Constitutional Law Governmental Powers and Individual Freedoms 4th edition Hall Test Bank

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***Constitutional Law, 4e* (Hall/Feldmeier)**
Chapter 2 Dividing Governmental Power

2.1 Multiple Choice Questions

1) Which of the following constitutional clauses has not contributed to the growth in federal power?
A) Supremacy Clause of Art. VI.
B) Necessary and Proper Clause of Art. I
C) Powers Clause of the Tenth Amendment
D) Commerce Clause
Answer: C
Page Ref: 54-61
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Basic

2) Which of the following was NOT intended to protect against tyranny?
A) Separations of Power
B) Federalism
C) Checks and Balances
D) Single Federal Executive
Answer: D
Page Ref: 52-53
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Basic

3) Assume that a state and the federal government hold concurrent jurisdiction over an issue and furthermore, both have enacted statutes to regulate the subject. However, the state statute is contrary to the federal law. The state law is:
A) valid.
B) invalid as preempted by the federal law under the Supremacy Clause.
C) invalid as preempted by the Necessary and Proper Clause.
D) invalid as violating the dormant Commerce Clause.
Answer: B
Page Ref: 54
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

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4) Which model of federalism maintains the theory that the national government and the state governments are coequal sovereigns?
A) Dual Federalism
B) Hierarchical federalism
C) Cooperative federalism
D) Competitive federalism
Answer: A
Page Ref: 54-55
Objective: Distinguish dual, hierarchical, and cooperative federalism, and from the last chapter, identify the various times the Supreme Court has favored dual or hierarchical federalism.
Level: Basic

5) Which model of federalism maintains the theory that the national government is supreme to the state governments and that he powers of the national government are read broadly, and the Tenth Amendment is read as not granting any specific powers to the states?
A) Dual Federalism
B) Hierarchical federalism
C) Cooperative federalism
D) Competitive federalism
Answer: B
Page Ref: 54-55
Objective: Distinguish dual, hierarchical, and cooperative federalism, and from the last chapter, identify the various times the Supreme Court has favored dual or hierarchical federalism.
Level: Intermediate

6) What doctrine maintains that state laws that interfere with federal laws are invalid pursuant to the supremacy clause?
A) Preemption
B) States rights
C) War making
D) Sovereign Immunity
Answer: A
Page Ref: 55
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

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7) Which doctrine maintains the idea that state laws that unduly burden interstate commerce, even if the subject is unregulated by the national government, are invalid under federalism principles, because the regulation of interstate and foreign commerce belongs exclusively to the federal government?
A) Preemption
B) States rights
C) Dormant Commerce Clause
D) Sovereign Immunity
Answer: C
Page Ref: 55
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

8) What power is traditionally held by states to make and enforce laws and regulations necessary to maintain and enhance the public welfare and to prevent individuals from violating the rights of others?
A) Divine right
B) Police power
C) Power of the purse
D) Inherent power
Answer: B
Page Ref: 58
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Basic

9) Federal executive orders are published in the:
A) U.S. Code.
B) Federal Register.
C) U.S. Statutes.
D) Book of laws.
Answer: B
Page Ref: 65
Objective: Identify the most significant forms of federal and state laws.
Level: Basic

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10) Statutes passed by Congress are found in the:
A) U.S. Code.
B) Federal Register.
C) U.S. Statutes.
D) Book of laws.
Answer: A
Page Ref: 65
Objective: Identify the most significant forms of federal and state laws.
Level: Basic

11) Law from English heritage, that relies on judges developing legal principles to guide their decision making based on customs and practices of the time is called:
A) traditional law.
B) common law.
C) English law.
D) law of customs.
Answer: B
Page Ref: 66
Objective: Identify the most significant forms of federal and state laws.
Level: Basic

12) The doctrine of stare decisis et non quieta movera means:
A) stand by precedents.
B) update your laws.
C) advance the law to fit societal needs.
D) make decisions quickly.
Answer: A
Page Ref: 66
Objective: Identify the most significant forms of federal and state laws.
Level: Intermediate

13) Federal rules or regulations are found in the:
A) U.S. Code.
B) U.S. Constitution.
C) Code of Federal Regulations.
D) Statutes at Large.
Answer: A
Page Ref: 65-66
Objective: Identify the most significant forms of federal and state laws.
Level: Basic

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14) Who has the power to confirm federal court judges nominated by the President?
A) House
B) Senate
C) both the House and the Senate
D) State Legislatures
Answer: B
Page Ref: 63-64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Basic

15) Which article under the U.S. Constitution gives the power of the president to nominate federal court judges?
A) Article I
B) Article II
C) Article III
D) Article IV
Answer: C
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Basic

16) Which article under the U.S. Constitution sets forth the powers of Congress?
A) Article I
B) Article II
C) Article III
D) Article IV
Answer: A
Page Ref: 63-64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Basic

