

Chapter 1

The Constitutional Foundations

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. State laws are the supreme law of the United States.

ANSWER: F PAGE: 2 TYPE: N
BUSPROG: Analytic LO: 1-1 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

2. The federal government and the states have the same constitution.

ANSWER: F PAGE: 2 TYPE: N
BUSPROG: Analytic LO: 1-1 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

3. State constitutions are supreme within their respective borders.

ANSWER: T PAGE: 2 TYPE: N
BUSPROG: Analytic LO: 1-1 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

4. Statutory law includes state statutes and ordinances passed by cities and counties.

ANSWER: T PAGE: 2 TYPE: N
BUSPROG: Analytic LO: 1-1 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

5. Statutes are laws enacted by Congress and the state legislatures and comprise one of the sources of American law.

ANSWER: T PAGE: 2 TYPE: N
BUSPROG: Analytic LO: 1-1 BLOOM'S: Comprehension
DIF: Easy AICPA: BB-Legal

6. Uniform laws apply in all states, including those in which the laws have not been adopted.

ANSWER: F PAGE: 3 TYPE: N
BUSPROG: Analytic LO: 1-1 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

7. Administrative law consists of the rules, orders, and decisions of administrative agencies. .

ANSWER: T PAGE: 3 TYPE: N
BUSPROG: Analytic LO: 1-1 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

8. Congress creates an administrative agency by enacting enabling legislation.

ANSWER: T PAGE: 4 TYPE: N
BUSPROG: Reflective LO: 1-1 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

9. In order to truly understand our legal system, it is important to understand the origins of the common law tradition.

ANSWER: T PAGE: 5 TYPE: N
BUSPROG: Reflective LO: 1-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

10. Common law is the same as statutory law.

ANSWER: F	PAGE: 5	TYPE: N
BUSPROG: Analytic	LO: 1-2	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Legal

11. A court may depart from a precedent if the precedent is no longer valid.

ANSWER: T	PAGE: 6	TYPE: +
BUSPROG: Analytic	LO: 1-2	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Critical Thinking

12. Stare decisis is a doctrine obligating judges to help persons who have failed to protect their own rights.

ANSWER: F	PAGE: 6	TYPE: N
BUSPROG: Analytic	LO: 1-2	BLOOM'S: Knowledge
DIF: Easy		AICPA: BB-Legal

13. Stare decisis is a doctrine obligating judges to follow the precedents established within their jurisdictions.

ANSWER: T	PAGE: 6	TYPE: N
BUSPROG: Analytic	LO: 1-2	BLOOM'S: Knowledge
DIF: Easy		AICPA: BB-Legal

14. Damages are a remedy at law.

ANSWER: T	PAGE: 7	TYPE: N
BUSPROG: Analytic	LO: 1-3	BLOOM'S: Knowledge
DIF: Easy		AICPA: BB-Legal

15. Damages are never paid in money.

ANSWER: F	PAGE: 7	TYPE: N
BUSPROG: Analytic	LO: 1-3	BLOOM'S: Knowledge
DIF: Easy		AICPA: BB-Legal

16. Equity is a branch of law, founded in justice and fair dealing, which seeks to supply a remedy when no adequate remedy at law is available.

ANSWER: T	PAGE: 7	TYPE: N
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BUSPROG: Analytic LO: 1-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

17. Criminal acts are prohibited only by federal government statutes.

ANSWER: F PAGE: 8 TYPE: N
BUSPROG: Analytic LO: 1-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

18. Government authorities cannot enforce national law.

ANSWER: F PAGE: 9 TYPE: N
BUSPROG: Analytic LO: 1-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

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

ANSWER: T PAGE: 11 TYPE: N
BUSPROG: Analytic LO: 1-4 BLOOM'S: Knowledge
DIF: Moderate AICPA: BB-Legal

20. 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: 14 TYPE: N
BUSPROG: Analytic LO: 1-4 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Critical Thinking

21. The Second Amendment to the U.S. Constitution reserves all powers not delegated to the national government to the states.

