**CHAPTER 4-CONSTITUTIONAL, STATUTORY, ADMINISTRATIVE, AND COMMON LAW**

**TRUE/FALSE**

1. While at the park, Tasha saw a small child fall into the lake. Tasha did not know the child. Under the common law of most states, Tasha has a legal duty to take reasonable steps to assist the child if Tasha is able to help and such help will not jeopardize Tasha's well being.

2. The largest source of new law is court decisions.

3. By creating three independent and equal branches of the federal government, the U.S. Constitution limited the federal government’s power.

4. If the President vetoes a bill and if both the House and Senate re-pass the bill by a two-thirds margin, the bill becomes law.

5. The Federal Trade Commission promulgated Telemarketing Sales Rules regulating the activities of telemarketers. One of the rules prohibits telemarketers from calling a person's residence at any time other than between 8:00 a.m. and 9:00 p.m. This legislative rule has the effect of a statute.

6. The Occupational Safety and Health Administration (OSHA) has proposed rules aimed at reducing repetitive-stress injuries. ATC, Inc. disagrees with the proposed rules. ATC, Inc. should challenge the proposed rules in court to prevent them from becoming final rules.

7. The power to create laws regulating international commerce is given to Congress and the states concurrently under the U.S Constitution.

8. Administrative agencies exist at the federal, state, and local levels.

9. Because of the concept of *stare decisis*, the U. S. Supreme Court, in interpreting a statute in 2009, will necessarily interpret certain statutory language in the same way as the U. S. Supreme Court interpreted the same statutory language in 1971.

10. The Takings Clause in the Constitution of the United States prevents the government from taking property for public use without paying a fair price.

11. The Fourteenth Amendment to the Constitution of the United States is also know as the equal protection Clause

12. The only issue covered in the First Amendment of the Constitution of the United States is free speech.

13. *Texas v Johnson* dealt with the legality of burning an American flag.

14. Separation of powers allows one of the branches of government to become more powerful over the other two.

15. Federal courts can declare an act of congress unconstitutional and therefore void.

**MULTIPLE CHOICE**

1. The primary source of federal power to regulate business is the:

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| a. | Supremacy Clause. |
| b. | Commerce Clause. |
| c. | Contract Clause. |
| d. | Privilege and Immunities Clause. |

2. The concept of *stare decisis* focuses most on:

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| a. | predictability. |
| b. | flexibility. |
| c. | legislative intent. |
| d. | change. |

3. Assume that in December 2006, the Environmental Protection Agency (EPA) filed an administrative complaint against Marlin Firearms Co. alleging that the company exceeded chromium emissions limits. The EPA proposed a $257,162 fine. Which statement is correct concerning the administrative agency adjudication?

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| a. | A jury decides the matter. |
| b. | The Federal Rules of Criminal Procedure govern the admissibility of evidence. |
| c. | The losing party has a right to appeal. |
| d. | The parties are not represented by attorneys. |

4. If in 1900 the Minnesota Supreme Court ruled that a minor can void a contract at any time during minority and in 2008 the courts in Minnesota still follow this ruling, this is an example of:

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| a. | *stare decisis*. |
| b. | the bystander rule. |
| c. | statutory law. |
| d. | enabling legislation. |

5. Administrative agency rules consist of:

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| a. | executive and independent rules. |
| b. | legislative and interpretive rules. |
| c. | informal and "notice and comment" rules. |
| d. | promulgated and unpromulgated rules. |

6. The Bill of Rights refers to:

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| a. | the inalienable rights found at the beginning of the Constitution. |
| b. | the first ten amendments to the Constitution. |
| c. | a specific listing of individual rights found in the original text of the Constitution. |
| d. | a grouping of individual rights set forth by the United States Supreme Court shortly after the Constitution was ratified by the states. |

7. Congresswoman Sloan introduced a bill in the House of Representatives. If the bill is approved by the House committee specializing in that subject, the bill will go to:

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| a. | a Senate committee specializing in the subject matter of the proposed legislation. |
| b. | the full House. |
| c. | a Conference Committee made up of representatives of both the House and Senate. |
| d. | the voters of her state for approval. |

8. Bert had his driver's license suspended by the state department of transportation. He believes his constitutional due process rights were violated by the administrative agency. Can he immediately file a court action to have agency's actions reviewed?

