1. X --A state requires licenses of persons "who are engaged in the trade of barbering." It will grant such licenses only to those who are graduates of barber schools located in the state, have resided in the state for two years, and are citizens of the United States. The requirement that candidates for licenses must be graduates of barber schools in the state is probably

A. unconstitutional as an undue burden on interstate commerce.

B. unconstitutional as a violation of the privileges and immunities clause of the Fourteenth Amendment.

C. constitutional, because the state does not know the quality of out-of-state barber schools.

D. constitutional, because barbering is a privilege and not a right.

1. A state requires licenses of persons "who are engaged in the trade of barbering." It will grant such licenses only to those who are graduates of barber schools located in the state, have resided in the state for two years, and are citizens of the United States.The requirement that candidates for licenses must be citizens is

A. constitutional as an effort to ensure that barbers speak English adequately.

B. constitutional as an exercise of the state police power.

C. unconstitutional as a bill of attainder.

D. unconstitutional as a denial of equal protection.

1. X--A state requires licenses of persons "who are engaged in the trade of barbering." It will grant such licenses only to those who are graduates of barber schools located in the state, have resided in the state for two years, and are citizens of the United States. Assume that a resident of the state was denied a license because she had graduated from an out-of-state barber school. Her suit in federal court to enjoin denial of the license on this ground would be

A. dismissed, because there is no diversity of citizenship.

B. dismissed because of the abstention doctrine.

C. decided on the merits, because federal jurisdiction extends to controversies between two states.

D. decided on the merits, because a federal question is involved.

1. X-- A state requires licenses of persons "who are engaged in the trade of barbering." It will grant such licenses only to those who are graduates of barber schools located in the state, have resided in the state for two years, and are citizens of the United States. Which of the following is the strongest ground on which to challenge the requirement that candidates for barber licenses must have been residents of the state for at least two years?

A. The privileges and immunities clause of the Fourteenth Amendment

B. The due process clause of the Fourteenth Amendment

C. The equal protection clause of the Fourteenth Amendment

D. The obligation of contracts clause

1. A state entered into a contract with a construction company for construction of a four-lane turnpike. Prior to commencement of construction, the legislature, in order to provide funds for parks, repealed the statute authorizing the turnpike and canceled the agreement with the construction company. The construction company sued the state to enforce its original agreement. In ruling on this case, a court should hold that the repeal of the state statute, thereby canceling the agreement, is

A. valid, because under the Constitution, the state cannot be held liable except with its own consent.

B. valid, because the legislature is vested with constitutional authority to repeal laws it has enacted.

C. invalid, because a state is equitably estopped to disclaim a valid bid once accepted by it.

D. invalid, because of the constitutional prohibition against impairment of contracts.

1. The strongest constitutional basis for the enactment of a federal statute requiring colleges and universities receiving federal funds to offer students aid solely on the basis of need is the

A. police power.

B. war and defense power.

C. power to tax and spend for the general welfare.

D. power to enforce the privileges and immunities clause of the Fourteenth Amendment.

1. X-- A former United States Ambassador is cited for contempt of the House of Representatives after she refused to answer certain questions posed by a House Committee concerning her acts while serving as an ambassador. A federal statute authorizes the Attorney General to prosecute contempts of Congress. Pursuant to this law, the House directs the Attorney General to begin criminal proceedings against the former ambassador. A federal grand jury indicts the former ambassador, but the Attorney General refuses to sign the indictment. Which of the following best described the constitutionality of the Attorney General's action?

A. Illegal, because the Attorney General must prosecute if the House of Representatives so directs.

B. Illegal, because the Attorney General must prosecute those who violate federal law.

C. Legal, because ambassadors are immune from prosecution for acts committed in the course of their duties.

D. Legal, because the decision to prosecute is an exclusively executive act.

1. X-- A former United States Ambassador is cited for contempt of the House of Representatives after she refused to answer certain questions posed by a House Committee concerning her acts while serving as an ambassador. A federal statute authorizes the Attorney General to prosecute contempts of Congress. Pursuant to this law, the House directs the Attorney General to begin criminal proceedings against the former ambassador. A federal grand jury indicts the former ambassador, but the Attorney General refuses to sign the indictment. If the Attorney General signs the indictment, the strongest argument the former ambassador could urge as a defense is that

A. she may refuse to answer the questions if she can demonstrate that they are unrelated to matters upon which Congress may legislate.

