the president subject to Senate approval.
D) are entered into by the president subject to joint House and Senate approval.

55) The power of preemption is derived from
A) the power of judicial review.
B) the Commerce Clause.
C) the Necessary and Proper Clause.
D) the Supremacy Clause.

56) In *Cipollone v. Liggett Group Inc., et al*., Cipollone sued based on state consumer protection laws. What did cigarette makers argue?
A) The court should consider state laws only.
B) Federal laws regulating promotion and advertising activities regarding tobacco products should be considered supplemental to state laws.
C) Federal and state laws conflicted, negating both, so the court had no basis to make its decision.
D) The claims were preempted by federal laws regulating cigarettes and tobacco products.

57) The Equal Protection Clause is contained in the
A) First Amendment.
B) Fifth Amendment.
C) Sixth Amendment.
D) Fourteenth Amendment.

58) When a state action is found to be based on a semi-suspect (or quasi-suspect) classification, the courts will employ
A) rational basis scrutiny.
B) intermediate scrutiny.
C) strict scrutiny.
D) no particular form of scrutiny (none is required in this situation).

59) When due process limits the power of the states to regulate certain areas related to individual liberty, this is called
A) state due process.
B) federal due process.
C) substantive due process.
D) procedural due process.

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60) One criticism of the USA Patriot Act is that
A) adequate safeguards are not in place to prevent the government from using the act to invade citizens' privacy.
B) too much due process is being given to alleged terrorists under the act's provisions.
C) penalties for those found guilty under the act are not harsh enough.
D) penalties for those found guilty under the act are too harsh and constitute cruel and unusual punishment.

61) Assume that Iowa has passed a statute requiring all noncitizens to sit in the back of public buses. That statute would be reviewed using
A) rational basis scrutiny.
B) intermediate scrutiny.
C) strict scrutiny.
D) no particular form of scrutiny (none is required in this situation).

62) Which of the following is not a procedural due process issue?
A) Police must obtain a search warrant to enter and search a citizen's home for drugs.
B) The state of Massachusetts raised the drinking age to 25 years old.
C) The state of Oklahoma passes a statute prohibiting citizens from presenting evidence in drunk-driving trials.
D) The state of California passes a statute allowing relatives of victims of violent crimes to sit on the jury in the general trial court.

63) After more than 100 years, the Chicago Cubs have won baseball's World Series. They want a parade down Michigan Avenue at 10 a.m. on Friday, but the city tells them that the parade will be down Rush Street at noon on Saturday. The city claims that Rush Street on Saturday will provide more safety and convenience for the city's citizens. The Cubs claim a violation of their freedom of speech. If a lawsuit ensues, what standard of review will the court use to resolve the issue?
A) rational basis scrutiny
B) intermediate-level scrutiny
C) strict scrutiny
D) no particular form of scrutiny (none is required in this situation)

64) In *State Farm Mutual v. Campbell*, the appellate court reinstated the punitive-damage award due to
A) the defendant's actions being criminal in nature.
B) the disparity between the actual or potential harm suffered by the plaintiff and the punitive-damage award.
C) the degree of reprehensibility of the defendant's misconduct.
D) the state's law being preempted by federal statute.

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65) Generally, constitutional protections do not apply to
A) acts of the federal government.
B) acts of state governments.
C) acts of administrative agencies.
D) acts of privately owned businesses.

66) Protections for the citizenry from unlawful or repressive acts by the government are contained primarily in
A) the Preamble to the Constitution.
B) Article I of the Constitution.
C) Article V of the Constitution.
D) the Bill of Rights.

67) Mike is walking down the street minding his own business when he is stopped by a police officer. Although no crimes have been reported in the area and Mike has done nothing suspicious, the police officer does not like Mike's appearance so he conducts a pat-down search and finds a tiny bag of marijuana. Under these circumstances, this is
A) an illegal search under Fourth Amendment protections.
B) an illegal search under Fifth Amendment protections.
C) a legal search because illegal drugs were found, justifying the police officer's actions.
D) a legal search because police are given broad discretion to use their experience to fight crime and obviously the police officer was right in this case.

68) The Due Process Clause is found in
A) the Fifth Amendment only.
B) the Fourteenth Amendment only.
C) neither the Fifth nor Fourteenth Amendment.
D) both the Fifth and Fourteenth Amendments.

69) In *Gonzalez v. Raich*, when federal law enforcement confiscated and destroyed medicinal marijuana plants, Raich presented each of the following arguments except
A) the plants were cultivated and possessed within state boarders.
B) the plants did not enter the stream of commerce.
C) there are no enforcement difficulties in distinguishing between marijuana cultivated locally and marijuana grown elsewhere.
D) the plants were for personal use, not for commercial use.

70) Kathy was returning to the United States after a vacation when the Customs Service confiscated some goods she had purchased abroad and brought back with her. The determination of whether the government acted properly and the type of hearing that she must be provided is an analysis of
A) procedural due process.
B) substantial due process.
C) the Equal Protection Clause.
D) the Commerce Clause.

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ESSAY QUESTIONS

71) Explain the origin and justification of judicial review.

72) The U.S. Supreme Court has established three standards of review used when applying constitutional law. Name these three standards and discuss each in terms of how it relates to state objectives.

73) The state of Colorado has enacted a statute limiting the size of freight trains entering the state to no more than 80 cars other than the locomotive(s) and the caboose. Assume that there is no federal law mandating a maximum limit of cars, and further assume that freight trains frequently consist of over 100 cars. Colorado has justified the law by saying that shorter trains are safer, but the state's evidence is not persuasive. Colorado also claims that very long trains inconvenience drivers and can cause major traffic jams. Trains longer than 80 cars must stop and reduce their size, employing additional locomotives to transport the cars through the state to the border, where they may again recouple and proceed. Discuss whether this law is valid.

74) Congress has provided the state of Ohio $50 million for highway construction and renovation. As a condition, Ohio must award 30 percent of the contracts to firms that are owned by women or minorities. Ohio sues, claiming that such a condition is an intrusion on Ohio's right to seek competitive bids and make the best use of the money. Ohio also asserts that this condition will make it difficult to seek the best-quality companies and that how it allocates the money is purely a state function as long as it uses the money for the purposes intended. How will a court likely decide this dispute?

75) Name the four-part test established by the Court in *Central Hudson Gas v. Public Service Commission* that subjects government restrictions on commercial speech to a form of intermediate-level scrutiny.

76) In what manner was a citizen's right to privacy initially established? Explain.

77) Mike has moved into a privately owned apartment complex. The stated rules of the complex prohibit unmarried men and women from living together in the same apartment. When Mike's girlfriend Kathy moves into his apartment, he is served with eviction papers. Mike claims that the apartment complex is violating his constitutional rights since it allows only married people to live together. Is he correct?

78) Describe Congress's authority to regulate under the Commerce Clause.

79) Explain the structure of the U.S. government and how the checks and balances system operates to maintain equalization of power between the different parts of the government.

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80) Kathy runs a business from her home. Not only is she the sole employee, but she never leaves her home, performing all business functions in her pajamas in front of her computer. Her business consists of buying and reselling various goods over the Internet. She is very successful, with thousands of customers. In terms of regulation of commerce, how would you characterize her business?