ANSWER: F PAGE: 15 TYPE: N
BUSPROG: Analytic LO: 1-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: F PAGE: 15 TYPE: N

BUSPROG: Analytic LO: 1-5 BLOOM'S:Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 15 TYPE: N
BUSPROG: Analytic LO: 1-5 BLOOM'S:Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 16 TYPE: N
BUSPROG: Analytic LO: 1-5 BLOOM'S:Comprehension
DIF: Moderate AICPA: BB-Legal

25. The First Amendment protects corporate political speech.

ANSWER: T PAGE: 17 TYPE: N
BUSPROG: Reflective LO: 1-5 BLOOM'S:Knowledge
DIF: Easy AICPA: BB-Critical Thinking

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

ANSWER: F PAGE: 18 TYPE: N
BUSPROG: Analytic LO: 1-5 BLOOM'S:Comprehension
DIF: Moderate AICPA: BB-Legal

27. The First Amendment protects defamatory speech.

ANSWER: F PAGE: 20 TYPE: N
BUSPROG: Reflective LO: 1-5 BLOOM'S:Knowledge
DIF: Easy AICPA: BB-Critical Thinking

28. 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: 20 TYPE: N

BUSPROG: Reflective
DIF: Easy

LO: 1-5

BLOOM'S: Knowledge
AICPA: BB-Critical Thinking

29. The establishment clause of the U.S. Constitution prohibits the federal government from establishing a state-sponsored religion.

ANSWER: T	PAGE: 20	TYPE: N
BUSPROG: Analytic	LO: 1-5	BLOOM'S: Knowledge
DIF: Easy		AICPA: BB-Legal

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

ANSWER: F	PAGE: 21	TYPE: N
BUSPROG: Reflective	LO: 1-5	BLOOM'S: Comprehension
DIF: Easy		AICPA: BB-Critical Thinking

31. Procedural due process requires that any government decision to take a person's property must be made fairly.

ANSWER: T	PAGE: 23	TYPE: N
BUSPROG: Analytic	LO: 1-5	BLOOM'S: Knowledge
DIF: Easy		AICPA: BB-Legal

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

ANSWER: F	PAGE: 23	TYPE: N
BUSPROG: Analytic	LO: 1-5	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Legal

33. A law that limits the liberty of all persons may violate substantive due process.

ANSWER: F	PAGE: 23	TYPE: N
BUSPROG: Analytic	LO: 1-5	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Legal

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

ANSWER: F	PAGE: 24	TYPE: N
BUSPROG: Reflective	LO: 1-5	BLOOM'S: Knowledge
DIF: Easy		AICPA: BB-Critical Thinking

35. Individuals do not have a right to obtain access to information about them in government files.

ANSWER: F PAGE: 25 TYPE: N
BUSPROG: Analytic LO: 1-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

MULTIPLE CHOICE QUESTIONS

1. Congress enacts a statute, the Federal Deposit Insurance Corporation (an administrative agency) issues rules, the Southeast Financial Institutions Association (a private organizations) issues instructions, South Valley Bank posts a memo with orders for its employees, and Tina tells her co-worker about a recent news story. Sources of law include
- a. the instructions issued by private associations.
 - b. the orders posted by employers.
 - c. the rules issued by federal administrative agencies.
 - d. the stories released by news agencies.

ANSWER: C PAGE: 2 TYPE: N
BUSPROG: Reflective LO: 1-1 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

2. A provision in the California state constitution conflicts with a provision in the U.S. Constitution. If challenged
- a. neither provision will be enforced.
 - b. the provisions will be balanced to reach a compromise.
 - c. the state provision, not the U.S. Constitution, will be enforced.
 - d. the U.S. Constitution, not the state provision, will be enforced.

