

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 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 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 AICPA: BB-Legal

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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 AICPA: BB-Legal

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

ANSWER: T PAGE: 34 TYPE: =
BUSPROG: Analytic AICPA: BB-Legal

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

ANSWER: F PAGE: 34 TYPE: N
BUSPROG: Analytic AICPA: BB-Legal

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

ANSWER: F PAGE: 34 TYPE: +
BUSPROG: Analytic AICPA: BB-Legal

8. The President appoints federal judges with the advice and consent of the Senate.

ANSWER: T PAGE: 34 TYPE: N
BUSPROG: Analytic AICPA: BB-Legal

9. The judicial branch has the power to hold actions of the other branches of government unconstitutional.

ANSWER: T PAGE: 34 TYPE: N
BUSPROG: Analytic AICPA: BB-Critical Thinking

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

ANSWER: T PAGE: 35 TYPE: N
BUSPROG: Analytic AICPA: BB-Legal

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

ANSWER: T PAGE: 35 TYPE: =
 BUSPROG: Analytic AICPA: BB-Critical Thinking

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

ANSWER: F PAGE: 37 TYPE: =
 BUSPROG: Analytic 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: 38 TYPE: =
 BUSPROG: Analytic 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: 38 TYPE: N
 BUSPROG: Analytic 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: 38 TYPE: N
 BUSPROG: Analytic AICPA: BB-Legal

16. The Bill of Rights protects individuals against types of interference by the federal government.

ANSWER: T PAGE: 38 TYPE: =
 BUSPROG: Analytic AICPA: BB-Legal

17. The Fifth Amendment prohibits unreasonable searches and seizures of persons or property.

ANSWER: F PAGE: 38 TYPE: N
 BUSPROG: Analytic AICPA: BB-Legal

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18. The Eighth Amendment prohibits excessive bail and fines, as well as cruel and unusual punishment.

ANSWER: T PAGE: 38 TYPE: N
BUSPROG: Analytic AICPA: BB-Legal

19. Symbolic speech is defined as nonverbal expressions of belief and is protected by the First Amendment.

ANSWER: T PAGE: 40 TYPE: N
BUSPROG: Analytic AICPA: BB-Legal

20. A restriction on commercial speech is valid as long as it forbids only the expression of views on controversial issues.

ANSWER: F PAGE: 44 TYPE: N
BUSPROG: Analytic AICPA: BB-Legal

21. The First Amendment protects corporate political speech.

ANSWER: T PAGE: 44 TYPE: N
BUSPROG: Reflective AICPA: BB-Critical Thinking

22. The First Amendment protects defamatory speech.

ANSWER: F PAGE: 45 TYPE: +
BUSPROG: Reflective 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 AICPA: BB-Critical Thinking

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

ANSWER: F PAGE: 47 TYPE: =
BUSPROG: Reflective 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 AICPA: BB-Legal

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

ANSWER: F PAGE: 47 TYPE: N
 BUSPROG: Reflective AICPA: BB-Critical Thinking

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

ANSWER: T PAGE: 49 TYPE: N
 BUSPROG: Analytic 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 AICPA: BB-Legal

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

ANSWER: T PAGE: 50 TYPE: N
 BUSPROG: Analytic AICPA: BB-Legal

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

ANSWER: F PAGE: 50 TYPE: =
 BUSPROG: Analytic 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 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 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 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 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 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 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
- Congress writes checks and the other branches balance the budget.
 - each branch has some power to limit the actions of the others.
 - the courts balance their authority to the other branches' checklists.
 - the president "checks" the courts, which "balance" the laws.

ANSWER: B PAGE: 34 TYPE: +
 BUSPROG: Analytic 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 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 AICPA: BB-Legal

5. South Dakota, like other states, may regulate private activities to protect or promote the public order, health, safety, and general welfare under
- the state's police powers.
 - the dormant commerce clause.
 - the due process clause.
 - the free exercise clause.

ANSWER: A PAGE: 37 TYPE: +
 BUSPROG: Reflective AICPA: BB-Legal

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6. Tami's Tasty Tacos, a fast food outfit, files a suit against the state of Texas, claiming that a Texas state law violates the commerce clause. The court will agree if the statute imposes a substantial burden on
- a. a local government.
 - b. interstate commerce.
 - c. noneconomic activity.
 - d. the state.

ANSWER: B PAGE: 37 TYPE: N
BUSPROG: Reflective AICPA: BB-Legal

7. The commerce clause's express grant of exclusive authority to regulate commerce that substantially affects trade and commerce among states is referred to as the
- a. dormant aspect of the commerce clause.
 - b. positive aspect of the commerce clause.
 - c. negative aspect of the commerce clause.
 - d. exclusive aspect of the commerce clause.