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Chapter 02 Business and the Constitution

SHORT ANSWER QUESTIONS

1) The legal authority that a court must have to decide a case is called_____.

Answer: jurisdiction

Explanation:

Diff: 1
Topic: Article III--Judicial Powers
Learning Objective: 02-03 Explain the role of judicial review in interpreting the Constitution.
Bloom's: Remember
AACSB: Analytical Thinking

2) The right of a state to protect its citizenry is called its_____.

Answer: police powers

Explanation:

Diff: 2
Topic: Structure of the Constitution: Federal Powers
Learning Objective: 02-01 Describe the purpose and structure of the Constitution.
Bloom's: Understand
AACSB: Analytical Thinking

3) The government's system of checks and balances is called_____.

Answer: separation of powers

Explanation:

Diff: 2
Topic: Article III--Judicial Powers
Learning Objective: 02-03 Explain the role of judicial review in interpreting the Constitution.
Bloom's: Understand
AACSB: Analytical Thinking

4) Powers granted in the Constitution to the three branches of the federal government are known as _____ powers.

Answer: enumerated

Explanation:

Diff: 1
Topic: Overview of Federal Powers
Learning Objective: 02-02 List the major provisions of the first three articles of the Constitution.
Bloom's: Remember
AACSB: Analytical Thinking

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5) Veto power is a power granted to the_____branch of government.

Answer: executive

Explanation:

Diff: 2
Topic: Overview of Federal Powers
Learning Objective: 02-02 List the major provisions of the first three articles of the Constitution.
Bloom's: Understand
AACSB: Analytical Thinking

6) The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act is commonly called the_____Act.

Answer: USA Patriot

Explanation:

Diff: 1
Topic: Fourth Amendment
Learning Objective: 02-09 Describe the main protections in the Fourth Amendment and how they apply in the business environment.
Bloom's: Remember
AACSB: Analytical Thinking

7) The case of *Marbury v. Madison* established the federal courts' power of_____.

Answer: judicial review

Explanation:

Diff: 2
Topic: Article III--Judicial Powers
Learning Objective: 02-03 Explain the role of judicial review in interpreting the Constitution.
Bloom's: Understand
AACSB: Analytical Thinking

8) Government acts that affect semi-suspect or quasi-suspect classifications require that a court apply _____ scrutiny to determine the act's validity.

Answer: intermediate-level

Explanation:

Diff: 3
Topic: Applying the Constitution: Standards of Judicial Review
Learning Objective: 02-04 Recognize the three standards of constitutional review and their application.
Bloom's: Apply
AACSB: Analytical Thinking; Reflective Thinking

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9) Commerce that is wholly contained within a state and has no effect on other states or foreign countries is called_____commerce.

Answer: intrastate
Explanation:
Diff: 2
Topic: Commerce Powers
Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.
Bloom's: Understand
AACSB: Analytical Thinking

10) A question put to voters during a state election to decide a particular issue may be called a ballot initiative, a referendum, or a[n]_____.

Answer: ballot proposition
Explanation:
Diff: 2
Topic: Constitutional Protections
Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.
Bloom's: Understand
AACSB: Analytical Thinking

MULTIPLE CHOICE QUESTIONS

11) The Bill of Rights recognizes fundamental constitutional rights of citizens.
A) True
B) False

Answer: A
Explanation:
Diff: 2
Topic: Structure of the Constitution: Federal Powers
Learning Objective: 02-01 Describe the purpose and structure of the Constitution.
Bloom's: Understand
AACSB: Reflective Thinking

12) In *U.S. v. Lopez*, the Supreme Court found a legitimate economic interest in making it a federal crime to possess a gun within a certain distance from schools.
A) True
B) False

Answer: B
Explanation:
Diff: 2
Topic: Commerce Powers
Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.
Bloom's: Understand
AACSB: Reflective Thinking

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13) Congress's broadest powers are derived from the Commerce Clause.

A) True

B) False

Answer: A

Explanation:

Diff: 3

Topic: Commerce Powers

Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.

Bloom's: Evaluate

AACSB: Reflective Thinking

14) According to the decision in *Brown v. Entertainment Merchants Association*, the Court applied an intermediate-level scrutiny standard because the state's action was related to a fundamental right —freedom of speech.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Applying the Constitution: Standards of Judicial Review

Learning Objective: 02-04 Recognize the three standards of constitutional review and their application.

Bloom's: Understand

AACSB: Reflective Thinking

15) Corporations and other business entities receive the same level of constitutional protection as individuals.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Constitutional Protections

Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.

Bloom's: Understand

AACSB: Analytical Thinking

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16) The Equal Protection Clause requires the government to treat all people the same, regardless of whether they are similarly situated.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Due Process Protections

Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.

Bloom's: Understand

AACSB: Analytical Thinking

17) Most privacy rights afforded in the Constitution do not extend to the workplace.

A) True

B) False

Answer: A

Explanation:

Diff: 2

Topic: Due Process Protections

Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.

Bloom's: Understand

AACSB: Analytical Thinking

18) Strict scrutiny requires that a state prove that it is acting to promote an important government objective and that the proposed act is substantially related to the government's objective.

A) True

B) False

Answer: B

Explanation:

Diff: 3

Topic: Applying the Constitution: Standards of Judicial Review

Learning Objective: 02-04 Recognize the three standards of constitutional review and their application.

Bloom's: Apply

AACSB: Reflective Thinking

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19) Growing marijuana for purely personal medical use while possessing a valid prescription in a state that has approved medical use of marijuana has been found to be interstate commerce.

A) True

B) False

Answer: A

Explanation:

Diff: 3

Topic: Commerce Powers

Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.

Bloom's: Evaluate

AACSB: Reflective Thinking

20) The inherent right of the federal government to protect its citizenry's health, safety, and welfare is referred to as the federal government's police powers.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Structure of the Constitution: Federal Powers

Learning Objective: 02-01 Describe the purpose and structure of the Constitution.

Bloom's: Understand

AACSB: Analytical Thinking

21) States may never regulate commerce that crosses state borders as this is an exclusive federal power.

A) True

B) False

Answer: B

Explanation:

Diff: 3

Topic: Commerce Powers

Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.

Bloom's: Evaluate

AACSB: Reflective Thinking

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22) Federal legislation or regulation must be authorized by a specific enumerated power in the Constitution.

A) True

B) False

Answer: A

Explanation:

Diff: 2

Topic: Overview of Federal Powers

Learning Objective: 02-02 List the major provisions of the first three articles of the Constitution.

Bloom's: Understand

AACSB: Reflective Thinking

23) In *U.S. v. Morrison*, the Supreme Court found that commerce power was a legitimate justification to validate the right of women to sue their attackers for monetary damages under the Violence Against Women Act.

A) True

B) False

Answer: B

Explanation:

Diff: 3

Topic: Commerce Powers

Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.

Bloom's: Analyze

AACSB: Analytical Thinking

24) Congress may tax activities and property that it might not be authorized to regulate under any of the enumerated regulated powers.