ANSWER: D PAGE: 2 TYPE: N
BUSPROG: Reflective LO: 1-1 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

3. The Pennsylvania legislature enacts a state law that violates the U.S. Constitution. This law can be enforced by
- a. no one.
 - b. the federal government only.
 - c. the state of Pennsylvania only.
 - d. the United States Supreme Court only.

ANSWER: A PAGE: 2 TYPE: N
BUSPROG: Reflective LO: 1-1 BLOOM'S: Comprehension
DIF: Easy AICPA: BB-Legal

4. Smithy Saddlery is a saddle shop subject to the laws of New York. In New York, the highest-ranking (superior) law is
- a. a case decided by the New York Court of Appeals.
 - b. a rule created by a New York state administrative agency.
 - c. a provision in the New York constitution.
 - d. a statute enacted by the New York legislature.

ANSWER: C PAGE: 2 TYPE: N
BUSPROG: Reflective LO: 1-1 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

5. The best definition of a precedent is
- a. a law developed from custom.
 - b. a judicial proceeding for the determination of a dispute between parties in which rights are enforced or protected.
 - c. a proceeding by one person against another in court.
 - d. a court decision that furnishes an example or authority for deciding subsequent cases involving identical or similar facts.

ANSWER: D PAGE: 5 TYPE: N
BUSPROG: Analytic LO: 1-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

6. As a judge, Bonnie applies common law rules. These rules develop from

- a. administrative regulations.
- b. court decisions.
- c. federal and state statutes.
- d. proposed uniform laws.

ANSWER: B	PAGE: 5	TYPE: N
BUSPROG: Analytic	LO: 1-2	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Legal

7. Owen is a federal judge whose judicial decisions are part of case law, which does not include interpretations of

- a. other case law.
- b. constitutional provisions.
- c. statutes.
- d. sound bites in the media.

ANSWER: D	PAGE: 5	TYPE: N
BUSPROG: Reflective	LO: 1-1	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Legal

8. Karen is a judge hearing the case of *Local Dispatch Co. v. National Transport Corp.* Applying the relevant rule of law to the facts of the case requires Karen to find previously decided cases that, in relation to the case under consideration, are

- a. as different as possible.
- b. as similar as possible.
- c. at odds.
- d. exactly identical.

ANSWER: B	PAGE: 6	TYPE: N
BUSPROG: Reflective	LO: 1-2	BLOOM'S: Application
DIF: Moderate		AICPA: BB-Critical Thinking

9. In *Lewis v. Motor City Cars & Trucks*, a state supreme court held that a minor could cancel a contract for the sale of a car. A lower court in the same state may depart from this precedent if the court decides that the precedent
- is incorrect or inapplicable.
 - is not in line with the judge's personal values.
 - would lead to unintended consequences.
 - would not bring about the result the judge prefers.

ANSWER: A PAGE: 6 TYPE: N
BUSPROG: Reflective LO: 1-2 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

10. Judge Julia decides that the precedent for the case she is hearing is no longer correct due to technological changes. She overturns the precedent when she decides the case. It is most likely that her case will
- go unnoticed by the public.
 - be thrown out of court.
 - receive a great deal of publicity.
 - be ignored by the media.

ANSWER: C PAGE: 6 TYPE: N
BUSPROG: Reflective LO: 1-2 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Critical Thinking

11. Eliza is a state court judge. Flora appears in a case in Eliza's court, claiming that Glover breached a contract. Which of the following actions may Eliza take?
- Award damages or issue a decree of specific performance
 - Imprison Glover, but not Flora
 - Imprison Flora, but not Glover
 - Order the parties to pay Eliza to render a favorable ruling

ANSWER: A PAGE: 7 TYPE: N
BUSPROG: Reflective LO: 1-3 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

12. Starlight Café brings a suit, seeking a remedy at law. A remedy at law is
- a. the payment of money or property as compensation for damages.
 - b. a decree of specific performance.
 - c. a judicial proceeding for the resolution of a dispute.
 - d. an injunction.