B. the House may question her on matters pertaining to the expenditures of funds appropriated by Congress.

C. only the Senate may question her on matters that relate to the performance of her duties.

D. Congress may not ask questions relating to the performance of duties executed by an officer of the executive branch.

1. X-- Until 1954, a state required segregation in all public and private schools, but all public schools are now desegregated. Other state laws, enacted before 1954 and continuing to the present, provide for free distribution of the same textbooks on secular subjects to students in all public and private schools. In addition, the state accredits schools and certifies teachers. A private school offers elementary and secondary education in the state, but denies admission to all non-Caucasians. Another private school offers religious instruction. Which of the following is the strongest argument against the constitutionality of free distribution of textbooks to the students at the school denying admission to all non-Caucasians?

A. No legitimate educational function is served by the free distribution of textbooks.

B. The state may not in any way aid private schools.

C. The Constitution forbids private bias of any kind.

D. Segregation is furthered by the distribution of textbooks to these students.

1. Until 1954, a state required segregation in all public and private schools, but all public schools are now desegregated. Other state laws, enacted before 1954 and continuing to the present, provide for free distribution of the same textbooks on secular subjects to students in all public and private schools. In addition, the state accredits schools and certifies teachers. A private school offers elementary and secondary education in the state, but denies admission to all non-Caucasians. Another private school offers religious instruction. Which of the following is the strongest argument in favor of the constitutionality of free distribution of textbooks to these students at the school offering religious instruction?

A. Private religious schools, like public nonsectarian schools, fulfill an important educational function.

B. Religious instruction in private schools is not constitutionally objectionable.

C. The purpose and effect of the free distribution of these textbooks is secular and does not entangle church and state.

D. The free exercise clause requires identical treatment by the state of students in public and private schools.

1. A police officer stopped the defendant for speeding late one night. Noting that the defendant was nervous, he ordered him from the car and placed him under arrest for speeding. By state law, the officer was empowered to arrest the defendant and take him to the nearest police station for booking. He searched the defendant's person and discovered a package of heroin in his jacket pocket. The defendant is charged with possession of heroin. At trial, the defendant's motion to prevent introduction of the heroin into evidence, on the ground that the search violated his federal constitutional rights, will most probably be

A. denied, because the search was incident to a valid custodial arrest.

B. denied, because the officer acted under a reasonable suspicion and legitimate concern for his own personal safety.

C. granted, because there was no reasonable or proper basis upon which to justify conducting the search.

D. granted if the officer was not in fear and had no suspicion that the defendant was transporting narcotics.

1. An assistant professor was hired by a college to teach mathematics and he is now in his third consecutive one-year contract. Under state law he cannot acquire tenure until after five consecutive annual contracts. In his third year, the assistant professor was notified that he was not being rehired for the following year. Applicable state law and college rules did not require either a statement of reasons or a hearing, and in fact neither was offered to the assistant professor. Which of the following, if established, most strongly supports the college in refusing to give the assistant professor a statement of reasons or an opportunity for a hearing?

A. His academic performance had been substandard.

B. A speech he made that was critical of administration policies violated a college regulation concerning teacher behavior.

C. He worked at the college for less than five years.

D. He could be replaced with a more competent teacher.

1. National regulation of predatory wild animals on federal lands is most likely

A. constitutional, because the protection of wild animals is important to the general welfare.

B. constitutional, because Congress has authority to make regulations respecting federal property.

C. unconstitutional, because wild animals as defined by state common law are not federal property.

D. unconstitutional, because regulation and control of wild animals is retained by the states under the Tenth Amendment.

1. A child was the illegitimate, unacknowledged child of the decedent. The decedent died intestate, leaving neither spouse nor any children other than the illegitimate child. The state's law of intestate succession provides that an unacknowledged illegitimate child may not inherit his father's property. The spouse, all other blood relations, and the state are preferred as heirs over the unacknowledged illegitimate child. The illegitimate child filed suit in an appropriate court alleging that the state statute barring an illegitimate child from sharing in a parent's estate is invalid, and that he should be declared a lawful heir to his father's estate. In challenging the validity of the state statute, the illegitimate child's strongest argument would be that

A. there is no rational basis for preferring as heirs collateral relatives and even the state over unacknowledged children, and, therefore, the law violates the equal protection clause.

B. he has been deprived of property without due process because his fundamental right to inherit has been compromised without a compelling state need.