ANSWER: B PAGE: 37 TYPE: N
BUSPROG: Analytic AICPA: BB-Legal

8. 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
- a. Moe's state law claim preempts the federal law.
 - b. the federal law and state law claim are concurrent.
 - c. the federal and state law claim cancel each other out.
 - d. the federal law preempts Moe's state law claim.

ANSWER: D PAGE: 38 TYPE: =
BUSPROG: Reflective AICPA: BB-Legal

9. Savers Mart, Inc., distributes its merchandise to retail outlets on an interstate 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 AICPA: BB-Legal

10. 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: 38 TYPE: =
 BUSPROG: Reflective AICPA: BB-Legal

11. Don, a U.S. citizen, is the owner of Egrets Unlimited, Inc. Egret's competitors include Feathered Friends Company (FFC), which is owned by Greg and Huey. The Bill of Rights embodies a series of protections for Don against types of interference by
- FFC and its other competitors only.
 - FFC, Greg, Huey, others, and the government.
 - Greg, Huey, and other private individuals only.
 - the government only.

ANSWER: D PAGE: 38 TYPE: =
 BUSPROG: Reflective AICPA: BB-Legal

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

ANSWER: A PAGE: 38 TYPE: N
BUSPROG: Analytic AICPA: BB-Critical Thinking

13. Martin, a U.S. citizen, feels that a recently enacted federal law is unfair. He assembles a group of friends and they write a petition to the government. Martin and friends then stand quietly in front of the White House with signs declaring their belief that the law is unfair. Under the First Amendment, Martin has a right to
- petition the government, but not to assemble a group peaceably.
 - assemble peaceably, but not to petition the government.
 - both petition the government and assemble peaceably.
 - neither petition the government nor assemble peaceably.

ANSWER: C PAGE: 38 TYPE: N
BUSPROG: Analytic AICPA: BB-Critical Thinking

14. 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: 38 TYPE: =
BUSPROG: Reflective AICPA: BB-Legal

15. Bailey, the president of Carmichael Commodities Company, claims that certain actions by the federal government and by the state of Delaware infringe on rights guaranteed by the Bill of Rights. *All* of these rights limit
- neither Delaware nor the federal government.
 - the federal government only.
 - Delaware and the federal government.
 - Delaware only.

ANSWER: B PAGE: 39 TYPE: =
 BUSPROG: Reflective AICPA: BB-Critical Thinking

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: 40 TYPE: N
 BUSPROG: Analytic AICPA: BB-Critical Thinking

17. Serenity City enacts an ordinance that bans the use of “sound amplifying systems” on public streets. Tyler wants to campaign for a seat on the city council by broadcasting his message through speakers mounted on a truck. In Tyler’s suit against the city, a court would likely hold the ordinance 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: B PAGE: 40 TYPE: =
 BUSPROG: Reflective AICPA: BB-Critical Thinking

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

ANSWER: B PAGE: 40 TYPE: N
BUSPROG: Analytic AICPA: BB-Critical Thinking

19. Beachside City enacts an ordinance that bans the distribution of all printed materials on city streets. Carl opposes the city's latest "revenue-enhancing" measure and wants to protest by distributing handbills. In his suit against the city, a court would likely hold the printed-materials ban to be
- a. an unconstitutional restriction of speech.
 - b. constitutional under the First Amendment.
 - c. justified by the need to protect individual rights.
 - d. necessary to protect national interests.

ANSWER: A PAGE: 42 TYPE: =
BUSPROG: Reflective AICPA: BB-Legal

20. Reusable Energy Corporation regularly expresses opinions on political issues. Under the First Amendment, corporate political speech is
- a. discouraged.
 - b. forbidden.
 - c. protected.
 - d. required.

ANSWER: C PAGE: 43 TYPE: N
BUSPROG: Reflective AICPA: BB-Legal

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: 43 TYPE: =
BUSPROG: Reflective 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 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 AICPA: BB-Legal

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24. In 2013, Congress enacts the Act to Restrict Commercial Speech (ARCS). The ARCS will be considered valid if it directly advances a substantial government interest

- a. but goes no further than necessary to achieve its purpose.
- b. without regard to how “far” it goes.
- c. and the parties affected by it can elect how “far” to go in applying it.
- d. and goes further than necessary to ensure full coverage.

