

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 federal form of government is a confederation of independent states with a central government of very limited powers.

ANSWER: F PAGE: 33 TYPE: N
NAT: AACSB Analytic AICPA Critical Thinking

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

ANSWER: T PAGE: 33 TYPE: N
NAT: AACSB Analytic AICPA Legal

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

ANSWER: T PAGE: 33 TYPE: +
NAT: AACSB Analytic AICPA Legal

4. The federal government cannot regulate commerce *within* a state, regardless of the effect of the commerce on other states.

ANSWER:	F	PAGE:	33	TYPE:	+
	NAT: AACSB Analytic		AICPA Critical Thinking		

5. Congress determines the jurisdiction of the federal courts.

ANSWER: T PAGE: 33 TYPE: N
NAT: AACSB Analytic AICPA Legal

6. The state governments retain all powers not specifically delegated to the federal government.

ANSWER: T PAGE: 35 TYPE: =
NAT: AACSB Analytic AICPA Legal

7. Theoretically, Congress can regulate every commercial enterprise in the United States.

ANSWER: T PAGE: 36 TYPE: N
NAT: AACSB Analytic AICPA Critical Thinking

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

ANSWER: F PAGE: 36 TYPE: N
NAT: AACSB Analytic AICPA Critical Thinking

9. When state regulations affect interstate commerce, commerce must always yield to the regulations.

ANSWER: F PAGE: 36 TYPE: +
NAT: AACSB Analytic AICPA Critical Thinking

10. Local governments, including cities, can exercise police powers.

ANSWER: T PAGE: 36 TYPE: =
NAT: AACSB Analytic AICPA Legal

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

ANSWER: T PAGE: 37 TYPE: +
NAT: AACSB Analytic AICPA Legal

12. Some constitutional protections apply to business entities.

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ANSWER:	T	PAGE:	37	TYPE:	=
	NAT: AACSB Reflective		AICPA Critical Thinking		

13. Whether the federal government preempted a certain area is always clear.
- ANSWER: F PAGE: 37 TYPE: =
NAT: AACSB Analytic AICPA Critical Thinking
14. The Bill of Rights protects individuals against types of interference by the federal government.
- ANSWER: T PAGE: 38 TYPE: =
NAT: AACSB Analytic AICPA Legal
15. Under the Constitution, the states retain all powers not specifically delegated to the federal government.
- ANSWER: T PAGE: 38 TYPE: +
NAT: AACSB Analytic AICPA Legal
16. The Bill of Rights confers absolute rights, not subject to interpretation by the United States Supreme Court.
- ANSWER: F PAGE: 38 TYPE: =
NAT: AACSB Analytic AICPA Critical Thinking
17. The Bill of Rights protects individuals against types of interference by the states.
- ANSWER: T PAGE: 38 TYPE: =
NAT: AACSB Analytic AICPA Legal
18. The First Amendment protects symbolic speech.
- ANSWER: T PAGE: 39 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking
19. Expression of all kinds is subject to reasonable restrictions.
- ANSWER: T PAGE: 40 TYPE: =
NAT: AACSB Analytic AICPA Legal
20. Political speech that would otherwise be protected by the First Amendment is prohibited if its source is a corporation.

ANSWER:	F	PAGE:	40	TYPE:	=
	NAT: AACSB Reflective		AICPA Critical Thinking		

21. The First Amendment does not protect commercial speech as extensively as noncommercial speech.

ANSWER: T PAGE: 41 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

22. A restriction on commercial speech that implements a substantial government interest may be valid.

ANSWER: T PAGE: 41 TYPE: =
NAT: AACSB Analytic AICPA Critical Thinking

23. The First Amendment protects obscene speech.

ANSWER: F PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

24. The establishment clause of the U.S. Constitution prohibits the federal government from establishing an official religion.