C. it violates the privileges and immunities clause of the Fourteenth Amendment.

D. it is a denial of procedural due process because it does not give the unacknowledged illegitimate child an opportunity to prove paternity.

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A. the authority of a state over the disposition of decedents' property located in the state is not affected by the Constitution of the United States.

B. a statute prescribing the means of disposing of the property of intestate decedents does not constitute invidious discrimination.

C. inheritance under intestate succession laws is a privilege, not a right, and therefore is not protected as property under the due process clause.

D. its interest in promoting family life and in encouraging the formal acknowledgment of paternity is an important governmental interest.

1. In an effort to relieve serious and persistent unemployment in an industrialized state, its legislature enacted a statute requiring every business with annual sales in the state of over one million dollars to purchase goods and/or services in the state equal in value to at least half of the annual sales in the state of the business. Which of the following constitutional provisions is the strongest basis on which to attack this statue?

A. The due process clause of the Fourteenth Amendment

B. The equal protection clause

C. The commerce clause

D. The privileges and immunities clause of the Fourteenth Amendment

1. The owner of a milk container manufacturing firm sought to focus public attention on the milk packaging law of a certain state in order to have it repealed. On a weekday at 12:00 noon, he delivered an excited, animated, and loud harangue on the steps of the State Capitol in front of the main entryway. An audience of 200 onlookers, who gathered on the steps, heckled him and laughed as he delivered his tirade. The owner of the manufacturing firm repeatedly stated, gesturing expressively and making faces, that "the g-ddamned milk packaging law is stupid," and that "I will strangle every one of those g-ddamned legislators I can get hold of because this law they created proves they are all too dumb to live." After about fifteen minutes the owner of the manufacturing firm stopped speaking, and the amused crowd dispersed.

There is one relevant statute of the state which prohibits "all speech making, picketing, and public gatherings of every sort on the Capitol steps in front of the main entryway between 7:45 a.m.-8:15 a.m., 11:45 a.m.-12:15 p.m., 12:45 p.m.-1:15 p.m., and 4:45 p.m.-5:15 p.m. on Capitol working days."

If the owner of the milk container manufacturing firm is prosecuted under the "Capitol Steps" statute and defends on constitutional grounds, which of the following best describes the proper burden of proof?

A. The challenger would have to prove that the state did not have a rational basis for enacting this statute.

B. The challenger would have to prove that the state did not have a compelling need for this statute or that it had less restrictive means by which it could satisfy that need.

C. The state would have to prove that it had a rational basis for enacting this statute.

D. The state would have to prove that it had an important government interest for enacting this statute and that the means by which the statute satisfied that interest were narrowly tailored.

1. The owner of a milk container manufacturing firm sought to focus public attention on the milk packaging law of a certain state in order to have it repealed. On a weekday at 12:00 noon, he delivered an excited, animated, and loud harangue on the steps of the State Capitol in front of the main entryway. An audience of 200 onlookers, who gathered on the steps, heckled him and laughed as he delivered his tirade. The owner of the manufacturing firm repeatedly stated, gesturing expressively and making faces, that "the g-ddamned milk packaging law is stupid," and that "I will strangle every one of those g-ddamned legislators I can get hold of because this law they created proves they are all too dumb to live." After about fifteen minutes the owner of the milk container manufacturing firm stopped speaking, and the amused crowd dispersed.

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Which of the following possible plaintiffs other than the owner of the milk container manufacturing firm would be most likely to obtain adjudication in a federal court on the validity of the "Capitol Steps" statute?

A. A state taxpayer in the highest tax bracket

B. A politician intending to make a campaign speech on the Capitol steps during a prohibited time

C. A legislator who voted against the statute because he thought it unconstitutional

D. An organization whose purpose was "to seek judicial invalidation of unconstitutional laws"

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A. constitutional both on its face and as applied to the owner of the milk container manufacturing firm.