A) True

B) False

Answer: A

Explanation:

Diff: 2

Topic: Tax and Spend Powers

Learning Objective: 02-07 Explain why Congress's tax and spend powers are an independent source of federal power.

Bloom's: Understand

AACSB: Reflective Thinking

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25) Congress may place limits on the use of federal money by states as long as the limit does not affect or infringe on a citizen's constitutional rights.

A) True

B) False

Answer: A

Explanation:

Diff: 3

Topic: Tax and Spend Powers

Learning Objective: 02-07 Explain why Congress's tax and spend powers are an independent source of federal power.

Bloom's: Analyze

AACSB: Analytical Thinking

26) Both commercial speech and corporate political speech are subject to intermediate scrutiny.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Constitutional Protections

Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.

Bloom's: Understand

AACSB: Analytical Thinking

27) A business owner's expectation of privacy in commercial property is the same as the privacy interest afforded to a private homeowner.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Fourth Amendment

Learning Objective: 02-09 Describe the main protections in the Fourth Amendment and how they apply in the business environment.

Bloom's: Understand

AACSB: Analytical Thinking

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28) The Fourth Amendment protects against all searches or seizures by the government when the government's actions are not supported by a warrant.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Fourth Amendment

Learning Objective: 02-09 Describe the main protections in the Fourth Amendment and how they apply in the business environment.

Bloom's: Understand

AACSB: Analytical Thinking

29) Substantive due process requires that a state statute must be published for public inspection and be clear and specific.

A) True

B) False

Answer: A

Explanation:

Diff: 1

Topic: Due Process Protections

Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.

Bloom's: Remember

AACSB: Analytical Thinking

30) Enumerated powers are those rights and powers granted in the Constitution to the individual states.

A) True

B) False

Answer: B

Explanation:

Diff: 1

Topic: Overview of Federal Powers

Learning Objective: 02-02 List the major provisions of the first three articles of the Constitution.

Bloom's: Remember

AACSB: Analytical Thinking

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31) Placing conditions on the use of federal money given to states is most often accomplished by interpreting the Commerce Clause.

A) True

B) False

Answer: B

Explanation:

Diff: 1

Topic: Tax and Spend Powers

Learning Objective: 02-07 Explain why Congress's tax and spend powers are an independent source of federal power.

Bloom's: Remember

AACSB: Analytical Thinking

32) The right to privacy is a specifically named right established in the Bill of Rights.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Due Process Protections

Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.

Bloom's: Understand

AACSB: Analytical Thinking

33) Obscenity regulation of commercial speech is subject to the same scrutiny as any other government regulation of commercial speech.

A) True

B) False

Answer: A

Explanation:

Diff: 1

Topic: Constitutional Protections

Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.

Bloom's: Remember

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34) Professor Jones accuses Kim, one of his students, of cheating on an exam. Professor Jones arranges a hearing to be held in front of the university's Academic Honesty Board, and Kim is informed that she must prove her innocence before Professor Jones must prove her guilt. Kim is being denied her substantive due process rights.

A) True

B) False

Answer: B

Explanation:

Diff: 3

Topic: Due Process Protections

Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.

Bloom's: Apply

AACSB: Reflective Thinking

35) Typically, political speech by corporations is fully protected by the First Amendment.

A) True

B) False

Answer: A

Explanation:

Diff: 1

Topic: Constitutional Protections

Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.

Bloom's: Remember

AACSB: Analytical Thinking

36) Commercial speech has always been afforded protection under the First Amendment.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Constitutional Protections

Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.

Bloom's: Understand

AACSB: Analytical Thinking

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37) *Marbury v. Madison*, decided in 1803, is no longer considered valid precedent and has been preempted by statute.

A) True

B) False

Answer: B

Explanation:

Diff: 3

Topic: Article III--Judicial Powers

Learning Objective: 02-03 Explain the role of judicial review in interpreting the Constitution.

Bloom's: Evaluate

AACSB: Reflective Thinking

38) The First Amendment prohibits individuals from encroaching on or prohibiting another person's freedom of speech.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Constitutional Protections

Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.

Bloom's: Understand

AACSB: Reflective Thinking

39) Under the Constitution, Congress has the enumerated power to appoint federal officers and judges.

A) True

B) False

Answer: B

Explanation:

Diff: 2

Topic: Overview of Federal Powers

Learning Objective: 02-02 List the major provisions of the first three articles of the Constitution.

Bloom's: Understand

AACSB: Analytical Thinking

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40) Under the federal system used by the United States, the federal government has only limited power to regulate individuals and businesses.

A) True

B) False

Answer: A

Explanation:

Diff: 2

Topic: Structure of the Constitution: Federal Powers

Learning Objective: 02-01 Describe the purpose and structure of the Constitution.

Bloom's: Understand

AACSB: Analytical Thinking

41) The preamble of the Constitution

A) sets out the structure of the government.

B) lays out the procedures by which the government will operate.

C) establishes boundaries of jurisdiction.

D) states the broad objectives of the Constitution.

Answer: D

Explanation: A) The preamble begins the Constitution by stating the Constitution's broad objectives of justice, liberty, tranquility, common defense, and so on.

B) The preamble begins the Constitution by stating the Constitution's broad objectives of justice, liberty, tranquility, common defense, and so on.

C) The preamble begins the Constitution by stating the Constitution's broad objectives of justice, liberty, tranquility, common defense, and so on.

D) The preamble begins the Constitution by stating the Constitution's broad objectives of justice, liberty, tranquility, common defense, and so on.

Diff: 2

Topic: Structure of the Constitution: Federal Powers

Learning Objective: 02-01 Describe the purpose and structure of the Constitution.

Bloom's: Understand

AACSB: Analytical Thinking

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42) Which of the following is not a coequal branch of the U.S. government as specified in the Constitution?

A) the legislative branch
B) the executive branch
C) the administrative branch
D) the judicial branch

Answer: C

Explanation: A) There is no branch of government called the administrative branch.
B) There is no branch of government called the administrative branch.
C) There is no branch of government called the administrative branch.
D) There is no branch of government called the administrative branch.

Diff: 1
Topic: Structure of the Constitution: Federal Powers
Learning Objective: 02-01 Describe the purpose and structure of the Constitution.
Bloom's: Remember
AACSB: Analytical Thinking

43) Judicial review is the

A) power or right of a court to hear a case.
B) power of a state or federal court to declare a statute unconstitutional.
C) power of an appellate court to reverse a decision made in a lower court.
D) power of a federal court to declare a state or federal statute invalid if inconsistent with the Constitution.

Answer: D

Explanation: A) Judicial review, established in the case of Marbury v. Madison, gave federal courts the right to declare a state or federal statute invalid if inconsistent with the Constitution.
B) Judicial review, established in the case of Marbury v. Madison, gave federal courts the right to declare a state or federal statute invalid if inconsistent with the Constitution.
C) Judicial review, established in the case of Marbury v. Madison, gave federal courts the right to declare a state or federal statute invalid if inconsistent with the Constitution.
D) Judicial review, established in the case of Marbury v. Madison, gave federal courts the right to declare a state or federal statute invalid if inconsistent with the Constitution.

