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Ch02: Business and the Constitution

True / False

1. Only Congress may pass a law in conflict with the Constitution.

- a. True
- b. False

ANSWER: False

2. The national government has the implied power to undertake actions necessary to carry out its expressly designated powers.

- a. True
- b. False

ANSWER: True

3. Local governments, including cities, exercise police powers.

- a. True
- b. False

ANSWER: True

4. State regulatory powers are often referred to as *police powers*.

- a. True
- b. False

ANSWER: True

5. A resident of one state, when in another state, can be denied the privileges and immunities of that state for any reason.

- a. True
- b. False

ANSWER: False

6. Under the full faith and credit clause, any judicial decision in one state with respect to contract rights will be honored and enforced in all states.

- a. True
- b. False

ANSWER: True

7. The U.S. Constitution divides powers among four branches of government.

- a. True
- b. False

ANSWER: False

8. The system of checks and balances in the U.S. Constitution allows each branch of government to limit the actions of the other branches.

- a. True
- b. False

ANSWER: True

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9. Under the privileges and immunities clause, the federal government has the power to regulate commercial activities among the states.

- a. True
- b. False

ANSWER: False

10. The commerce clause has had *no* greater impact on business than any other provision in the Constitution.

- a. True
- b. False

ANSWER: False

11. The commerce clause has never been held to support the federal regulation of noncommercial activities that take place wholly within a state's borders.

- a. True
- b. False

ANSWER: False

12. State governments do not have any authority to regulate interstate commerce.

- a. True
- b. False

ANSWER: False

13. The dormant commerce clause comes into play when state regulations affect interstate commerce.

- a. True
- b. False

ANSWER: True

14. When there is a direct conflict between a federal law and a state law, both laws are rendered invalid.

- a. True
- b. False

ANSWER: False

15. *Preemption* occurs when Congress chooses to act exclusively on a subject over which the federal government shares power with the states.

- a. True
- b. False

ANSWER: True

16. The first ten amendments to the U.S. Constitution are commonly known as the Bill of Rights.

- a. True
- b. False

ANSWER: True

17. Corporations enjoy many of the same rights and privileges as natural persons do.

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- a. True
- b. False

ANSWER: True

18. Under the Ninth Amendment, people have rights in addition to those specified in the Constitution.

- a. True
- b. False

ANSWER: True

19. The rights secured by the Bill of Rights are absolute.

- a. True
- b. False

ANSWER: False

20. Speech can be subject to reasonable restrictions.

- a. True
- b. False

ANSWER: True

21. Nonverbal expression of belief is *not* a constitutionally protected form of expression.

- a. True
- b. False

ANSWER: False

22. If a restriction imposed on speech by the government is content neutral, then a court will *not* allow it.

- a. True
- b. False

ANSWER: False

23. Political speech by corporations falls within the protection of the First Amendment.

- a. True
- b. False

ANSWER: True

24. A state may *not* restrict certain kinds of advertising, even in the interest of preventing consumers from being misled.

- a. True
- b. False

ANSWER: False

25. The free exercise clause prohibits the government from passing laws that have *any* impact on religion.

- a. True
- b. False

ANSWER: False

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26. When religious practices work against public policy, the government can act.

- a. True
- b. False

ANSWER: True

27. The Fifth Amendment allows persons to be deprived of property without due process of law.

- a. True
- b. False

ANSWER: False

28. *Substantive* due process requires that a person have an opportunity to object to a proposed action before a fair, neutral decision maker.

- a. True
- b. False

ANSWER: False

29. *Procedural* due process focuses on the content of legislation.

- a. True
- b. False

ANSWER: False

30. A law that limits a fundamental right may be held to violate substantive due process.

- a. True
- b. False

ANSWER: True

31. In situations involving fundamental rights, a law that rationally relates to a legitimate government end will be struck down.

- a. True
- b. False

ANSWER: False

32. Equal protection means that the government must treat all individuals the same.

- a. True
- b. False

ANSWER: False

33. A law based on a suspect trait will *not* stand under the equal protection clause even if it is necessary to promote a compelling government interest.

- a. True
- b. False

ANSWER: False

34. Privacy rights receive *no* protection under federal law.

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- a. True
- b. False

ANSWER: False

35. The United States Supreme Court has held that a constitutional right to privacy is implied by several of the amendments in the Bill of Rights.

- a. True
- b. False

ANSWER: True

Multiple Choice

36. Generally, given the broad language of the Constitution, the line between state and national powers is often determined by

- a. Congress.
- b. the courts.
- c. the President.
- d. the administrative branch.

ANSWER: b

37. A federal form of government is one in which the national government shares sovereign power with

- a. no one.
- b. the states.
- c. the national government.
- d. the people.

ANSWER: b

38. Peoples Rights Organization (PRO), a political lobbying group, wants a certain policy enacted into law. If PRO's policy conflicts with the U.S. Constitution, a law embodying it can be imposed by

- a. Congress.
- b. any state.
- c. the President.
- d. none of the choices.