17) Which article under the U.S. Constitution sets forth the powers of the President?
A) Article I
B) Article II
C) Article III
D) Article IV
Answer: B
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Basic

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18) Which constitutional amendment states that the "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"?
A) First Amendment
B) Fourth Amendment
C) Fifth Amendment
D) Tenth Amendment
Answer: D
Page Ref: 61-62
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

19) Which article under the U.S. Constitution contains the Supremacy Clause?
A) Article I
B) Article III
C) Article IV
D) Article VI
Answer: D
Page Ref: 62
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

20) Which of the following is an exclusive power of the federal government?
A) taxing citizens
B) coining money
C) constructing roads
D) borrowing money
Answer: B
Page Ref: 58-60
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Basic

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2.2 True/False Questions

1) Federalism refers to the division of governmental powers into three branches, legislative, executive, and judicial.
Answer: FALSE
Page Ref: 59-61
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Basic

2) The Framers of the United States Constitution divided governmental power between the states and federal government, and between the three branches at the federal level, in order to prevent tyranny.
Answer: TRUE
Page Ref: 61-62
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Basic

3) The Constitution creates three independent branches of government at the federal level, each delegated certain powers that are held exclusively.
Answer: FALSE
Page Ref: 61-62
Objective: Distinguish dual, hierarchical, and cooperative federalism, and from the last chapter, identify the various times the Supreme Court has favored dual or hierarchical federalism.
Level: Intermediate

4) The Framers intended for the federal government to have limited powers and the states to have those powers not delegated to the federal government.
Answer: TRUE
Page Ref: 58
Objective: Distinguish dual, hierarchical, and cooperative federalism, and from the last chapter, identify the various times the Supreme Court has favored dual or hierarchical federalism.
Level: Intermediate

5) Under a dual federalism approach, the federal government is dominate and more powerful than the states.
Answer: FALSE
Page Ref: 58-61
Objective: Distinguish dual, hierarchical, and cooperative federalism, and from the last chapter, identify the various times the Supreme Court has favored dual or hierarchical federalism.
Level: Intermediate

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6) Under a cooperative federalism approach, the federal government is dominate and more powerful than the states.
Answer: TRUE
Page Ref: 54-55
Objective: Distinguish dual, hierarchical, and cooperative federalism, and from the last chapter, identify the various times the Supreme Court has favored dual or hierarchical federalism.
Level: Basic

7) The so-called "police power" is generally a state power.
Answer: TRUE
Page Ref: 58
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Basic

8) Presidential executive orders have the authority of congressional enacted statues, assuming presidential authority over the subject regulated exists.
Answer: TRUE
Page Ref: 65-66
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

9) The Bill of Rights was intended to be applied only against the national government.
Answer: TRUE
Page Ref: 60
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Basic

10) As a check on the president, the U.S. Supreme Court holds the authority of impeachment and removal.
Answer: FALSE
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

11) Through judicial review, the judiciary checks the president's actions for constitutionality.
Answer: TRUE
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

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12) Judges may be removed through impeachment by Congress.
Answer: TRUE
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

13) No branch is completely independent in the performance of its functions.
Answer: TRUE
Page Ref: 63-65
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

14) Legislation that conflicts with the U.S. Constitution may be declared void by the President.
Answer: FALSE
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

15) State constitutions are the highest form of law for state law subjects.
Answer: TRUE
Page Ref: 65-66
Objective: Identify the most significant forms of federal and state laws.
Level: Basic

16) The common vehicle for presidential lawmaking is the executive order.
Answer: TRUE
Page Ref: 65
Objective: Identify the most significant forms of federal and state laws.
Level: Basic

2.3 Fill in the Blank Questions

1) Federalism, separation of powers, and checks and balances are all intended to prevent _____ and the usurpation of state sovereignty.
Answer: tyranny
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Difficult

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2) Article I, Section 8, clause 18, commonly known as the Necessary and Proper _____, grants to Congress the power to make all laws "necessary and proper" for carrying out its constitutional responsibilities.
Answer: Clause
Page Ref: 54
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

3) Any state or local law that conflicts with the Constitution or a treaty of the United States is invalid because of the _____ Clause found in Article VI of the U.S. Constitution.
Answer: Supremacy
Page Ref: 54
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Difficult

4) The powers to tax citizens, charter banks, and build roads are examples of _____ powers between the federal and state governments.
Answer: concurrent
Page Ref: 58-59
Objective: Distinguish dual, hierarchical, and cooperative federalism, and from the last chapter, identify the various times the Supreme Court has favored dual or hierarchical federalism.
Level: Intermediate

5) The president has been delegated the authority to nominate federal judges and other governmental officers, but the appointments are final only after confirmation by the _____.
Answer: Senate
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