Diff: 2
Topic: Article III--Judicial Powers
Learning Objective: 02-03 Explain the role of judicial review in interpreting the Constitution.
Bloom's: Evaluate
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44) The power to impeach and remove is a check and balance power
A) of the executive branch.
B) of the legislative branch.
C) of the judicial branch.
D) that is shared by all three government branches.

Answer: B

Explanation: A) Impeachment and removal is a legislative check and balance over executive and federal judiciary general powers.
B) Impeachment and removal is a legislative check and balance over executive and federal judiciary general powers.
C) Impeachment and removal is a legislative check and balance over executive and federal judiciary general powers.
D) Impeachment and removal is a legislative check and balance over executive and federal judiciary general powers.

Diff: 3
Topic: Article III--Judicial Powers
Learning Objective: 02-03 Explain the role of judicial review in interpreting the Constitution.
Bloom's: Evaluate
AACSB: Reflective Thinking

45) Assume that the state of Georgia raised the fee for registration of motor vehicles to $5 per year. If challenged, this new statute would be reviewed using
A) rational basis scrutiny.
B) intermediate scrutiny.
C) strict scrutiny.
D) no particular form of scrutiny (none is required in this situation).

Answer: A

Explanation: A) Social and economic state matters are generally reviewed using rational basis scrutiny.
B) Social and economic state matters are generally reviewed using rational basis scrutiny.
C) Social and economic state matters are generally reviewed using rational basis scrutiny.
D) Social and economic state matters are generally reviewed using rational basis scrutiny.

Diff: 3
Topic: Applying the Constitution: Standards of Judicial Review
Learning Objective: 02-04 Recognize the three standards of constitutional review and their application.
Bloom's: Evaluate
AACSB: Analytical Thinking; Reflective Thinking

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46) The primary authorization of constitutional powers is given to Congress under

A) the Preamble to the Constitution.
B) Article I of the Constitution.
C) Article VI of the Constitution.
D) the Bill of Rights.

Answer: B

Explanation: A) The primary authorization of constitutional powers is given to Congress under Article I, with enumerated powers listed in 18 clauses.
B) The primary authorization of constitutional powers is given to Congress under Article I, with enumerated powers listed in 18 clauses.
C) The primary authorization of constitutional powers is given to Congress under Article I, with enumerated powers listed in 18 clauses.
D) The primary authorization of constitutional powers is given to Congress under Article I, with enumerated powers listed in 18 clauses.

Diff: 1
Topic: Overview of Federal Powers
Learning Objective: 02-02 List the major provisions of the first three articles of the Constitution.
Bloom's: Remember
AACSB: Analytical Thinking

47) The power to carry out foreign policy is an enumerated power granted to

A) the executive branch.
B) the legislative branch.
C) the judicial branch.
D) all three branches.

Answer: A

Explanation: A) The president enters into treaties, subject to Senate approval, and carries out foreign policy.
B) The president enters into treaties, subject to Senate approval, and carries out foreign policy.
C) The president enters into treaties, subject to Senate approval, and carries out foreign policy.
D) The president enters into treaties, subject to Senate approval, and carries out foreign policy.

Diff: 1
Topic: Overview of Federal Powers
Learning Objective: 02-02 List the major provisions of the first three articles of the Constitution.
Bloom's: Remember
AACSB: Reflective Thinking

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48) The state of Kansas has enacted a new law requiring all commercial trucks driving on Kansas roads to have special mud flaps installed. These mud flaps have been proved to make driving in the rain significantly safer as they reduce mist created by trucks in the rain, although data regarding accidents and injuries have not yet been determined. Any truck entering Kansas must have these flaps installed or will be subject to a significant fine and delay. The cost for purchase and installation of these flaps is $1,000 per truck. In short, trucks must have these flaps or go around the state. This Kansas law

A) is valid because it applies only to Kansas roads and such a law is entirely intrastate.
B) is valid because Kansas's right to protect its citizens under its police powers will override any outside challenges to this law.
C) is invalid because this law is intended to regulate interstate commerce, an enumerated federal power.
D) is invalid because, although on its face it's an intrastate law, this statute will have a significant economic effect on interstate commerce, causing an undue burden.

Answer: D

Explanation: A) Intrastate laws that place a significant burden on interstate commerce may be regulated by Congress and are subject to preemption.
B) Intrastate laws that place a significant burden on interstate commerce may be regulated by Congress and are subject to preemption.
C) Intrastate laws that place a significant burden on interstate commerce may be regulated by Congress and are subject to preemption.
D) Intrastate laws that place a significant burden on interstate commerce may be regulated by Congress and are subject to preemption.

Diff: 3
Topic: Constitutional Restrictions on State Regulation of Commerce
Learning Objective: 02-06 Describe constitutional restrictions on state regulation of commerce in the business environment.
Bloom's: Evaluate
AACSB: Reflective Thinking

49) In *Gonzalez v. Raich*, patients who were prescribed medical marijuana sought to prevent enforcement of the federal Controlled Substances Act (CSA) in medical marijuana cases. They claimed enforcement violated the Commerce Clause because the medical marijuana was cultivated and possessed within state borders and did not enter the stream of commerce. The U.S. Supreme Court decided

A) the government had a rational basis for believing that locally cultivated marijuana would end up in interstate commerce.
B) the intrastate, noncommercial cultivation and possession of marijuana was not intended to enter interstate commerce.
C) California's medical marijuana law was unconstitutional.
D) enforcement unreasonably burdened interstate commerce.

Answer: A

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Explanation: A) The court held that the government provided a rational basis in claiming that an exemption to enforcement would undermine the orderly enforcement of the entire regulatory scheme, and held that the CSA was a valid exercise of congressional powers derived from the Commerce Clause.
B) The court held that the government provided a rational basis in claiming that an exemption to enforcement would undermine the orderly enforcement of the entire regulatory scheme, and held that the CSA was a valid exercise of congressional powers derived from the Commerce Clause.
C) The court held that the government provided a rational basis in claiming that an exemption to enforcement would undermine the orderly enforcement of the entire regulatory scheme, and held that the CSA was a valid exercise of congressional powers derived from the Commerce Clause.
D) The court held that the government provided a rational basis in claiming that an exemption to enforcement would undermine the orderly enforcement of the entire regulatory scheme, and held that the CSA was a valid exercise of congressional powers derived from the Commerce Clause.

Diff: 3
Topic: Commerce Powers
Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.
Bloom's: Apply
AACSB: Reflective Thinking

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50) In *Pagan v. Fruchey and Village of Glendale*, Pagan sued, questioning a village ordinance prohibiting the parking of a car on a public street for the purpose of displaying it for sale. Pagan won because

A) Glendale's law violated Pagan's commercial speech rights, which are absolute.
B) Glendale was unable to prove that Pagan's speech was unlawful.
C) Glendale's ordinance was broader than necessary to accomplish the village's government interest.
D) Glendale did not prove that the ordinance directly advanced the village's claimed government interest because Glendale based its argument on opinion rather than data.

