

Student name: \_\_\_\_\_

1) Explain the origin and justification of judicial review.

2) 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.

3) 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.

4) 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?

5) 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.

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

7) 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?

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

**9)** 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.

**10)** 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?



11) The legal authority that a court must have to decide a case is called \_\_\_\_\_.

12) The right of a state to protect its citizenry is called its \_\_\_\_\_.

13) The government's system of checks and balances is called \_\_\_\_\_.

14) Powers granted in the Constitution to the three branches of the federal government are known as \_\_\_\_\_ powers.

15) Veto power is a power granted to the \_\_\_\_\_ branch of government.

16) The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act is commonly called the \_\_\_\_\_ Act.

17) The case of *Marbury v. Madison* established the federal courts' power of \_\_\_\_\_.

18) Government acts that affect semi-suspect or quasi-suspect classifications require that a court apply \_\_\_\_\_

scrutiny to determine the act's validity.

19) Commerce that is wholly contained within a state and has no effect on other states or foreign countries is called \_\_\_\_\_ commerce.

20) 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] \_\_\_\_\_.

21) Which of the following is correct of federal powers in the U.S. system?

- A) They are limited and granted.
- B) They are unlimited and granted.
- C) They are limited and inherent.

D) They are unlimited and inherent.

22) According to the text, which of the following is not a general function of the U.S. Constitution?

- A) Enumerating and limiting the powers of the states
- B) Providing a structure for the federal government
- C) Delegating powers to the federal branches

D) All of the answer choices are functions of the U.S. Constitution.

23) Judicial review is best represented by which of the following hypotheticals?

A) Alisha, an

attorney for a civil litigant, is asking the judge to review the legal documents that her opponent wants to submit as evidence because Alisha believes they should be inadmissible.

B) Sanford, a member of the U.S House of Representatives, is currently reviewing legislation that would create a new federal court in Washington, D.C.

C) Laura, a federal appellate court judge, is

researching the language of a statute to determine if it is unconstitutional.

D) All of the answer choices represent the application of judicial review.

**24)** At an event on the White House lawn, the President declared that the second Tuesday of April would be “National Be Kind to Lawyers Day.” Which of the following is this declaration?

A) Executive order

B) Presidential declaration

C) Ceremonial proclamation

D) Substantive proclamation

**25)** Act Now!, an organization devoted to voting rights, applied for a permit to protest the closing of polling places in poor neighborhoods. Genevieve, the head of the organization, wanted the protest to be on the lawn of the county courthouse. The county denied the permit on grounds that it would prevent people from accessing the courthouse. If Act Now! challenges this action in court, it will be reviewed by the judge using

A) rational basis scrutiny.

B) intermediate scrutiny.

C) strict scrutiny.

D) no particular form of scrutiny (none is required in this situation)

**26)** Karin is a federal court judge looking at a

bill passed by Congress and signed by the president into law. A case challenging this law on constitutional grounds is before her appellate court and she has determined the law to

- A) Federal preemption
- B) Jurisprudential scrutiny

27) The Supremacy Clause holds that

- A) state law and federal law are coequal under states' rights theory.
- B) state law trumps federal law if there is a conflict.
- C) federal law trumps state law if there is a conflict.

28) The state of Massachusetts passed a law requiring all commercial trucks driving on Massachusetts highways to install special pollution scrubbers on their exhausts. These devices cost \$1,500 per truck and any truck entering the state must have the scrubber installed or the driver is subject to a large fine. Massachusetts has justified this regulation on

- A) is valid because it applies only to Massachusetts roads and such a law is entirely intrastate.
- B) is valid because Massachusetts'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.

29) Which of the following is correct about the powers of the president?

- A) The president has the power to issue executive

be unconstitutional. What is the name for this judicial action?

- C) Judicial veto
- D) Judicial review

D) federal law and state law can coexist while in conflict

grounds of air quality health for residents and alleviation of global warming. This Massachusetts law

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.

orders which have the full force of law.



B) Article II explicitly gives the president power to regulate commerce.

C) The president regulates patents and copyrights.

D) All of the answer choices are correct.