ANSWER: T PAGE: 43 TYPE: N
NAT: AACSB Analytic AICPA Legal

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

ANSWER: F PAGE: 43 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

26. A state law that places a significant burden on religion is unconstitutional.

ANSWER: T PAGE: 43 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

27. Procedural due process requires that any taking of a person's life, liberty, or property by government must be made fairly.

ANSWER: T PAGE: 46 TYPE: =
NAT: AACSB Analytic AICPA Legal

28. A law that restricts a fundamental right does not violate substantive due process if it promotes a compelling state interest.

ANSWER: T PAGE: 46 TYPE: =
NAT: AACSB Analytic AICPA Legal

29. A law that restricts a fundamental right violates substantive due process regardless of the type of state interest that the law “promotes.”

ANSWER: F PAGE: 46 TYPE: =
NAT: AACSB Analytic AICPA Legal

30. The terms “procedural due process” and “equal protection” mean the same thing.

ANSWER: F PAGE: 46 TYPE: =
NAT: AACSB Analytic AICPA Legal

31. A law that distinguishes between or among individuals violates the equal protection clause.

ANSWER: F PAGE: 47 TYPE: =
NAT: AACSB Analytic AICPA Critical Thinking

32. Equal protection means that the government must treat similarly situated individuals in a similar manner.

ANSWER: T PAGE: 47 TYPE: =
NAT: AACSB Analytic AICPA Legal

33. State laws often significantly protect individuals’ privacy rights.

ANSWER: T PAGE: 48 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

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

ANSWER: F PAGE: 49 TYPE: N
NAT: AACSB Reflective AICPA Critical Thinking

35. Any person can ask for copies of any information on that person contained in federal government files.

ANSWER: T PAGE: 50 TYPE: =
NAT: AACSB Analytic AICPA Legal

MULTIPLE-CHOICE QUESTIONS

1. Business Markets Coalition (BMC), a political lobbying group, wants a certain policy enacted into law. If BMC's policy conflicts with the U.S. Constitution, a law embodying it can be enacted by
 - a. any state legislature and Congress.
 - b. any state legislature but not Congress.
 - c. Congress but not any state legislature.
 - d. none of the choices.

ANSWER: D PAGE: 32 TYPE: N
 NAT: AACSB Reflective AICPA Legal

2. Under the Constitution, Congress
 - a. administers the laws.
 - b. enforces the laws.
 - c. interprets the laws.
 - d. makes the laws.

ANSWER: D PAGE: 33 TYPE: =
 NAT: AACSB Analytic AICPA Legal

3. The Constitution sets out the authority and the limits of the branches of the government. The term *checks and balances* means that
 - a. Congress writes checks and the president balances the budget.
 - b. each branch of government has some power to limit the actions of the other branches.
 - c. each branch of government may exercise the authority of the other branches.
 - d. the president "checks" the courts, which "balance" the laws.

ANSWER: B PAGE: 33 TYPE: =
 NAT: AACSB Analytic AICPA Legal

4. 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: 36 TYPE: =
 NAT: AACSB Analytic AICPA Legal

5. Wisconsin, like other states, may regulate private activities to protect or promote the public order, health, safety, and general welfare under its
- police powers.
 - taxing powers.
 - spending powers.
 - supreme powers.

ANSWER: A PAGE: 36 TYPE: =
 NAT: AACSB Reflective AICPA Legal

6. The state legislature of Iowa enacts a transportation statute that impinges on interstate commerce. This statute will be
- balanced in terms of Iowa's interest in regulating a certain matter against the burden placed on interstate commerce.
 - balanced in terms of the burden on Iowa against the merit and purpose of interstate commerce.
 - struck down.
 - upheld.

ANSWER: A PAGE: 36 TYPE: =
 NAT: AACSB Reflective AICPA Legal

7. Tori files a suit against the state of Utah, claiming that a Utah state law violates the commerce clause. The court will agree if the statute
- impinges on citizens' private activities.
 - imposes a substantial burden on interstate commerce.
 - imposes a substantial burden on the state.
 - promotes the public order, health, safety, morals, or general welfare.