Answer: D

Explanation: A) The presentation by the village failed to meet its burden of showing that the ordinance actually advanced its claimed interest in public safety.
B) The presentation by the village failed to meet its burden of showing that the ordinance actually advanced its claimed interest in public safety.
C) The presentation by the village failed to meet its burden of showing that the ordinance actually advanced its claimed interest in public safety.
D) The presentation by the village failed to meet its burden of showing that the ordinance actually advanced its claimed interest in public safety.

Diff: 3
Topic: Constitutional Protections
Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.
Bloom's: Analyze
AACSB: Reflective Thinking

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51) In the cases of *Heart of Atlanta Motel v. U.S.* and *Katzenbach v. McClung*, the Supreme Court found illegal discrimination under the Civil Rights Act of 1964 by applying

A) the Commerce Clause.
B) the Supremacy Clause.
C) the Necessary and Proper Clause.
D) the Equal Protection Clause.

Answer: A

Explanation:
A) Since the motel in Heart of Atlanta Motel was limiting lodging opportunities for black travelers, and the restaurant in Katzenbach purchased food and supplies from out of state, interstate commerce was found and Congress was authorized to act.
B) Since the motel in Heart of Atlanta Motel was limiting lodging opportunities for black travelers, and the restaurant in Katzenbach purchased food and supplies from out of state, interstate commerce was found and Congress was authorized to act.
C) Since the motel in Heart of Atlanta Motel was limiting lodging opportunities for black travelers, and the restaurant in Katzenbach purchased food and supplies from out of state, interstate commerce was found and Congress was authorized to act.
D) Since the motel in Heart of Atlanta Motel was limiting lodging opportunities for black travelers, and the restaurant in Katzenbach purchased food and supplies from out of state, interstate commerce was found and Congress was authorized to act.

Diff: 3
Topic: Commerce Powers
Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.
Bloom's: Evaluate
AACSB: Reflective Thinking; Diversity

52) When Bad Frog Brewery, Inc., placed a label on its product showing a frog with unwebbed fingers with its middle finger extended, New York State sued to prohibit the use of the label, claiming it to be obscene and claiming an interest in protecting the state's children. The court found

A) for Bad Frog because children cannot purchase beer, so any exposure would be incidental.
B) for Bad Frog because the label did not concern an unlawful activity and the state did not prove its interest in protecting children from vulgarity.
C) for New York State because once the product was purchased, the labels would be exposed in refrigerators or in rooms while children were present.
D) for New York State because it proved a substantial effort to advance a valid state interest amounting to more than "not merely the removal of a few grains of sand from the beach of vulgarity."

Answer: B

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Explanation: A) Because the labels were not misleading and did not concern an unlawful activity, the labels were a protected form of commercial speech, and any government regulation must conform with the requirements set out in the four-part Central Hudson case. Ruling in favor of Bad Frog, the court remarked that a state must demonstrate that its commercial speech limitation is part of a substantial effort to advance a valid state interest.

B) Because the labels were not misleading and did not concern an unlawful activity, the labels were a protected form of commercial speech, and any government regulation must conform with the requirements set out in the four-part Central Hudson case. Ruling in favor of Bad Frog, the court remarked that a state must demonstrate that its commercial speech limitation is part of a substantial effort to advance a valid state interest.

C) Because the labels were not misleading and did not concern an unlawful activity, the labels were a protected form of commercial speech, and any government regulation must conform with the requirements set out in the four-part Central Hudson case. Ruling in favor of Bad Frog, the court remarked that a state must demonstrate that its commercial speech limitation is part of a substantial effort to advance a valid state interest.

D) Because the labels were not misleading and did not concern an unlawful activity, the labels were a protected form of commercial speech, and any government regulation must conform with the requirements set out in the four-part Central Hudson case. Ruling in favor of Bad Frog, the court remarked that a state must demonstrate that its commercial speech limitation is part of a substantial effort to advance a valid state interest.

Diff: 3
Topic: Constitutional Protections
Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.
Bloom's: Evaluate
AACSB: Analytical Thinking; Reflective Thinking

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53) If a city refuses to issue a permit for a political demonstration because it would block traffic in the area's largest intersection, that decision would be reviewed using
A) rational basis scrutiny.
B) intermediate scrutiny.
C) strict scrutiny.
D) no particular form of scrutiny (none is required in this situation).

Answer: B

Explanation: A) Courts have used intermediate scrutiny in cases involving government action related to regulating the time, place, and manner of a political demonstration that is protected under the First Amendment
B) Courts have used intermediate scrutiny in cases involving government action related to regulating the time, place, and manner of a political demonstration that is protected under the First Amendment
C) Courts have used intermediate scrutiny in cases involving government action related to regulating the time, place, and manner of a political demonstration that is protected under the First Amendment
D) Courts have used intermediate scrutiny in cases involving government action related to regulating the time, place, and manner of a political demonstration that is protected under the First Amendment

Diff: 3
Topic: Applying the Constitution: Standards of Judicial Review
Learning Objective: 02-04 Recognize the three standards of constitutional review and their application.
Bloom's: Evaluate
AACSB: Analytical Thinking; Reflective Thinking

54) Treaties
A) may be entered into by the president without oversight or approval.
B) are entered into by the president subject to House approval.
C) are entered into by the president subject to Senate approval.
D) are entered into by the president subject to joint House and Senate approval.

Answer: C

Explanation: A) The president negotiates and signs treaties subject to approval by the Senate only.
B) The president negotiates and signs treaties subject to approval by the Senate only.
C) The president negotiates and signs treaties subject to approval by the Senate only.
D) The president negotiates and signs treaties subject to approval by the Senate only.

Diff: 2
Topic: Overview of Federal Powers
Learning Objective: 02-02 List the major provisions of the first three articles of the Constitution.
Bloom's: Understand
AACSB: Reflective Thinking

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55) The power of preemption is derived from
A) the power of judicial review.
B) the Commerce Clause.
C) the Necessary and Proper Clause.
D) the Supremacy Clause.

Answer: D

Explanation:
A) The Supremacy Clause makes constitutional and federal law supreme over state law, creating the power of preemption.
B) The Supremacy Clause makes constitutional and federal law supreme over state law, creating the power of preemption.
C) The Supremacy Clause makes constitutional and federal law supreme over state law, creating the power of preemption.
D) The Supremacy Clause makes constitutional and federal law supreme over state law, creating the power of preemption.

Diff: 3
Topic: Article III--Judicial Powers
Learning Objective: 02-03 Explain the role of judicial review in interpreting the Constitution.
Bloom's: Analyze
AACSB: Analytical Thinking

56) In *Cipollone v. Liggett Group Inc., et al.*, Cipollone sued based on state consumer protection laws. What did cigarette makers argue?
A) The court should consider state laws only.
B) Federal laws regulating promotion and advertising activities regarding tobacco products should be considered supplemental to state laws.
C) Federal and state laws conflicted, negating both, so the court had no basis to make its decision.
D) The claims were preempted by federal laws regulating cigarettes and tobacco products.