**30)** Congress passed a law that permitted government agents to tap the phones of the executives of internet service providers (ISPs) without the probable cause and warrant normally required by the Fourth Amendment. The rationale was that ISPs were involved in frequent violations of citizen's' privacy rights and the taps were needed to uncover evidence of this illegal activity. Allen, the president of an ISP,

A) Rational basis scrutiny

B) Intermediate scrutiny

C) Strict scrutiny

D) No scrutiny is required because nothing in the

had his phone tapped. He has challenged the law in federal court. What level of scrutiny will the courts apply to this law?

hypothetical indicates Allen is in a suspect classification and the search had a constitutional public interest purpose.

**31)** Billy's Barbecue was a small business with 20 employees in Tinyville, a town that seldom had visitors from other states. Billy refused to serve people of Middle Eastern descent. Billy's only contact with other states was purchasing some of his beef from a butcher in a neighboring state. May

A) No, because Billy's is a private business.

B) No, because Billy's business is primarily local in nature, he is not engaged in substantial interstate commerce.

C) Yes, because all businesses of public or private accommodation are subject to congressional regulation under

Congress regulate Billy's activity under the Civil Rights Act? Why/why not?

the Civil Rights Act.

D) Yes, because Billy's is engaged in interstate commerce under the Commerce Clause.

**32)** The state of South Carolina passed a law charging an extra fee for out-of-state poultry processors and demanding that their poultry be

inspected before it could be sold retail in South Carolina. There was not a similar requirement for in-state poultry. This is justified on grounds that it protects the health and welfare of state residents. Is this law likely to be upheld by a federal

A) Yes, the law will likely be upheld because it is within the health, safety or welfare rights of a state to promote legitimate state objectives.

B) Yes, the law will likely be upheld because the states have broad, plenary powers to regulate intrastate commerce.

C) No, the law will likely be struck down on grounds that a state may not regulate health issues due to the Supremacy Clause and preemption.

**33)** The federal government imposed a tax on all oil companies to fund a federal agency devoted to researching alternatives to fossil fuels. If Big Oil Incorporated challenges

A) rational basis scrutiny.

B) intermediate scrutiny.

C) strict scrutiny.

**34)** Judicial review is the power

A) of the courts to invalidate a law inconsistent with the constitution.

B) of the president to review judges and choose those qualified for elevation to the federal courts.

C) of the Senate to review judges nominated by the

**35)** Which of the following is true of judicial review?

A) It is contained in Article III of the Constitution.

court if challenged on constitutional grounds by Braxton Poultry, a Georgia poultry processor?

D) No, the law will likely be struck down on grounds that a state may not discriminate against or place undue burdens on interstate commerce under the Dormant Commerce Clause.

this tax in federal court, what level of scrutiny will the court apply?

D) no particular form of scrutiny (none is required in this situation).

president to federal courts.

D) of the people to replace judges by citizen's recall.

B) It is established by a constitutional

amendment contained in the Bill of Rights.

- C) It is established by common law precedent.
- D) It is a power of the Executive and Legislative

Branches contained in Articles I and II of the Constitution.

**36)** Congress attached spending conditions to federal funds granted to states to maintain interstate highways. The conditions stated that a state would have federal highway repair funds cut back by 10 percent if a state raised its speed limit on public roads higher than 70 miles per hour on grounds that safer highways would promote the federal welfare. The state of Wyoming raised their speed limit to 80,

A) The federal conditions will be struck down as unconstitutional, as Congress may not discriminate in the allocation of funds.

B) The federal conditions will be struck down as unconstitutional, as Congress may not cut back on funds to any state once allocated.

C) The federal conditions will be upheld as constitutional, as a constitutional exercise of Congress's

had their funds reduced, and challenged the congressional conditions in federal court. What is the likely result of their challenge?

spending authority.

D) The federal conditions will be upheld as constitutional, as Congress has inherent federal powers to place any and all conditions on the allocations of funds to the states.

**37)** The Necessary and Proper Clause holds that

A) state officials may do whatever they think necessary and proper to arrest a criminal suspect.

B) Congress may set limits and conditions on federal spending

C) The president may do whatever is necessary and

proper to exercise executive powers.

D) All of the answer choices are correct.

**38)** The city of Happy Trails passed an ordinance which prohibited women from working for the police department or

sheriff's department in a law enforcement position. If Geneva and a group of women who were denied law enforcement jobs challenge the city ordinance in federal court, when

- A) rational basis scrutiny.
- B) intermediate scrutiny.
- C) strict scrutiny.

considering the city ordinance, the courts will employ

- D) no particular form of scrutiny (none is required in this situation).