ANSWER: d

39. The term *checks and balances* refers to the system under which

- a. a state must refrain from imposing unreasonable burdens on citizens of another state.
- b. the powers of government are divided among its branches, each of which exercises a check on the actions of the others.
- c. any judicial decision with respect to property rights in one state will be honored and enforced in all states.
- d. the national government regulates interstate commerce.

ANSWER: b

40. The federal government has the power to regulate commercial activities among the states under

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- a. the commerce clause.
- b. the privileges and immunities clause.
- c. the full faith and credit clause.
- d. the First Amendment.

ANSWER:

a

41. Under the U.S. Constitution, the federal government has the power to regulate commercial activities among the states. This grant implies that the regulation of such activities is *not* within the authority of

- a. Congress.
- b. the states.
- c. the President.
- d. the courts.

ANSWER:

b

42. A statute enacted by the Wyoming state legislature to regulate trucking affects interstate commerce. In evaluating this statute, the courts will weigh the burden that it imposes on interstate commerce against

- a. the federal government's authority to regulate the matter.
- b. the purpose of interstate commerce.
- c. the state's interest in regulating the matter.
- d. the statute's impact on noneconomic activity.

ANSWER:

c

43. A rule issued by the federal Environmental Protection Agency (EPA) limits the amount of carbon that can be emitted from a car's exhaust system. California state law prescribes much lower limits. Under the U.S. Constitution

- a. the rule and the law are invalid.
- b. the rule and the law apply equally.
- c. the state law takes precedence.
- d. the federal rule takes precedence.

ANSWER:

d

44. Under the U.S. Constitution, Congress has the power to regulate

- a. every commercial enterprise in the United States.
- b. only *intrastate* commercial enterprises.
- c. only *local* commercial enterprises.
- d. only *non-commercial* activities.

ANSWER:

a

45. Federal regulations concerning medical devices directly conflict with a certain state law. Under the U.S. Constitution, which law takes precedence is determined by

- a. the full faith and credit clause.
- b. the commerce clause.
- c. the privileges and immunities clause.
- d. the supremacy clause.

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ANSWER:

d

46. NatGas Corporation obtains a federal license to operate a gas pipeline through a certain area of Oregon. The Oregon state legislature enacts a law that bans gas pipelines in that area. Most likely, the state law violates

- a. no provision in the U.S. Constitution.
- b. the commerce clause.
- c. the due process clause.
- d. the supremacy clause.

ANSWER:

d

47. The state of Florida can regulate building contractors and building codes in the state under its

- a. police powers.
- b. system of checks and balances.
- c. entitlement to full faith and credit.
- d. commerce power.

ANSWER:

a

48. Bryan creates a website to post threatening messages about celebrities. Under the First Amendment, these messages are most likely protected

- a. all of the time.
- b. none of the time.
- c. only if there are no accompanying ads.
- d. only if the threats can be verified.

ANSWER:

b

49. Rory, the chief executive officer of Spout Off Inc., a website for short rants, claims that certain state and federal government actions infringe on rights guaranteed by the Bill of Rights. Most of these guarantees have been held to limit

- a. only the power of the federal government.
- b. federal and state actions.
- c. only the claims of individuals.
- d. only the conduct of corporations and other commercial entities.

ANSWER:

b

50. The Bill of Rights embodies

- a. a series of protections for the individual against government action.
- b. payment in the form of taxes by business entities to obtain certain rights.
- c. the privileges and immunities of the citizens in the several states.
- d. rights established under deeds, wills, contracts, and similar instruments.

ANSWER:

a

51. Alix posts a podcast on the *Believe!* website in which she insists that Congress base all federal law on her religious principles. Under the First Amendment, Alix is guaranteed

- a. the power to delegate her view to the federal government.
- b. the right to fair payment for her podcast.

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- c. the right to a review of her opinion in due process.
- d. the freedoms of religion and speech.

ANSWER:

d

52. The members of Climate Action believe that a recently enacted federal law is unconstitutional. They write and sign a petition to the government to repeal the law, refuse to obey it, and stop others from complying with it. Under the First Amendment, these individuals have a right to

- a. petition the government.
- b. refuse to obey any law with which they disagree.
- c. stop others from complying with any law.
- d. none of the choices.

ANSWER:

a

53. Centre City enacts an ordinance that bans the distribution of all printed materials on city streets. Diners Café opposes the city's latest "revenue-enhancing" measure—a tax on prepared food sales—and wants to protest by distributing handbills. In Diners' suit against the city, a court would likely hold the ban on printed materials to be

- a. constitutional under the First Amendment.
- b. not subject to the U.S. Constitution.
- c. unconstitutional under the commerce clause.
- d. unconstitutional under the First Amendment.

ANSWER:

d

54. Power Company creates a t-shirt design to express support for state tax credits favoring the use of energy-efficient products. The firm distributes the t-shirts to many of its customers. The t-shirts are an example of

- a. unprotected speech.
- b. commercial speech.
- c. symbolic speech.
- d. illegal speech.