Answer: D

Explanation:
A) Liggett urged the court to dismiss the state law claims, contending that the claims relating to the manufacturer's advertising and promotional activities were preempted by two federal laws: (1) the Federal Cigarette Labeling and Advertising Act of 1965 and (2) the Public Health Cigarette Smoking Act of 1969.
B) Liggett urged the court to dismiss the state law claims, contending that the claims relating to the manufacturer's advertising and promotional activities were preempted by two federal laws: (1) the Federal Cigarette Labeling and Advertising Act of 1965 and (2) the Public Health Cigarette Smoking Act of 1969.
C) Liggett urged the court to dismiss the state law claims, contending that the claims relating to the manufacturer's advertising and promotional activities were preempted by two federal laws: (1) the Federal Cigarette Labeling and Advertising Act of 1965 and (2) the Public Health Cigarette Smoking Act of 1969.

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D) Liggett urged the court to dismiss the state law claims, contending that the claims relating to the manufacturer's advertising and promotional activities were preempted by two federal laws: (1) the Federal Cigarette Labeling and Advertising Act of 1965 and (2) the Public Health Cigarette Smoking Act of 1969.

Diff: 3
Topic: Article III--Judicial Powers
Learning Objective: 02-03 Explain the role of judicial review in interpreting the Constitution.
Bloom's: Apply
AACSB: Reflective Thinking

57) The Equal Protection Clause is contained in the

A) First Amendment.
B) Fifth Amendment.
C) Sixth Amendment.
D) Fourteenth Amendment.

Answer: D

Explanation: A) The Equal Protection Clause is contained in the Fourteenth Amendment.
B) The Equal Protection Clause is contained in the Fourteenth Amendment.
C) The Equal Protection Clause is contained in the Fourteenth Amendment.
D) The Equal Protection Clause is contained in the Fourteenth Amendment.

Diff: 2
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Understand
AACSB: Analytical Thinking

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58) When a state action is found to be based on a semi-suspect (or quasi-suspect) classification, the courts will employ
A) rational basis scrutiny.
B) intermediate scrutiny.
C) strict scrutiny.
D) no particular form of scrutiny (none is required in this situation).

Answer: B

Explanation: A) When dealing with a semi-suspect (or quasi-suspect) classification such as gender or illegitimacy, the courts will employ intermediate scrutiny.
B) When dealing with a semi-suspect (or quasi-suspect) classification such as gender or illegitimacy, the courts will employ intermediate scrutiny.
C) When dealing with a semi-suspect (or quasi-suspect) classification such as gender or illegitimacy, the courts will employ intermediate scrutiny.
D) When dealing with a semi-suspect (or quasi-suspect) classification such as gender or illegitimacy, the courts will employ intermediate scrutiny.

Diff: 2
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Understand
AACSB: Analytical Thinking

59) When due process limits the power of the states to regulate certain areas related to individual liberty, this is called
A) state due process.
B) federal due process.
C) substantive due process.
D) procedural due process.

Answer: C

Explanation: A) The substantive aspect of due process requires that laws passed by the government be published for public inspection and be specific enough that a reasonable person would understand how the law applies.
B) The substantive aspect of due process requires that laws passed by the government be published for public inspection and be specific enough that a reasonable person would understand how the law applies.
C) The substantive aspect of due process requires that laws passed by the government be published for public inspection and be specific enough that a reasonable person would understand how the law applies.
D) The substantive aspect of due process requires that laws passed by the government be published for public inspection and be specific enough that a reasonable person would understand how the law applies.

Diff: 1
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Remember
AACSB: Analytical Thinking

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60) One criticism of the USA Patriot Act is that
A) adequate safeguards are not in place to prevent the government from using the act to invade citizens' privacy.
B) too much due process is being given to alleged terrorists under the act's provisions.
C) penalties for those found guilty under the act are not harsh enough.
D) penalties for those found guilty under the act are too harsh and constitute cruel and unusual punishment.

Answer: A

Explanation: A) Although there is an infrastructure regulating government searches, many believe it to be inadequate and not as protective as needed.
B) Although there is an infrastructure regulating government searches, many believe it to be inadequate and not as protective as needed.
C) Although there is an infrastructure regulating government searches, many believe it to be inadequate and not as protective as needed.
D) Although there is an infrastructure regulating government searches, many believe it to be inadequate and not as protective as needed.

Diff: 3
Topic: Fourth Amendment
Learning Objective: 02-09 Describe the main protections in the Fourth Amendment and how they apply in the business environment.
Bloom's: Evaluate
AACSB: Analytical Thinking; Reflective Thinking

61) Assume that Iowa has passed a statute requiring all noncitizens to sit in the back of public buses. That statute would be reviewed using
A) rational basis scrutiny.
B) intermediate scrutiny.
C) strict scrutiny.
D) no particular form of scrutiny (none is required in this situation).

Answer: C

Explanation: A) This law affects a fundamental right and is based on a suspect classification, so it will be reviewed using strict scrutiny.
B) This law affects a fundamental right and is based on a suspect classification, so it will be reviewed using strict scrutiny.
C) This law affects a fundamental right and is based on a suspect classification, so it will be reviewed using strict scrutiny.
D) This law affects a fundamental right and is based on a suspect classification, so it will be reviewed using strict scrutiny.

Diff: 3
Topic: Applying the Constitution: Standards of Judicial Review
Learning Objective: 02-04 Recognize the three standards of constitutional review and their application.
Bloom's: Evaluate
AACSB: Analytical Thinking; Reflective Thinking

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62) Which of the following is not a procedural due process issue?

A) Police must obtain a search warrant to enter and search a citizen's home for drugs.

B) The state of Massachusetts raised the drinking age to 25 years old.

C) The state of Oklahoma passes a statute prohibiting citizens from presenting evidence in drunk-driving trials.

D) The state of California passes a statute allowing relatives of victims of violent crimes to sit on the jury in the general trial court.

Answer: B

Explanation: A) A change in the drinking age affects a personal right and is a substantive issue.
B) A change in the drinking age affects a personal right and is a substantive issue.
C) A change in the drinking age affects a personal right and is a substantive issue.
D) A change in the drinking age affects a personal right and is a substantive issue.

Diff: 3
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Analyze
AACSB: Analytical Thinking; Reflective Thinking

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63) After more than 100 years, the Chicago Cubs have won baseball's World Series. They want a parade down Michigan Avenue at 10 a.m. on Friday, but the city tells them that the parade will be down Rush Street at noon on Saturday. The city claims that Rush Street on Saturday will provide more safety and convenience for the city's citizens. The Cubs claim a violation of their freedom of speech. If a lawsuit ensues, what standard of review will the court use to resolve the issue?

A) rational basis scrutiny
B) intermediate-level scrutiny
C) strict scrutiny
D) no particular form of scrutiny (none is required in this situation)

Answer: B

Explanation: A) Courts will uphold government actions as constitutional so long as the government can prove that its action advanced an important government objective and that the action is substantially related to the government's objective.
B) Courts will uphold government actions as constitutional so long as the government can prove that its action advanced an important government objective and that the action is substantially related to the government's objective.
C) Courts will uphold government actions as constitutional so long as the government can prove that its action advanced an important government objective and that the action is substantially related to the government's objective.
D) Courts will uphold government actions as constitutional so long as the government can prove that its action advanced an important government objective and that the action is substantially related to the government's objective.