ANSWER: A PAGE: 7 TYPE: N
BUSPROG: Analytic LO: 1-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

13. Leona enters into a contract with Munchies Bakery to cater a sales conference. When the conference is postponed indefinitely, Leona asks a court to cancel the contract and return the parties to the positions that they held before its formation. This request involves
- a. specific performance.
 - b. an injunction.
 - c. rescission.
 - d. an action that the court cannot order.

ANSWER: C PAGE: 7 TYPE: N
BUSPROG: Analytic LO: 1-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

14. Maggie and Nate enter into a contract for the sale of a car, but Nate later refuses to deliver the car. Maggie asks a court to order Nate to perform as promised. Ordering a party to perform what was promised is
- a. specific performance.
 - b. damages.
 - c. rescission.
 - d. beyond the court's authority.

ANSWER: A PAGE: 7 TYPE: N
BUSPROG: Analytic LO: 1-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

15. Chelsea is a state court judge. Like judges in most state courts, in a particular case, she may grant

- a. a remedy at law only.
- b. a remedy in equity or a remedy at law, but not both.
- c. a remedy in equity and a remedy at law.
- d. a remedy in equity only.

ANSWER: C	PAGE: 7	TYPE: N
BUSPROG: Reflective	LO: 1-3	BLOOM'S: Application
DIF: Moderate		AICPA: BB-Legal

16. Jane enters into a contract with Jill to provide 100 roses for a dinner party. Jane fails to deliver the roses. Jill initiates a suit against Jane, asking the court to order Jane to deliver the roses. Jill is

- a. the plaintiff.
- b. the defendant.
- c. the binding authority.
- d. the persuasive authority.

ANSWER: A	PAGE: 7	TYPE: N
BUSPROG: Analytic	LO: 1-3	BLOOM'S: Application
DIF: Challenging		AICPA: BB-Legal

17. Beth is a victim of Carl's violation of a criminal law. Criminal law is concerned with

- a. the prosecution of private individuals by other private individuals.
- b. the prosecution of public officials by private individuals.
- c. the relief available when a person's rights are violated.
- d. wrongs committed against the public as a whole.

ANSWER: D	PAGE: 8	TYPE: N
BUSPROG: Reflective	LO: 1-3	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Legal

18. Japan violates an international law. Other countries may take coercive actions, which include

- a. violating the same law in the same way with impunity.
- b. confiscating Japanese businesses.
- c. boycotting Japanese goods.
- d. taxing Japanese citizens.

ANSWER: C	PAGE: 9	TYPE: N
BUSPROG: Analytic	LO: 1-3	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Legal

19. Savers Mart, Inc., distributes its merchandise to retail outlets on an inter-state basis. Under the commerce clause, Congress has the power to regulate

- a. any commercial activity in the United States.
- b. only activities that are in intrastate commerce.
- c. only activities that are in local commerce.
- d. only activities that are not in commerce.

ANSWER: A	PAGE: 13	TYPE: N
BUSPROG: Analytic	LO: 1-4	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Legal

20. 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: 14	TYPE: N
BUSPROG: Reflective	LO: 1-4	BLOOM'S: Comprehension
DIF: Easy		AICPA: BB-Legal

21. 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: 14	TYPE: N
BUSPROG: Analytic	LO: 1-4	BLOOM'S: Knowledge
DIF: Easy		AICPA: BB-Legal

22. 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

- a. the commerce clause.
- b. the equal protection clause.
- c. the due process power.
- d. the supremacy clause.

ANSWER: D	PAGE: 14	TYPE: N
BUSPROG: Reflective	LO: 1-4	BLOOM'S: Application
DIF: Moderate		AICPA: BB-Legal

23. 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

- 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: 15	TYPE: N
BUSPROG: Reflective	LO: 1-5	BLOOM'S: Application
DIF: Moderate		AICPA: BB-Legal

24. 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

- a. petition the government, but not to assemble a group peaceably.
- b. assemble peaceably, but not to petition the government.
- c. both petition the government and assemble peaceably.
- d. neither petition the government nor assemble peaceably.