ANSWER:

c

55. Dom burns a U.S. flag in his backyard. He films the activity and posts the video on YouTube.com. Dom's conduct is most likely

- a. expressly prohibited by the Constitution.
- b. protected by the First Amendment.
- c. subject to reasonable restrictions under the due process clause.
- d. given strict scrutiny under the equal protection clause.

ANSWER:

b

56. Pharma Corporation expresses opinions on political issues through its financial contributions to political action committees and other groups. Under the First Amendment, Pharma's "expression" is most likely

- a. discouraged.
- b. prohibited.
- c. protected.
- d. prescribed.

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ANSWER:

c

57. Utah enacts a statute to ban advertising in “bad taste.” Most likely, a court would hold this statute 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

58. Metro City enacts an ordinance that bans the use of “sound amplifying systems” on public streets. Niles wants to campaign for a seat on the city council by broadcasting his message through speakers mounted on a truck. In Niles’s suit against the city, a court would likely hold the ordinance 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:

b

59. Under the First Amendment, in comparison with noncommercial speech, the protection given commercial ads is

- a. equally extensive.
- b. not as extensive.
- c. more extensive.
- d. non-existent.

ANSWER:

b

60. Mind Games Inc. markets a variety of shooting, fighting, and hunting video games. A state statute is enacted to require all game makers to label any games with an option to kill something as “excessively violent.” A court would likely hold this regulation 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

61. Congress enacts the Ad Restriction Act (ARA) to limit advertising in certain circumstances. The ARA will be considered valid if it directly advances a substantial government interest

- a. and goes no further than necessary to achieve its objective.
- 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

62. Pat stands in front of Rogue’s Tavern, shouting “fighting words” that are likely to incite Rogue’s patrons to respond violently. The First Amendment protects such speech

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

ANSWER:

b

63. Book Stop, a bookstore in Capital City, sells publications that criticize government actions and policies. The city enacts an ordinance prohibiting the sale of such materials in the interest of preserving public tranquility. This ordinance is most likely

- a. an invalid invasion of individuals' privacy.
- b. an unconstitutional restriction of speech.
- c. a violation of corporations' rights to certain privileges.
- d. constitutional under the First Amendment.

ANSWER:

b

64. Kansas 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. Lo-Price Stores files a suit to block the law's enforcement. The court would likely hold that this law violates

- a. no clause in the U.S. Constitution.
- b. the establishment clause.
- c. the free exercise clause.
- d. the supremacy clause.

ANSWER:

b

65. Under the First Amendment, in comparison with commercial speech, the protection given obscene speech is

- a. equally extensive.
- b. not as extensive.
- c. more extensive.
- d. non-existent.

ANSWER:

d

66. Mia claims that a North Carolina state statute infringes on her "procedural due process" rights. This claim focuses on

- a. procedures used in making decisions to take life, liberty, or property.
- b. the content of the statute.
- c. the treatment of similarly situated individuals.
- d. the steps to be taken to protect Mia's privacy.

ANSWER:

a

67. Jared claims that a Kentucky state statute infringes on his "substantive due process" rights. This claim focuses on

- a. procedures used to make decisions to take life, liberty, or property.
- b. the content of the statute.
- c. the treatment of similarly situated individuals.
- d. the steps to be taken to protect Orin's privacy.

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ANSWER:

b

68. River City enacts an ordinance that prohibits all advertising on the sides of trucks. A court would likely review this ordinance under the principles of

- a. equal protection.
- b. free exercise.
- c. interstate commerce.
- d. due process

ANSWER:

d

69. To reduce traffic, Market Town enacts an ordinance that allows only a few specific street vendors to operate in certain areas. A court would likely review this ordinance under the principles of

- a. equal protection.
- b. free exercise.
- c. interstate commerce.
- d. free speech.

ANSWER:

a

70. Jon, a law enforcement official, monitors Kelsey's Internet activities—e-mail and website visits—to gain access to her personal financial data and student information. This may violate Kelsey's right to

- a. privileges and immunities.
- b. privacy.
- c. free speech.
- d. free exercise.

ANSWER:

b

Essay

71. Kim operates Kim's Fruits & Vegetables, a small market stocked entirely with produce grown on her adjacent farm. Under what clause of the Constitution can the federal government regulate Kim's activities? What is Kim's best argument against federal regulation of her 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 her farm and business in this problem might be that in her case these activities and their effects are purely local. But because of the economic character of these activities, there is an effect on interstate commerce, however minimal and despite their local character. For example, customers who buy produce from the market are not likely to purchase the same goods from stock traded in interstate commerce. Thus, it is unlikely that a court would accept this argument.

72. The Wisconsin 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 x-Games, Inc., orders x-Game marketers to place ads in various media. When an x-Game ad appears on YUTV, a local television station, x-Games and YUTV are charged with violating the statute. What is the defendants' best defense against a conviction?

ANSWER: x-Games and YUTV cannot be convicted because a state legislature cannot enact a statute that restricts

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commercial speech (in this situation, marketing video games) to this extent.

The First Amendment protects commercial speech. Because commercial speech does not receive as much protection as noncommercial speech, however, 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.