Diff: 3
Topic: Applying the Constitution: Standards of Judicial Review
Learning Objective: 02-04 Recognize the three standards of constitutional review and their application.
Bloom's: Evaluate
AACSB: Analytical Thinking

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64) In *State Farm Mutual v. Campbell*, the appellate court reinstated the punitive-damage award due to
A) the defendant's actions being criminal in nature.
B) the disparity between the actual or potential harm suffered by the plaintiff and the punitive-damage award.
C) the degree of reprehensibility of the defendant's misconduct.
D) the state's law being preempted by federal statute.

Answer: C

Explanation: A) The appellate court reinstated the jury award on the basis that the state's punitive-damage statute allowed larger damage awards if the defendant acted in a particularly reprehensible manner.
B) The appellate court reinstated the jury award on the basis that the state's punitive-damage statute allowed larger damage awards if the defendant acted in a particularly reprehensible manner.
C) The appellate court reinstated the jury award on the basis that the state's punitive-damage statute allowed larger damage awards if the defendant acted in a particularly reprehensible manner.
D) The appellate court reinstated the jury award on the basis that the state's punitive-damage statute allowed larger damage awards if the defendant acted in a particularly reprehensible manner.

Diff: 2
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Understand
AACSB: Reflective Thinking

65) Generally, constitutional protections do not apply to
A) acts of the federal government.
B) acts of state governments.
C) acts of administrative agencies.
D) acts of privately owned businesses.

Answer: D

Explanation: A) Constitutional protections apply to government but not private acts.
B) Constitutional protections apply to government but not private acts.
C) Constitutional protections apply to government but not private acts.
D) Constitutional protections apply to government but not private acts.

Diff: 2
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Understand
AACSB: Analytical Thinking

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66) Protections for the citizenry from unlawful or repressive acts by the government are contained primarily in

A) the Preamble to the Constitution.
B) Article I of the Constitution.
C) Article V of the Constitution.
D) the Bill of Rights.

Answer: D

Explanation:
A) The Bill of Rights was passed to add protections for the citizenry soon after the Constitution was adopted.
B) The Bill of Rights was passed to add protections for the citizenry soon after the Constitution was adopted.
C) The Bill of Rights was passed to add protections for the citizenry soon after the Constitution was adopted.
D) The Bill of Rights was passed to add protections for the citizenry soon after the Constitution was adopted.

Diff: 1
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Remember
AACSB: Analytical Thinking

67) Mike is walking down the street minding his own business when he is stopped by a police officer. Although no crimes have been reported in the area and Mike has done nothing suspicious, the police officer does not like Mike's appearance so he conducts a pat-down search and finds a tiny bag of marijuana. Under these circumstances, this is

A) an illegal search under Fourth Amendment protections.
B) an illegal search under Fifth Amendment protections.
C) a legal search because illegal drugs were found, justifying the police officer's actions.
D) a legal search because police are given broad discretion to use their experience to fight crime and obviously the police officer was right in this case.

Answer: A

Explanation:
A) Police, under the Fourth Amendment, must have just cause or a warrant to conduct searches.
B) Police, under the Fourth Amendment, must have just cause or a warrant to conduct searches.
C) Police, under the Fourth Amendment, must have just cause or a warrant to conduct searches.
D) Police, under the Fourth Amendment, must have just cause or a warrant to conduct searches.

Diff: 3
Topic: Fourth Amendment
Learning Objective: 02-09 Describe the main protections in the Fourth Amendment and how they apply in the business environment.
Bloom's: Evaluate
AACSB: Reflective Thinking

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68) The Due Process Clause is found in
A) the Fifth Amendment only.
B) the Fourteenth Amendment only.
C) neither the Fifth nor Fourteenth Amendment.
D) both the Fifth and Fourteenth Amendments.

Answer: D

Explanation: A) Both the Fifth and Fourteenth Amendments contain a Due Process Clause.
B) Both the Fifth and Fourteenth Amendments contain a Due Process Clause.
C) Both the Fifth and Fourteenth Amendments contain a Due Process Clause.
D) Both the Fifth and Fourteenth Amendments contain a Due Process Clause.

Diff: 1
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Remember
AACSB: Analytical Thinking

69) In *Gonzalez v. Raich*, when federal law enforcement confiscated and destroyed medicinal marijuana plants, Raich presented each of the following arguments except
A) the plants were cultivated and possessed within state boarders.
B) the plants did not enter the stream of commerce.
C) there are no enforcement difficulties in distinguishing between marijuana cultivated locally and marijuana grown elsewhere.
D) the plants were for personal use, not for commercial use.

Answer: C

Explanation: A) Enforcement issues such as distinguishing local marijuana from plants grown elsewhere and concerns for diversion into illicit channels were major arguments for enforcing the Controlled Substances Act.
B) Enforcement issues such as distinguishing local marijuana from plants grown elsewhere and concerns for diversion into illicit channels were major arguments for enforcing the Controlled Substances Act.
C) Enforcement issues such as distinguishing local marijuana from plants grown elsewhere and concerns for diversion into illicit channels were major arguments for enforcing the Controlled Substances Act.
D) Enforcement issues such as distinguishing local marijuana from plants grown elsewhere and concerns for diversion into illicit channels were major arguments for enforcing the Controlled Substances Act.

Diff: 2
Topic: Commerce Powers
Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.
Bloom's: Understand
AACSB: Analytical Thinking

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70) Kathy was returning to the United States after a vacation when the Customs Service confiscated some goods she had purchased abroad and brought back with her. The determination of whether the government acted properly and the type of hearing that she must be provided is an analysis of

A) procedural due process.
B) substantial due process.
C) the Equal Protection Clause.
D) the Commerce Clause.

Answer: A

Explanation: A) What the government must do to seize private property and the type of hearing required are procedural due process issues.
B) What the government must do to seize private property and the type of hearing required are procedural due process issues.
C) What the government must do to seize private property and the type of hearing required are procedural due process issues.
D) What the government must do to seize private property and the type of hearing required are procedural due process issues.

Diff: 2
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Understand
AACSB: Reflective Thinking

ESSAY QUESTIONS

71) Explain the origin and justification of judicial review.

Answer: Judicial review is the concept that the federal courts have the power to declare federal or state statutes unconstitutional, and therefore invalid, if they are inconsistent with the U.S. Constitution. This power is not specifically mentioned or granted in the Constitution but was first recognized in the 1803 case of *Marbury v. Madison*. Judicial review was not considered in any preconstitutional debates nor mentioned in the *Federal Register*. Nevertheless, it remains valid precedent to this day.

Diff: 3
Topic: Article III--Judicial Powers
Learning Objective: 02-03 Explain the role of judicial review in interpreting the Constitution.
Bloom's: Evaluate
AACSB: Reflective Thinking

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72) The U.S. Supreme Court has established three standards of review used when applying constitutional law. Name these three standards and discuss each in terms of how it relates to state objectives.