**39)** What type of restrictions may the government place on political expression?

- A) Absolute restrictions if public safety is involved
- B) Minimal restrictions on time, place and manner
- C) No restrictions under any circumstances

- D) Reasonable restrictions on time, place and manner

**40)** Hardcore Brewery featured photos of young people giving gestures considered obscene by many people on their beer cans and beer bottle labels. The state of Oregon banned the sale of Hardcore Brewery beer in their state based on a law forbidding obscene speech. If Hardcore Brewery

- A) The court will ask whether Oregon has a substantial government interest in regulating the speech.
- B) The court will ask whether Oregon has a compelling purpose for regulating the speech.
- C) The court will ask whether there is any rational reason for regulating the speech.
- D) The court will apply no standard to the analysis and

challenges this law in federal court, which of the following standards will the court apply to the Oregon law?

rule the ban constitutional, as a state may always ban speech that it determines to be obscene without fear of court review.

**41)** Freddie was approached by Byron, a police officer, who asked him if he could search Freddie's backpack. Freddie gave Byron

permission to conduct the search. Byron had no warrant and no probable cause to believe that Freddie was involved in criminal activity. Byron found an illegal switchblade in

- A) This is an illegal search because it was not supported by probable cause.
- B) This is an illegal search because it was not supported by a warrant.
- C) This is a legal search because Freddie was guilty of

Freddie's backpack and arrested him. Is this a legal search? Why/why not?

the crime for which he was arrested.

- D) This is a legal search because it was consensual, Freddie gave Byron permission.

**42)** Which of the following laws involves a quasi-suspect classification under the Fourteenth Amendment?

- A) Police in the city of Searchville are allowed by law to search people with ancestry from South America and Central America without a warrant or probable cause.
- B) The city of Discrimville prohibits people who were born to unwed mothers from working in government run daycare facilities.
- C) The city of Taxville passed an ordinance raising

taxes on local businesses from 10 percent to 20 percent.

- D) The city of Trialville passed a statute allowing former victims of fraud to sit on the jury in criminal fraud cases.

**43)** Graphic Games, a video game developer, had its latest game "Mega Zombie Kill" banned for sale in Iowa to children under the age of 18 pursuant to a new Iowa law restricting the sales of games featuring extreme violence. Graphic Games challenged this action in court on grounds that it was

- A) First Amendment Free Speech
- B) Fourteenth Amendment Equal Protection
- C) Substantial relationship test
- D) There are no valid constitutional grounds for Graphic Games to challenge this law, because Iowa has

unconstitutional. Which of the following would be the best constitutional theory for Graphic Games to pursue?

unrestricted rights to regulate in the interests of the public health, safety and welfare.

44) Attempts by the government to regulate political speech by corporations are subject to

- A) rational basis scrutiny.
- B) intermediate scrutiny.
- C) strict scrutiny.

D) no particular form of scrutiny (none is required in this situation).

45) Excel Manufacturing, a corporation, hired a private investigator to conduct surveillance of DeJuan, the Chief Financial Officer, because he was suspected of committing corporate espionage. Without DeJuan's consent, the private investigator approached DeJuan and demanded to be allowed

- A) Fourth Amendment search and seizure.
- B) Fourteenth Amendment procedural due process.
- C) Fourteenth Amendment substantive due process.

to search him and his cell phone without either a warrant or probable cause. Which of the following does this action violate?

D) The action violates no constitutional amendment.

46) The rights of a business compared with an individual under the Fourth Amendment are best described as:

- A) A business has greater rights to be free from government searches than an individual.
- B) A business has equal rights to be free from government searches as an individual.
- C) A business has lesser rights to be free from government searches than an individual.

D) The rights of a business compared with an individual under the Fourth Amendment have not yet been defined by the federal courts.

47) Stelissa was driving her 25-year-old rusty car through a rich neighborhood. Glenn, a police officer, pulled her over because he didn't like the looks of a junky car in a fancy area. Glenn demanded that she step out of the car for a pat-down search. Glenn had no suspicion that Stelissa was committing a

- A) an illegal search under the Fourth Amendment.

crime at the time of the stop. Glenn found a tiny bag of cocaine on Stelissa. Under these circumstances, this is

B) an illegal search under Fifth Amendment.

