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Chapter 2

Exam Questions

Multiple Choice Questions:

1. Which of the following is not a source of law?

a. Judicial opinions

b. Statutes

c. Constitutions

*d. Public opinion

2. Which of the following groups or individuals literally makes law?

a. Appeals court justices (as a group)

b. The Chief Justice of the U.S. Supreme Court (as an individual)

*c. Congress

d. The President of the United States

3. Violation of an administrative regulation is generally treated as a _____.

a. Regular crime

*b. Civil violation

c. Constitutional violation

d. Moral offense

4. Sources of individual rights include all but which of the following?

*a. Executive orders

b. Constitutions

c. Case law

d. Legislation

5. What was the primary reason, cited in the text, that the first attempt by the Continental Congress to create a unified country failed?

a. There was no central government

*b. The central government had virtually no power

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c. The central government had too much power

d. The central government was run by an elected king

6. Which of the following is not a right mentioned in the U.S. Constitution?

a. Prohibition on bills of attainder

b. Prohibition on ex post facto laws

c. Right to habeas corpus

*d. Right to privacy

7. The First Amendment provides which of the following rights?

a. speech

b. press

c. assembly

*d. all of these rights

8. What Amendments prohibits the forced quartering (housing) of soldiers?

a. in the Second Amendment

*b. in the Third Amendment

c. in the Seventh Amendment

d. nowhere in the Constitution

9. The Fourth Amendment bans all searches and seizures that are _____.

a. “Unforeseen”

b. “Uncomfortable”

c. “Irrational”

*d. “Unreasonable”

10. What is the level of proof required to search a place or seize an item or person?

a. Absolute certainty

b. Beyond a reasonable doubt

*c. Probable cause

d. Preponderance of the evidence

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11. The protection from double jeopardy is found in the _____.

a. Third Amendment

*b. Fifth Amendment

c. Sixth Amendment

d. Seventh Amendment

12. What is it called when the trial jury is unable to reach a unanimous verdict in a case that requires unanimity?

*a. a hung jury

b. an acquittal

c. a conviction

d. an indictment

13. The requirement of the Miranda warning is based in which Amendment?

a. First

b. Fourth

*c. Fifth

d. Eighth

14. Which of the following rights are not found in the Sixth Amendment?

a. Trial by an impartial jury

b. Public trial

c. Representation by counsel

*d. Defendant not required to testify

15. At what point does the law require a defendant be allowed assistance of counsel?

a. As soon as the crime in question has been committed

*b. At a critical stage in the investigative process

c. At the point of arrest

d. At the beginning of the trial process (i.e., first appearance)

16. Opponents of gun control legislation seize upon this Amendment as support for their claim that the state may not limit the use and possession of firearms.

a. First

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*b. Second

c. Fifth

d. Eighth

17. Which commonly held right is not expressly given in the Bill of Rights but is merely inferred?

a. Right to freedom of the press

*b. Right to privacy

c. Right to freedom from excessive bail

d. Right to a trial by an impartial jury

18. The due process clause of the Fourteenth Amendment is identical to the due process clause in what other amendment?

a. First

b. Twelfth

c. Thirteenth

*d. Fifth

19. The Due Process Clause is incorporated by the _____ Amendment.

a. Ninth

b. Tenth

*c. Fourteenth

d. Eighteenth

20. Rights that are “essential to the concept of ordered liberty” are referred to as _____.

*a. Fundamental rights

b. Human rights

c. Citizens’ rights

d. Living rights

21. Under which standard of review are state actions assumed to be presumptively valid?

a. Strict scrutiny

b. Intermediate scrutiny

*c. Rational basis test

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d. Reasonable basis test

22. Which of the following is not a standard of review used to evaluate the justification of infringing on citizens' rights?

a. Strict scrutiny

b. Intermediate scrutiny

c. Rational basis test

*d. Reasonable basis test

23. Legislators felt the need to apply the Bill of Rights to the states because of what historical event?

a. The Louisiana Purchase

*b. The Civil War

c. The War of 1812

d. The Great Depression

24. What name is given to the concept that the Bill of Rights creates other rights when taken in its entirety?

a. Complete incorporation

b. Combined incorporation

c. Exponential total incorporation

*d. Total incorporation plus

25. What method of incorporation is the most common approach in modern Supreme Court cases?

a. Total incorporation

b. Fundamental incorporation

c. Total incorporation plus

*d. Selective incorporation

26. What amendment to the Constitution provides the right to an attorney?

*a. Sixth

b. Fourth

c. Fifth

d. Right to be indicted by a grand jury

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27. The dual-sovereignty doctrine relates to which fundamental right?

a. Freedom of speech

b. Freedom of religion

c. Right to bear arms

*d. Right against double jeopardy

28. Classifications that are either without reason or based on race or gender are sometimes referred to as suspect classifications.