Answer: When a state action or statute advances a legitimate state objective such as an economic or social issue that is solely intrastate, the state need only prove a rational basis for the law. When an important state objective is at issue and the state can prove that its law or action is substantially related to that objective, the law or action is reviewed using intermediate-level scrutiny. When a state action or law relates to a fundamental right or a suspect classification, the state action or law is subject to strict scrutiny and the state must prove a compelling state interest to be successful.

Diff: 2
Topic: Applying the Constitution: Standards of Judicial Review
Learning Objective: 02-04 Recognize the three standards of constitutional review and their application.
Bloom's: Understand
AACSB: Reflective Thinking

73) The state of Colorado has enacted a statute limiting the size of freight trains entering the state to no more than 80 cars other than the locomotive(s) and the caboose. Assume that there is no federal law mandating a maximum limit of cars, and further assume that freight trains frequently consist of over 100 cars. Colorado has justified the law by saying that shorter trains are safer, but the state's evidence is not persuasive. Colorado also claims that very long trains inconvenience drivers and can cause major traffic jams. Trains longer than 80 cars must stop and reduce their size, employing additional locomotives to transport the cars through the state to the border, where they may again recouple and proceed. Discuss whether this law is valid.

Answer: Colorado is asserting its police powers, claiming to justify the law as protecting its citizens. Since the law applies only within the state's borders, it is also being justified as a purely intrastate law. In reality, the law creates a significant economic burden on interstate commerce. The time delay in coupling and uncoupling cars, as well as the time spent procuring additional locomotives, would make shipping by train much less efficient, and the additional costs would likely have a pass-through effect on customers of the shipped cargo. Going around the state is likely a very poor option. Congress has the power to regulate interstate freight train shipping and can preempt this intrastate Colorado law because of the significant and undue burden it creates on interstate commerce, making it invalid.

Diff: 3
Topic: Commerce Powers
Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.
Bloom's: Evaluate
AACSB: Analytical Thinking; Reflective Thinking

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74) Congress has provided the state of Ohio $50 million for highway construction and renovation. As a condition, Ohio must award 30 percent of the contracts to firms that are owned by women or minorities. Ohio sues, claiming that such a condition is an intrusion on Ohio's right to seek competitive bids and make the best use of the money. Ohio also asserts that this condition will make it difficult to seek the best-quality companies and that how it allocates the money is purely a state function as long as it uses the money for the purposes intended. How will a court likely decide this dispute?

Answer: Congress's taxing and spending powers allow Congress to place conditions and restrictions on how federal money may be spent by the states. Asserting the Necessary and Proper Clause, Congress may require that money be used to achieve some public policy objective. The advocacy and support of women and minorities is an established public policy objective, so the courts will likely support Congress and uphold the conditions. Ohio's arguments, while logical and reasonable, will not be persuasive enough to overcome the public policy Congress is targeting. Only when individual constitutional rights are violated will the conditions be invalidated, and that is not evident here.

Diff: 3
Topic: Tax and Spend Powers
Learning Objective: 02-07 Explain why Congress's tax and spend powers are an independent source of federal power.
Bloom's: Apply
AACSB: Reflective Thinking; Diversity

75) Name the four-part test established by the Court in *Central Hudson Gas v. Public Service Commission* that subjects government restrictions on commercial speech to a form of intermediate-level scrutiny.

Answer: The four-part test requires that (1) the commercial speech must concern a lawful activity and be truthful; (2) a substantial government interest in regulating the speech must exist; (3) the government must prove that the restriction directly advances the claimed government interest; and (4) the government's restriction must not be more extensive than is necessary to achieve the government's asserted interest.

Diff: 3
Topic: Constitutional Protections
Learning Objective: 02-08 Describe the main protections in the First Amendment and explain how they apply in the business environment.
Bloom's: Apply
AACSB: Analytical Thinking; Reflective Thinking

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76) In what manner was a citizen's right to privacy initially established? Explain.

Answer: Not specifically cited in the Constitution, a citizen's right to privacy was first formally recognized in the case of *Griswold v. Connecticut*, where the Court used language implied from the First, Third, Fourth, Fifth, and Ninth Amendments to establish a protected zone of privacy. The case resulted from the arrest of counselors who provided contraceptive advice to clients. The arrests were invalidated by the courts, which cited the rights of citizens to obtain information.

Diff: 2
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Understand
AACSB: Reflective Thinking

77) Mike has moved into a privately owned apartment complex. The stated rules of the complex prohibit unmarried men and women from living together in the same apartment. When Mike's girlfriend Kathy moves into his apartment, he is served with eviction papers. Mike claims that the apartment complex is violating his constitutional rights since it allows only married people to live together. Is he correct?

Answer: No, Mike is incorrect. Constitutional rights may not be restricted by the federal government under the Constitution or restricted by states under the Fourteenth Amendment. This apartment complex is privately owned, so most constitutional protections will not apply.

Diff: 3
Topic: Due Process Protections
Learning Objective: 02-10 Identify limits imposed on government power by virtue of the Due Process and Equal Protection clauses.
Bloom's: Apply
AACSB: Reflective Thinking

78) Describe Congress's authority to regulate under the Commerce Clause.

Answer: Under the Commerce Clause, Congress has the authority to regulate (1) channels of interstate commerce such as railways and highways; (2) the instrumentalities of interstate commerce such as vehicles used in shipping; (3) the articles moving in interstate commerce; and (4) any activity that has substantial economic effect on interstate commerce, including activities that are not commercial in nature.

Diff: 2
Topic: Commerce Powers
Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.
Bloom's: Understand
AACSB: Analytical Thinking

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79) Explain the structure of the U.S. government and how the checks and balances system operates to maintain equalization of power between the different parts of the government.

Answer: The U.S. government consists of three independent parts. The executive branch (the president) enforces federal law, and the president enters into treaties, appoints judges and federal officials, and functions as the commander in chief of the armed forces. The president may exercise veto power over acts of the legislature. The legislature (Congress) enacts federal law and maintains impeachment and removal power over the president and judiciary. Should the judiciary establish a common law precedent, Congress may pass a statute that would preempt the common law decision. The judiciary (the federal courts) interprets the law and through judicial review may declare a federal or state law unconstitutional and thus invalid.

Diff: 1
Topic: Overview of Federal Powers
Learning Objective: 02-02 List the major provisions of the first three articles of the Constitution.
Bloom's: Remember
AACSB: Analytical Thinking

80) Kathy runs a business from her home. Not only is she the sole employee, but she never leaves her home, performing all business functions in her pajamas in front of her computer. Her business consists of buying and reselling various goods over the Internet. She is very successful, with thousands of customers. In terms of regulation of commerce, how would you characterize her business?

Answer: At first look she would appear to be intrastate due to her lack of mobility and single-site setting, but because the Internet reaches the entire world, she would be classified as dealing in interstate commerce and most likely in foreign commerce and would, therefore, be subject to federal regulation.

Diff: 3
Topic: Commerce Powers
Learning Objective: 02-05 Understand the scope of Congress's powers under the Commerce Clause.
Bloom's: Apply
AACSB: Analytical Thinking; Reflective Thinking

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