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.

**48)** The Equal Protection Clause of the Fourteenth Amendment would prohibit

A) the University of Utah, a public school, from charging higher rates for out-of-state students.

B) the University of Delaware, a public school, from charging \$500 per credit hour for students from West Virginia, a lower income state, while charging \$700 per credit hour for students from Connecticut, a higher income state

C) the state of Illinois from creating different categories of people who are treated differently under the law.

D) none of the states in the hypotheticals from the described actions, each of the distinctions that Utah, Delaware and Illinois are recognizing are permissible under the Fourteenth Amendment.

**49)** Which of the following would be economic activity that the federal government could regulate under the Commerce Clause?

A) Jessie drives a diesel truck, but just in two states, Nevada and Arizona, he never crosses other state lines and in fact does 99% of his business in Nevada.

B) Christa has an organic farm in the state of Vermont, selling produce only at a local farmer's market. There are thousands of farms just like Christa's around the country that have a substantial impact on interstate commerce, of which, Christa's farm has only a tiny effect.

C) Marcus has an internet business that ships products to five states in the Southeast, but no employee in his business

ever crosses state lines for a business purpose.

D) All of the answer choices involve economic activity that the federal government may regulate under the Commerce Clause.

**50)** Katelyn was suspended from State University after a professor suspected her of cheating

on an economics exam. The determination of whether the state government acted properly and gave her an opportunity

to present her evidence at a fair and neutral hearing is an analysis of

- A) procedural due process.
- B) substantive due process.
- C) quasi-suspect classifications.

D) the Commerce Clause.

**51)** The Bill of Rights recognizes fundamental constitutional rights of citizens.

- ☒ true
- ☐ false

**52)** 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.

- ☒ true
- ☐ false

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

- ☒ true
- ☐ false

**54)** 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.



☐ true

☐ false

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

☐ true

☐ false

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

☐ true

☐ false

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

☐ true

☐ false

**58)** 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.

☐ true

☐ false

**59)** 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.

- ☒ true
- ☐ false

**60)** 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.

- ☐ true
- ☒ false

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

- ☐ true
- ☒ false

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

- ☐ true
- ☒ false

**63)** 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.

☐ true

☐ false

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

☐ true

☐ false

**65)** 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.

☐ true

☐ false

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

☐ true

☐ false

**67)** A business owner's expectation of privacy in commercial property is the same as the privacy interest

afforded to a private homeowner.

☐ true

☐ false

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

☐ true

☐ false

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

☐ true

☐ false

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

☐ true

☐ false

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

☐ true

☐ false

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

☐ true

☐ false

⊙ true

74) 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 first, before Professor Jones must prove her guilt. Kim is being

denied her substantive due process rights.

- ☐ true
- ☐ false

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

- ☐ true
- ☐ false

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

- ☐ true
- ☐ false

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

- ☐ true
- ☐ false

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

☐ true

☐ false

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

☐ true

☐ false

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

☐ true

☐ false

## **Answer Key**

Business Author:  
Melvin 4th ch2

Test name: The Legal Environment of

- 11) jurisdiction
- 12) police powers
- 13) separation of powers
- 14) enumerated
- 15) executive
- 16) USA Patriot
- 17) judicial review
- 18) intermediate-level
- 19) intrastate
- 20) ballot proposition
- 21) A
- 22) A
- 23) C
- 24) C
- 25) B
- 26) D
- 27) C
- 28) D



29) A

30) C

31) D

32) D

33) A

34) A

35) C

36) C

37) B

38) B

39) D

40) A

41) D

42) B

43) A

44) C

45) D

46) C

47) A

48) B

49) D

- 50) A
- 51) TRUE
- 52) FALSE
- 53) TRUE
- 54) FALSE
- 55) FALSE
- 56) FALSE
- 57) TRUE
- 58) FALSE
- 59) TRUE
- 60) FALSE
- 61) FALSE
- 62) TRUE
- 63) FALSE
- 64) TRUE
- 65) TRUE
- 66) FALSE
- 67) FALSE
- 68) FALSE
- 69) TRUE
- 70) FALSE

71) FALSE

72) FALSE

73) TRUE

74) FALSE

75) TRUE

76) FALSE

77) FALSE

78) FALSE

79) FALSE

80) TRUE