*a. True

b. False

29. The first guarantee in the First Amendment is often referred to as the establishment clause.

*a. True

b. False

30. Only the federal government has the authority to enact administrative regulations.

a. True

*b. False

31. The Sixth Amendment prohibits placing someone in double jeopardy.

a. True

*b. False

32. The right to bear arms has been interpreted by the Supreme Court to be a “collective right.”

a. True

*b. False

33. The Constitution clearly lays out what is meant by a “reasonable” and “unreasonable” seizure.

a. True

*b. False

34. Due to the prohibition against double jeopardy, a person cannot be sued civilly for damages caused by a crime for which he/she was already tried and convicted in criminal court.

a. True

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*b. False

35. The Eighth Amendment prohibits excessive bail.

*a. True

b. False

36. Accused defendants must stand trial within 30 days of their arrest.

a. True

*b. False

37. Indigent defendants must be provided with an attorney for any offense.

a. True

*b. False

38. The Fourteenth Amendment is very brief.

a. True

*b. False

39. The Reconstruction Amendments include the 13th, 14th, and 15th Amendments.

*a. True

b. False

40. The Equal Protection Clause of the Fourteenth Amendment bans all legal classifications and distinctions among people.

a. True

*b. False

41. Substantive due process prevents legislatures from infringing on the right of privacy.

*a. True

b. False

42. Incorporation refers to the process of applying the Bill of Rights to the states.

*a. True

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b. False

43. The total incorporation plus approach goes a step further than the total incorporation approach.

*a. True

b. False

44. Primary sources of law include common law and legislative law.

*a. True

b. False

Type: E

45. Give the two reasons statutes are usually ambiguous.

a. Difficult to define human conduct and politics involves compromise

46. What incorporation theory seeks to incorporate provisions of the Bill of Rights in a careful and discriminative way?

a. Selective incorporation

47. Which Amendment requires that warrants must be particular about places to be searched?

a. Fourth

48. What is the term for the formal document charging a defendant with a crime?

a. Indictment

49. What is the principle that the federal government only has those powers granted to it by the U.S. Constitution?

a. Federalism

50. To date, the Supreme Court has held that what two classification are suspect classifications in all circumstances?,

a. Race and religion

51. What is the highest standard of review used when infringing on citizens' rights?

a. Strict scrutiny

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52. The concept of incorporation relates to the due process clause in which Amendment?

a. Fourteenth

53. What are the three individual rights specifically stated in the Constitution?

a. Bills of Attainder, Habeas Corpus, Ex Post Facto Laws

54. What are the five rights enumerated in the First Amendment?

a. Speech, Religion, Press, Assembly, Petition

55. What is the purpose of a grand jury?

a. To ensure the government does not prosecute individuals without some proof of guilt

56. What occurs when a jury fails to convict a defendant?

a. Acquittal

Type: E

57. What is the purpose of administrative regulations?

a. Administrative regulations are a form of legislation issued by federal and state government agencies. Administrative regulations fill in the blanks not covered by broadly written statutes.

58. Explain how it is that the First Amendment grants freedom of religion, yet the government may enact legislation that can restrict certain religious practices.

a. This does not mean the freedom to worship is absolute. Otherwise, valid government regulations, which incidentally restrict religious practices, are permitted. For example, a state may ban polygamy under its authority to enact health and safety regulations, even though this at one time imposed a restriction on the religious practices of some Mormon sects, or it can forbid the use of mind-altering substances in prisons, notwithstanding that by doing so, it may infringe on religious practices of some Native American inmates.

59. The Second Amendment states, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” Explain why this statement is unclear and controversial.

a. According to the case of *District of Columbia v. Heller*, the Second Amendment was intended to provide individual gun owners the right to own firearms, but left room for the possibility that the government could at least regulate, if not prohibit, the ownership of firearms. This ruling has left it unclear as to whether the Second Amendment is an individual right or a right of the states to create and

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arm militias. It also begs the question as to whether the right to bear arms was intended for individuals or militias only. Finally, the issue of how much the government is allowed to regulate or prohibit the ownership of firearms is still left up for debate.

60. Explain why the Fourth Amendment is so important to individual citizens?

a. The Fourth Amendment is the provision of the Constitution that stands most directly between the individual citizen and the police. This amendment forbids "unreasonable" searches and seizures and requires the existence of "probable cause" before warrants may be issued or a search or seizure may take place. Warrants are required to describe the subject of their search with "particularity." Requiring probable cause to search or seize attempts to limit the ability of the police to interfere at will in the lives of individual citizens. Instead, they must have some reasonable amount of evidence that the person has engaged in criminal activity.

61. Define incorporation and explain the four types of incorporation discussed in your textbook. Which type of incorporation is used in the courts today?

a. The issue of incorporation arose when the Supreme Court interpreted the due process clause of the Fourteenth Amendment, which says no state shall deprive a person of life, liberty, or property without "due process of law," as prohibiting states from abridging certain individual rights. The different types of incorporation indicate how much of and which rights are granted by the states. Total incorporation of the due process clause of the Fourteenth Amendment made the entire Bill of Rights applicable to the states. Total incorporation plus of the due process clause of the Fourteenth Amendment includes all of the Bill of Rights and, in addition, includes other, unspecified rights. Ordered liberty is used when there is no necessary relationship between the due process clause of the Fourteenth Amendment and the Bill of Rights. Ordered liberty uses the "totality of circumstances" component. Selective incorporation combines elements of the fundamental rights and total incorporation approaches in modified form and is the approach that seems to predominate in most Supreme Court cases. This approach favors a piecemeal, gradual, and selective method of incorporation. Selective incorporation rejects the notion that all of the rights in the Bill of Rights are automatically incorporated in the due process clause of the Fourteenth Amendment, but it does look to the Bill of Rights as a guide to the meaning of due process.

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