ANSWER: B	PAGE: 36	TYPE: +
NAT: AACSB Reflective	AICPA Decision Modeling	

8. Levi, a citizen of Maryland, obtains a federal license to operate a commercial fishing boat in Chesapeake Bay. The Maryland state legislature enacts a law that bans all commercial fishing in the bay. The state law most likely violates
- no provision in the U.S. Constitution.
 - the commerce clause.
 - the due process clause.
 - the supremacy clause.

ANSWER: D PAGE: 37 TYPE: N
 NAT: AACSB Reflective AICPA Critical Thinking

9. Congress enacts a law that sets out a rigorous medical-device premarket approval process for the U.S. Food and Drug Administration to follow. The law includes a preemption provision. Joe 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
- Joe's state law claim preempts the federal law.
 - the federal law and state law claim are concurrent.
 - the federal and state law claim cancel each other out.
 - the federal law preempts Joe's state law claim.

ANSWER: D PAGE: 37 TYPE: N
 NAT: AACSB Reflective AICPA 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
- rendered invalid under the supremacy clause.
 - rendered valid the free exercise clause.
 - struck down under the due process clause.
 - upheld under the commerce clause.

ANSWER: A PAGE: 37 TYPE: N
 NAT: AACSB Reflective AICPA Legal

11. Mike, an advocate of a certain religion, publishes an article in *New Times* magazine insisting that Congress base all federal law on his religion's principles. The First Amendment guarantees Mike's freedom of

- a. religion only.
- b. speech only.
- c. the press only.
- d. religion, speech, and the press.

ANSWER: D PAGE: 37 TYPE: =
 NAT: AACSB Reflective AICPA Legal

12. Dru, a U.S. citizen, is the owner of Egret, 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 Dru against types of interference by

- a. FFC and its other competitors only.
- b. FFC, Greg, Huey, others, and the government.
- c. Greg, Huey, and other private individuals only.
- d. the government only.

ANSWER: D PAGE: 37 TYPE: +
 NAT: AACSB Reflective AICPA Legal

13. 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

- a. obscene speech only.
- b. others' implication only.
- c. unreasonable searches only.
- d. obscene speech, others' implication, and unreasonable searches.

ANSWER: C PAGE: 37 TYPE: =
 NAT: AACSB Reflective AICPA Legal

14. 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: 38 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

15. Federico, the president of Gems Retail Corporation, claims that certain actions by the federal government and the state of New Mexico infringe on rights guaranteed by the Bill of Rights. *Most* of these rights limit
- neither New Mexico nor the federal government.
 - the federal government only.
 - New Mexico and the federal government.
 - New Mexico only.

ANSWER: C PAGE: 38 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

16. Serene 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: N
 NAT: AACSB Reflective AICPA Critical Thinking

17. Congress enacts the Tight Money Act (TMA) of 2010 to ban “major business entities” from making political contributions that individuals can make. A court would likely hold the TMA 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: 40 TYPE: =
NAT: AACSB Reflective AICPA Decision Modeling

18. Expendable Energy Corporation regularly expresses opinions on political issues. Under the First Amendment, corporate political speech is given
- a. little protection.
 - b. no protection.
 - c. significant protection.
 - d. total protection.

ANSWER: C PAGE: 40 TYPE: =
NAT: AACSB Reflective AICPA 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: 40 TYPE: N
NAT: AACSB Reflective AICPA Legal

20. 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: 41 TYPE: =
 NAT: AACSB Reflective AICPA Decision Modeling

21. A Minnesota state statute restricts certain kinds of advertising to protect consumers from being misled. A court would likely hold this statute 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: 41 TYPE: =
 NAT: AACSB Reflective AICPA Decision Modeling

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

ANSWER: A PAGE: 41 TYPE: +
 NAT: AACSB Reflective AICPA Critical Thinking

23. Cordial Drinks, Inc., markets alcoholic beverages. A federal regulation bans the disclosure of the alcohol content of liquor on Cordial’s labels and those of other marketers. 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.

d. necessary to protect national interests.