ANSWER: C	PAGE: 16	TYPE: N
BUSPROG: Analytic	LO: 1-5	BLOOM'S: Comprehension
DIF: Easy		AICPA: BB-Critical Thinking

25. 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

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

ANSWER: C	PAGE: 16	TYPE: N
BUSPROG: Analytic	LO: 1-5	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Critical Thinking

26. 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: 16	TYPE: N
BUSPROG: Analytic	LO: 1-5	BLOOM'S: Comprehension
DIF: Easy		AICPA: BB-Critical Thinking

27. 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: 17 TYPE: N
BUSPROG: Reflective LO: 1-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

28. 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
- 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: 17 TYPE: N
BUSPROG: Reflective LO: 1-5 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

29. California enacts a statute to ban advertising in "bad taste." This statute would likely be held by a court 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: 18 TYPE: N
BUSPROG: Reflective LO: 1-5 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Decision Modeling

30. 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
- a. less extensive protection than noncommercial speech.
 - b. more extensive protection than symbolic speech.
 - c. no protection.
 - d. the same protection as defamatory speech.

ANSWER: A	PAGE: 18	TYPE: N
BUSPROG: Reflective	LO: 1-5	BLOOM'S:Comprehension
DIF: Moderate		AICPA: BB-Critical Thinking

31. 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: 18	TYPE: N
BUSPROG: Reflective	LO: 1-5	BLOOM'S:Application
DIF: Moderate		AICPA: BB-Legal

32. 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: B	PAGE: 20	TYPE: N
BUSPROG: Reflective	LO: 1-5	BLOOM'S:Application
DIF: Moderate		AICPA: BB-Decision Modeling

33. Julia is a U.S. citizen. She establishes a Web site that posts threatening messages about celebrities. Her Web site 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: 20	TYPE: N
BUSPROG: Reflective	LO: 1-5	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Critical Thinking

34. 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
- a. the commerce clause.
 - b. the equal protection clause.
 - c. the due process clause.
 - d. the First Amendment.

ANSWER: C	PAGE: 23	TYPE: N
BUSPROG: Reflective	LO: 1-5	BLOOM'S: Comprehension
DIF: Moderate		AICPA: BB-Legal

35. 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. indictment.
 - c. procedural due process.
 - d. substantive due process.

ANSWER: D	PAGE: 23	TYPE: N
BUSPROG: Reflective	LO: 1-5	BLOOM'S: Application
DIF: Moderate		AICPA: BB-Legal

ESSAY QUESTIONS

1. In a dispute between Cosmic Games Corporation and Mythic Engineering Associates, Inc., the court applies the doctrine of **stare decisis**. What is this doctrine? What does this doctrine have to do with the American legal system?

ANSWER: In a common law legal system, past judicial decisions are binding in current disputes with similar facts. This feature of the common law, which is the basis of the American legal system, is unique because, unlike the law in other legal systems, it is judge-made law. Within the common law system, when possible, judges attempt to be consistent and to base their decisions on the principles suggested by earlier cases. The body of principles and doctrines that form the common law emerged over time as judges applied the principles announced in earlier cases to subsequent legal controversies. The practice of deciding cases with reference to former decisions, or precedents—the cornerstone of the American legal system—is called the doctrine of **stare decisis**. Under this doctrine, judges are obligated to follow the precedents established within their jurisdictions. This helps courts to be more efficient, and makes the law more stable and predictable.

PAGES: 6–7

TYPE: N

BUSPROG: Reflective

LO: 1-2

BLOOM'S: Application

DIF: Challenging

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: 18–19

BUSPROG: Reflective

LO: 1-5

TYPE: N

BLOOM’S: Analysis

DIF: Challenging

AICPA: BB-Decision Modeling