B. constitutional on its face, but unconstitutional as applied to the owner of the milk container manufacturing firm.

C. unconstitutional on its face, because it applied to all working days.

D. unconstitutional on its face, because it concerns the State Capitol.

1. X-- The owner of a milk container manufacturing firm sought to focus public attention on the milk packaging law of a certain state in order to have it repealed. On a weekday at 12:00 noon, he delivered an excited, animated, and loud harangue on the steps of the State Capitol in front of the main entryway. An audience of 200 onlookers, who gathered on the steps, heckled him and laughed as he delivered his tirade. The owner of the manufacturing firm repeatedly stated, gesturing expressively and making faces, that "the g-ddamned milk packaging law is stupid," and that "I will strangle every one of those g-ddamned legislators I can get hold of because this law they created proves they are all too dumb to live." After about fifteen minutes the owner of the milk container manufacturing firm stopped speaking, and the amused crowd dispersed.There are two relevant statutes of the state. The first statute prohibits "all speech making, picketing, and public gatherings of every sort on the Capitol steps in front of the main entryway between 7:45 a.m.-8:15 a.m., 11:45 a.m.-12:15 p.m., 12:45 p.m.-1:15 p.m., and 4:45 p.m.-5:15 p.m. on Capitol working days."

A second state statute punished "any person who shall intentionally threaten the life or safety of any public official for any act which he performed as part of his public office." Which of the following statements is correct concerning the possible punishment of the owner of the milk container manufacturing firm under the second statute?

A. The statute is unconstitutional on its face.

B. The statute is constitutional on its face, but the owner of the manufacturing firm could not constitutionally be punished under it for this speech.

C. The owner of the manufacturing firm could constitutionally be punished under the statute for his speech.

D. The owner of the manufacturing firm could constitutionally be punished under the statute for his speech, but only if one or more legislators were actually present when he delivered it.

1. X-- The owner of a milk container manufacturing firm sought to focus public attention on the milk packaging law of a certain state in order to have it repealed. On a weekday at 12:00 noon, he delivered an excited, animated, and loud harangue on the steps of the State Capitol in front of the main entryway. An audience of 200 onlookers, who gathered on the steps, heckled him and laughed as he delivered his tirade. The owner of the manufacturing firm repeatedly stated, gesturing expressively and making faces, that "the g-ddamned milk packaging law is stupid," and that "I will strangle every one of those g-ddamned legislators I can get hold of because this law they created proves they are all too dumb to live." After about fifteen minutes the owner of the milk container manufacturing firm stopped speaking, and the amused crowd dispersed. There are three relevant statutes of the state. The first statute prohibits "all speech making, picketing, and public gatherings of every sort on the Capitol steps in front of the main entryway between 7:45 a.m.-8:15 a.m., 11:45 a.m.-12:15 p.m., 12:45 p.m.-1:15 p.m., and 4:45 p.m.-5:15 p.m. on Capitol working days."

A second state statute punishes "any person who shall intentionally threaten the life or safety of any public official for any act which he performed as part of his public office."

A third state statute, enacted in 1880, makes criminal "the utterance in any public place of any blasphemy or sacrilege." Assume that there have been only a few recorded prosecutions under the 1880 statute. The milk container manufacturing firm owner is charged with violating its proscriptions. The charge is based wholly on the speech he delivered on the steps of the State Capitol.

Which of the following constitutional defenses to this prosecution under the 1880 statute would be the LEAST likely to succeed?

A. This statute is vague and, therefore, violates the due process clause of the Fourteenth Amendment.

B. This statute is an establishment of religion and, therefore, violates the due process clause of the Fourteenth Amendment.

C. Application of this statute to the owner of the manufacturing firm denies him equal protection of the laws in violation of the Fourteenth Amendment.

D. Application of this statute to the owner of the manufacturing firm denies him freedom of speech in violation of the Fourteenth Amendment.

1. A real estate company acquired a large tract of land upon which the company developed a mobile home subdivision. The tract was divided into 60 lots, appropriate utilities were installed, and a plat of the entire tract, including a Declaration of Restrictions, was properly drawn and recorded. The Declaration of Restriction included the following: "3. Ownership and/or occupancy are restricted to persons 21 years of age or over, one family per lot." As the separate lots were sold, the deed to each lot included the following provision: "As shown on recorded plat [properly identified by page and plat book reference] and subject to the restrictions therein contained." One of the lots was purchased by a man, who now resides in a mobile home on the lot together with his wife and two children, aged 11 and 13. Other lot owners in the subdivision brought action against the man to enjoin further occupancy by the children under 21 years of age. If judgment is for the man, the issue that most likely will determine the case will be whether

A. the mobile home is treated as personalty or realty.

B. the restriction constitutes an unlawful restraint on alienation.

C. enforcement of the restriction is considered a violation of the equal protection clause of the Fourteenth Amendment of the United States Constitution.