ANSWER: A PAGE: 44 TYPE: +
BUSPROG: Reflective AICPA: BB-Legal

25. Julia is a U.S. citizen. She establishes a website that posts threatening messages about celebrities. Her website is

- a. protected by the First Amendment.
- b. not protected by the First Amendment.
- c. protected by the Fifth Amendment.
- d. protected by the Tenth Amendment.

ANSWER: B PAGE: 45 TYPE: N
BUSPROG: Reflective AICPA: BB-Critical Thinking

26. Brad stands in front of Rooster’s Round-Up Café, shouting “fighting words” that are likely to incite Rooster’s patrons to respond violently. The First Amendment protects such speech

- a. all of the time.
- b. none of the time.
- c. only if it is noncommercial.
- d. only if it is symbolic.

ANSWER: B PAGE: 45 TYPE: =
BUSPROG: Reflective AICPA: BB-Critical Thinking

27. Adult Shoppe in Bay City sells a variety of publications, including child pornography. Bay City enacts an ordinance prohibiting the sale of such materials. This ordinance is most likely
- an invalid restriction of individuals' privacy.
 - an unconstitutional restriction of speech.
 - a violation of adults' rights to enjoy certain privileges.
 - constitutional under the First Amendment.

ANSWER: D PAGE: 45 TYPE: =
 BUSPROG: Reflective AICPA: BB-Legal

28. Which of the following does *not* necessarily make material obscene?
- The average person finds that it violates contemporary community standards.
 - The work taken as a whole appeals to a prurient interest in sex.
 - The work shows patently offensive sexual conduct.
 - The work shows animals mating.

ANSWER: D PAGE: 45 TYPE: N
 BUSPROG: Reflective AICPA: BB-Decision Modeling

29. Oklahoma enacts a law requiring all businesses in the state to donate 10 percent of their profits to Protestant churches that provide certain services to persons whose income is below the poverty level. PriceLess Stores files a suit to block the law's enforcement. The court would likely hold that this law violates
- no clause in the U.S. Constitution.
 - the establishment clause.
 - the free exercise clause.
 - the supremacy clause.

ANSWER: B PAGE: 47 TYPE: =
 BUSPROG: Reflective AICPA: BB-Decision Modeling

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30. Marie claims that a Nebraska state statute infringes on her “procedural due process” rights. This claim focuses on
- procedures used in making decisions to take life, liberty, or property.
 - the content of the statute.
 - the similarity of the treatment of similarly situated individuals.
 - the steps to be taken to protect Marie’s privacy.

ANSWER: A PAGE: 49 TYPE: =
BUSPROG: Reflective AICPA: BB-Legal

31. A Massachusetts state statute imposes a prison term, without a trial, on all street performers who operate in certain areas. A court would likely review this statute under the principles of
- the commerce clause.
 - the equal protection clause.
 - the due process clause.
 - the First Amendment.

ANSWER: C PAGE: 49 TYPE: +
BUSPROG: Reflective AICPA: BB-Legal

32. Orin claims that a Pennsylvania state statute infringes on his “substantive due process” rights. This claim focuses on
- procedures used to make decisions to take life, liberty, or property.
 - the content of the statute.
 - the similarity of the treatment of similarly situated individuals.
 - the steps to be taken to protect Orin’s privacy.

ANSWER: B PAGE: 50 TYPE: =
BUSPROG: Reflective AICPA: BB-Legal

33. Justice For All, a political organization, files a claim to challenge a Colorado statute that limits the liberty of *all* persons to broadcast “annoying” radio commercials. This claim is most likely based on the right to
- equal protection of the law.
 - indictment.
 - procedural due process.
 - substantive due process.

ANSWER: D PAGE: 50 TYPE: =
BUSPROG: Reflective AICPA: BB-Legal

34. To reduce traffic, Harbor Town enacts an ordinance that allows only a few street vendors to operate in certain areas. A court would likely review this ordinance under the principles of
- the commerce clause.
 - the equal protection clause.
 - the due process clause.
 - the First Amendment.

ANSWER: B PAGE: 51 TYPE: +
BUSPROG: Reflective AICPA: BB-Critical Thinking

35. Jon, a law enforcement official, monitors Kelsey’s Internet activities—e-mail and Web site visits—to gain access to her personal financial data and student information. This may violate Kelsey’s right to
- equal protection of the law.
 - privacy.
 - procedural due process.
 - substantive due process.

ANSWER: B PAGE: 54 TYPE: N
BUSPROG: Reflective AICPA: BB-Risk Analysis

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: 35–37

TYPE: =

BUSPROG: Reflective

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

TYPE: =
AICPA: BB-Decision Modeling