6) The president is the _____-in-chief of the military but Congress is responsible for declaring war.
Answer: commander
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

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7) Legislation that conflicts with the U.S. Constitution may be declared void by the _____.
Answer: courts (judiciary)
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

8) Congress can _____ a presidential veto with a two-thirds majority vote.
Answer: override
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Intermediate

9) All executive orders are published in the Federal _____, a U.S. government publication of new regulations, executive orders and proclamations, notices by government agencies of impending action, and other documents required to be published by government agencies.
Answer: Register
Page Ref: 66
Objective: Identify the most significant forms of federal and state laws.
Level: Intermediate

10) Federal statutes enacted by Congress are organized by subject matter into the U.S. _____.
Answer: Code
Page Ref: 66
Objective: Identify the most significant forms of federal and state laws.
Level: Intermediate

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2.4 Matching Questions

Match the term listed in Column 1 to its description in Column 2.

A) the clause in Article I, Section 8, of the Constitution that gives Congress the power to regulate commerce between the states and between the United States and foreign countries
B) the idea that state laws that unduly burden interstate commerce, even if the subject is unregulated by the national government, are invalid under federalism principles, because the regulation of interstate and foreign commerce belongs exclusively to the federal government
C) the theory that the national government and the state governments are coequal sovereigns
D) Article I of the Constitution grants to Congress the power to make all laws "necessary and proper" for carrying out its constitutional responsibilities
E) the power of government to make and enforce laws and regulations necessary to maintain and enhance the public welfare and to prevent individuals from violating the rights of others
F) the theory that the national government is supreme to the state governments
G) doctrine that state laws that interfere with federal laws are invalid pursuant to the Supremacy Clause
H) the system by which the states of the United States relate to one another and to the federal government
I) a right applied is applied against the states it is fundamental and necessary to an ordered liberty
J) the doctrine that both the states and the national government possess some immunity from the regulation of the other under federalism principles

1) Federalism
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

2) Necessary and Proper Clause
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

3) Incorporation
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

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4) Dormant Commerce Clause Doctrine
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

5) Police Power
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

6) Preemption Doctrine
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

7) Commerce Clause
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

8) Hierarchical Federalism
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

9) Dual Federalism
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

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10) Intergovernmental Immunity Doctrine
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

Answers: 1) H 2) D 3) F 4) C 5) E 6) G 7) A 8) I 9) B 10) J

2.5 Essay Questions

1) What is the preemption doctrine?
Answer: Under the preemption doctrine, state laws are invalidated if they interfere or conflict with national legislation. For example, the federal government has preempted state regulation of aviation. Thus, a state cannot enact airline safety regulations, because the federal government has completely regulated the area.
Page Ref: 55
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Intermediate

2) What is the difference between hierarchical and dual federalism?
Answer: Dual federalism is the theory that the national government and the state governments are coequal sovereigns. The national government is supreme only when its jurisdiction is explicitly granted by the Constitution. Hierarchical federalism is the theory that the national government is supreme to the state governments. The powers of the national government are read broadly, and the Tenth Amendment is read as not granting any specific powers to the states.
Page Ref: 54-58
Objective: Distinguish dual, hierarchical, and cooperative federalism, and from the last chapter, identify the various times the Supreme Court has favored dual or hierarchical federalism.
Level: Difficult

3) How does Congress serve as a check on the president in terms of foreign affairs?
Answer: The president conducts foreign affairs and negotiates treaties. Congress, the Senate in particular, must ratify treaties. The president is the commander-in-chief of the military, but Congress possesses significant authority over the military as well. It is charged with making rules regulating the military and is responsible for declaring war.
Page Ref: 64
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Difficult

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4) What is the common law?
Answer: The common law, which is of English heritage, has a judicial origin. Before Parliament existed in England, judges developed legal principles to guide their decision making. These legal principles generally followed the customs and practices of the time. For political and prudential reasons, the doctrine of stare decisis et non quieta movera (Latin for "stand by precedents and do not disturb settled points") was developed in early English courts. This doctrine requires that all lower courts adhere to the law announced by a superior court when the facts of the present case are identical or nearly identical to the facts of the earlier case.
Page Ref: 66
Objective: Identify the most significant forms of federal and state laws.
Level: Difficult

2.6 Critical Thinking Questions

1) Which branch of the national government you think currently has the most power: the legislative, executive, or judicial? Explain your position.
Answer: Answers will vary.
Page Ref: passim
Objective: Define federalism and separation of powers, identify the major sources of state and federal authorities explicit in the Constitution, and explain why the division of powers architecture was important to the framers.
Level: Difficult

2) Which check on the executive branch by the legislative branch is the power powerful?
Answer: Answers will vary.
Page Ref: passim
Objective: List ten or more examples of checks and balances among the three federal branches that are explicit in the Constitution.
Level: Difficult

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