D. the terms of the restriction are expressly repeated verbatim in the man's deed.

1. The Federal Automobile Safety Act established certain safety and performance standards for all automobiles manufactured in the United States. The Act creates a five-member "Automobile Commission" to investigate automobile safety, to make recommendations to Congress for new laws, to make further rules establishing safety and performance standards, and to prosecute violations of the act. The chairman is appointed by the President, two members are selected by the President pro tempore of the Senate, and two by the Speaker of the House of Representatives. A minor United States car manufacturer seeks to enjoin enforcement of the Commission's rules.

The best argument that the car manufacturer can make is that

A. legislative power may not be delegated by Congress to an agency in the absence of clear guidelines.

B. the commerce power does not extend to the manufacture of automobiles not used in interstate commerce.

C. the car manufacturer is denied due process of law because it is not represented on the Commission.

D. the Commission lacks authority to enforce its standards because not all of its members were appointed by the President.

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A minor United States car manufacturer seeks to enjoin enforcement of the Commission's rules.

The appropriate decision for the court is to

A. allow the Commission to continue to investigating automobile safety and making recommendations to Congress.

B. allow the Commission to prosecute violations of the act but not allow it to issue rules.

C. forbid the Commission to take any action under the act.

D. order that all members of the Commission be appointed by the President by and with the advice and consent of the Senate.

1. In 1993 a woman was appointed to a tribunal established pursuant to a congressional act. The tribunal's duties were to review claims made by veterans and to make recommendations to the Veterans Administration on their merits. Congress later abolished the tribunal and established a different format for review of such claims. The woman was offered a federal administrative position in the same bureau at a lower salary. She thereupon sued the government on the ground that Congress may not remove a federal judge from office during good behavior nor reduce her compensation during her continuance in office. Government attorneys filed a motion to dismiss the action. The court should

A. deny the motion because of the independence of the federal judiciary constitutionally guaranteed by Article III.

B. deny the motion, because the woman has established a property right to her federal employment on the tribunal.

C. grant the motion, because the woman lacked standing to raise the question.

D. grant the motion, because the woman was not a judge under Article III and is not entitled to life tenure.

1. A member of the legislature of a state is prosecuted in federal court for a violation of the Federal Securities Act arising out of the activities of a state-owned corporation. The legislator's defense includes a claim that the alleged wrongful acts were committed in the course of legislative business and are immune from scrutiny. Which of the following is the strongest constitutional argument supporting the legislator?

A. Because of doctrines of federalism, federal law generally cannot be applied to state legislators acting in the course of their official duties.

B. State legislators enjoy the protection of the speech and debate clause of the United States Constitution.

C. A federal court must follow state law respecting the scope of legislative immunity.

D. To apply the Federal Securities Act to state legislators would violate the due process clause.

1. X-- A member of the state legislature prosecuted in federal court for a violation of the Federal Securities Act arising out of the activities of a state-owned corporation. A legislator's defense includes a claim that the alleged wrongful acts were committed in the course of legislative business and are immune from scrutiny. Which of the following is the strongest argument against the legislator's constitutional defense?

A. Congress has plenary power under the commerce clause.

B. Congress may impose liability on state legislators as a means of guaranteeing a republican form of government.

C. Congress does not significantly interfere with state government by applying this law to state legislators.

D. Congress may impose liability on state legislators by virtue of the necessary and proper clause.

1. X-- A newly-enacted state criminal statute provides, in its entirety, "No person shall utter to another person in a public place any annoying, disturbing or unwelcome language." The defendant followed an elderly woman for three blocks down a public street, yelling in her ear offensive four-letter words. The woman repeatedly asked the defendant to leave her alone, but he refused. In the subsequent prosecution of the defendant, the first under this statute, the defendant

A. can be convicted.

B. cannot be convicted, because speech of the sort described here may not be punished by the state because of the First and Fourteenth Amendments.

C. cannot be convicted, because, though his speech here may be punished by the state, the state may not do so under this statute.

D. cannot be convicted, because the average user of a public street would think his speech/action here was amusing and ridiculous rather than "annoying," etc.

1. Congressional legislation authorizing marriages and divorces as a matter of federal law on prescribed terms and conditions could most easily be upheld if it

A. applied only to marriages and divorces in which at least one of the parties is a member of the armed forces.

B. applied only to marriages performed by federal judges and to divorces granted by federal courts.

C. implemented an executive agreement seeking to define basic human rights.

D. applied only to marriages and divorces in the District of Columbia.

1. X--Assume you are counsel to the state legislative committee that is responsible for real estate laws in your state.

The committee wants you to draft legislation to make all restrictions on land use imposed by deeds (now or hereafter recorded) unenforceable in the future so that public landuse planning through zoning will have exclusive control in matters of land use. Which of the following is LEAST likely to be a consideration in the drafting of such legislation?