ANSWER: A PAGE: 41 TYPE: =
NAT: AACSB Reflective AICPA Legal

24. In 2010, Congress enacts the Act to Restrict Commercial Speech (ARCS). The ARCS will be considered valid
- a. if it directly advances a substantial government interest but goes no further than necessary.
 - b. if it directly advances a substantial government interest regardless of how “far” it goes.
 - c. under any circumstances.
 - d. under no circumstances.

ANSWER: A PAGE: 41 TYPE: =
 NAT: AACSB Reflective AICPA Legal

25. Brad stands in front of Rustler’s Round-Up Café, shouting “fighting words” that are likely to incite Rustler’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: 42 TYPE: N
 NAT: AACSB Reflective AICPA Critical Thinking

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

ANSWER: D PAGE: 42 TYPE: N
 NAT: AACSB Reflective AICPA Legal

27. Melanie engages in speech that harms others' good reputations on her blog at no.lie.com. The First Amendment gives such speech

- a. less protection than obscene speech.
- b. more protection than symbolic speech.
- c. no protection.
- d. the same protection as any noncommercial speech.

ANSWER: C PAGE: 42 TYPE: N
NAT: AACSB Analytic AICPA Legal

28. 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

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

ANSWER: C PAGE: 45 TYPE: =
NAT: AACSB Reflective AICPA Decision Modeling

29. 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

- a. equal protection of the law.
- b. privacy.
- c. procedural due process.
- d. substantive due process.

ANSWER: D PAGE: 46 TYPE: +
NAT: AACSB Reflective AICPA Legal

30. The Constitution provides that no person shall be deprived of “life, liberty, or property without due process of law.” Under this clause, “persons” include
- animals and other “beings in nature.”
 - buildings and other “manmade creations.”
 - corporations and other “legal persons.”
 - none of the choices.

ANSWER: C PAGE: 46 TYPE: N
NAT: AACSB Reflective AICPA Legal

31. 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: 46 TYPE: =
NAT: AACSB Reflective AICPA Legal

32. 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 Mary’s privacy.

ANSWER: A PAGE: 46 TYPE: =
NAT: AACSB Reflective AICPA Legal

33. A Rhode Island state statute imposes a prison term, without a trial, on all street vendors who operate in certain areas. A court would likely hold this statute to be
- constitutional under the due process clause.
 - constitutional under the equal protection clause.
 - unconstitutional under the due process clause.
 - unconstitutional under the equal protection clause.

ANSWER: C PAGE: 46 TYPE: =

NAT: AACSB Reflective

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34. Vacation Village enacts an ordinance to allow only a few street vendors to operate in certain areas, for the purpose of reducing traffic. A court would likely subject this ordinance to
- a police power test under the commerce clause.
 - a “rational basis” test under the equal protection clause.
 - intermediate scrutiny under the due process clause.
 - strict scrutiny under the First Amendment.

ANSWER: B PAGE: 47 TYPE: N
 NAT: AACSB Reflective AICPA 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: 48 TYPE: N
 NAT: AACSB Reflective AICPA Risk Analysis

ESSAY QUESTIONS

1. Jen operates Jen’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 Jen’s activities? What is Jen’s best argument against federal regulation of her farm and business?

ANSWER: Under the commerce clause, according to earlier decisions by the United States Supreme Court, Congress has the power to regulate any activity—interstate or intrastate—that affects interstate commerce. Thus, under that clause, it could be argued that a 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 is that in her case, these activities and their effects are purely local. Because of the economic character of these activities, and hence an effect on interstate commerce, despite their local character, it is unlikely that a court would accept this argument, however.

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PAGES: 34–36

NAT: AACSB Reflective

TYPE: =

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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 any 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 is not as protected as much 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 video ads “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: 41–42

TYPE: N

NAT: AACSB Reflective

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