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| a. | Yes. A court has the jurisdiction to immediately review an agency's alleged unconstitutional action. |
| b. | Yes. Bert must specifically allege his constitutional rights have been violated and file a court action in federal court - not a state court. |
| c. | No. Bert must first utilize the administrative agency's procedures to review the suspension before he seeks judicial review by a court. |
| d. | No. A court of law does not have jurisdiction to review an administrative agency's actions. |

9. Generally, constitutional protections do NOT apply to:

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| a. | acts of the federal government. |
| b. | acts of state government. |
| c. | acts of administrative agencies. |
| d. | acts of privately owned businesses. |

10. If there is a conflict between a state and federal law, generally the federal law will prevail because of the:

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| a. | federalism doctrine. |
| b. | Supremacy Clause. |
| c. | paramount doctrine. |
| d. | Interstate Commerce Clause. |

11. What powers are granted to Congress through the Constitution of the United States ?

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| a. | Appoint heads of administrative agencies |
| b. | Appoint Supreme Court Justices |
| c. | The right to regulate commerce with foreign nations. |
| d. | None of these answers are correct |

12. What rights are protected by the First Amendment

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| a. | Religion |
| b. | Assembly |
| c. | Flag burning |
| d. | All of these answers are correct |

13. Kabrina purchased some land Lake Winisakand to build a marina. After purchase the county passed a law restricting the building of any structures on the shoreline of the Lake. She would be allowed to build a small shop or restaurant on her land. Her land is not worth as much. What are her remedies?

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| a. | She is entitled to money damages for the entire value of her land |
| b. | She has none. Since she still can use the land to build something she is not entitled to any compensation. |
| c. | She can build the marina anyway because the law changed after she purchased the land. |
| d. | She can file a complaint and determine just how much her damages are and collect them from the county. |

14. How is The Congress organized

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| a. | 2 houses the senate and the house of representatives.with dozens of committees under them. |
| b. | 3 houses the judicial, senate and the house of representatives.with courts and committees under them. |
| c. | 2 houses with administrative agencies controlled by them |
| d. | 1 house divided into 2 committees, the senate and the house of representatives. |

15. Most new law is created by

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| a. | Stare decises |
| b. | The Supreme Court |
| c. | Statutes |
| d. | Committees |

16. What is judicial review?

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| a. | When a judge reads the jury verdict to the courtroom. |
| b. | When an appellate court reverses the results of a trial court |
| c. | When a federal court rehears a state case. |
| d. | Congress approves the president’s appoint of Federal judges |

17. The president does not like a new bill that Congress has passed.what can he do?

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| a. | Veto it |
| b. | Rewrite it |
| c. | He must sign all bills Congress passes |
| d. | Send it back to committee |

18. Who decides if a statute is constitutional?

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| a. | President |
| b. | Congress |
| c. | Federal Judges |
| d. | Administrative agencies |

19. What powers does the President have?

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| a. | Nominate cabinet heads |
| b. | Veto statutes passed by congress |
| c. | Negotiate an international treaty |
| d. | All of the above |

20. Joseph got caught at State U with some marijuana. It is not legal in his state. What insures he gets a fair hearing.

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| a. | Takings Clause |
| b. | Due Process Clause |
| c. | Equal Protection Clause |
| d. | Supremacy Clause |

21. The issue of the constitutional protections afforded flag burning was addressed in:

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| a. | *Texas v. Johnson.* |
| b. | *United States v. Lopez.* |
| c. | *Marbury v. Madison.* |
| d. | *Palmore v. Sidoti.* |

22. Judicial review can best be described as the power of federal courts to:

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| a. | review state court decisions. |
| b. | review state executive action. |
| c. | review state and federal legislative and executive action. |
| d. | none of the above. |

23. Smalltown, located in a border state, seemed to favor Caucasians over Latinos in their hiring practices. The courts will review the practice using:

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| a. | minimal scrutiny. |
| b. | intermediate scrutiny. |
| c. | strict scrutiny. |
| d. | Supremacy Clause scrutiny. |

24. Ikerd was entering the United States from a trip abroad when the Customs Service confiscated some goods she had purchased and brought back with her. The determination of whether the government is attempting to take property and what type of hearing the Customs Service must offer Ikerd, is an analysis of:

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| a. | substantive due process. |
| b. | procedural due process. |
| c. | the Takings Clause. |
| d. | eminent domain. |

25. The Bill of Rights refers to:

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**ESSAY**

1. Define the common law. Discuss its conflicting goals and the doctrine created to serve one of these goals.

2. Big Corporation is served with a subpoena to turn over business records to an administrative agency. What are three possible legal grounds the company can raise to avoid producing the requested records?

3. Identify the basic job of a President of the United States, the source of executive power, and three key powers associated with the position of President.

4. Tim received a letter from his state college stating he had been expelled from the school. The letter stated his finance professor reported him to the Dean's office for cheating and that a committee had decided to expel him. He was reminded in the letter he had been disciplined earlier that same year for plagiarizing a term paper. Tim believes his due process rights have been violated by the college. Discuss what factors should be considered to determine the validity of Tim's claim.