A. Compensation for property rights taken by public authority

B. Impairment of contract

C. Sovereign immunity

D. Police power

1. X-- Congress provides by statute that any state that fails to prohibit automobile speeds of over 55 miles per hour on highways within the state shall be denied all federal highway construction funding. One of the richest and most highway-oriented states in the country refuses to enact such a statute. Which of the following potential plaintiffs is most likely to be able to obtain a judicial determination of the validity of this federal statute?

A. A taxpayer of the United States and the state, who wants his state to get its fair share of federal tax monies for highways, and fears that, if it does not, his state taxes will be increased to pay for the highway construction in the highway-oriented state that federal funds would have financed.

B. Contractors who have been awarded contracts by the highway-oriented state for specific highway construction projects, which contracts are contingent on payment to the state of federal highway construction funds to which it would otherwise be entitled.

C. An automobile owner who lives in the state and regularly uses its highway system.

D. An organization dedicated to keeping the federal government within the powers granted it by the Constitution.

1. X-- Congress provides by statute that any state that fails to prohibit automobile speeds of over 55 miles per hour on highways within the state shall be denied all federal highway construction funding. One of the richest and most highway-oriented states in the country refuses to enact such a statute. The strongest argument that can be made in support of the constitutionality of this federal statute is that

A. the states ceded their authority over highways to the national government when the states accepted federal grants to help finance their highways.

B. the federal government can regulate the use of the state highways without limitation because the federal government paid for some of their construction costs.

C. Congress could reasonably believe that the 55 mile-an-hour speed limit will assure that the federal money spent on highways results in greater benefit than harm to the public.

D. a recent public opinion survey demonstrated that 90 percent of the people in this country support a 55 mile-an-hour speed limit.

1. X-- Congress provides by statute that any state that fails to prohibit automobile speeds of over 55 miles per hour on highways within the state shall be denied all federal highway construction funding. One of the richest and most highway-oriented states in the country refuses to enact such a statute. The federal statute relating to disbursement of highway funds conditioned on the 55 mile-an-hour speed limit is probably

A. unconstitutional.

B. constitutional only on the basis of the spending power.

C. constitutional only on the basis of the commerce power.

D. constitutional on the basis of both the spending power and the commerce power.

1. X-- A city adopted an ordinance providing that street demonstrations involving more than 15 persons may not be held in commercial areas during "rush" hours. "Exceptions" may be made to the prohibition "upon 24-hour advance application for an approval by the police department." The ordinance also imposes sanctions on any person "who shall, without provocation, use to or of another, and in his presence, opprobrious words or abusive language tending to cause a breach of the peace." The ordinance has not yet had either judicial or administrative interpretation. Which of the following is the strongest argument for the unconstitutionality of both parts of the ordinance on their face?

A. No type of prior restraint may be imposed on speech in public places.

B. Laws regulating, by their terms, expressive conduct or speech may not be overbroad or unduly vague.

C. The determination as to whether public gatherings may be lawfully held cannot be vested in the police.

D. The right of association in public places without interference is assured by the First and Fourteenth Amendments.

1. X-- While the defendant was in jail on a pending charge, his landlord called the police because rent had not been paid and because he detected a disagreeable odor coming from the defendant's apartment into the hallways. The police officer who responded to the call knew that the defendant was in jail. He recognized the stench coming from the defendant's apartment as that of decomposing flesh and, without waiting to obtain a warrant and using the landlord's passkey, entered the apartment with the landlord's consent. The lease to these premises gave the landlord a right of entry, at any reasonable hour, for the purpose of making repairs. The police officer found a large trunk in the bedroom which seemed to be the source of the odor. Upon breaking it open, he found the remains of the defendant's former mistress.

If the defendant undertakes to challenge the search of his apartment, he has

A. standing, because the items seized in the search were incriminating in nature.

B. standing, because he still has a sufficient interest in the apartment even while in jail.

C. no standing, because his landlord authorized the search.

D. no standing, because he was out of the apartment when it occurred and had not paid his rent.

1. A high priest of a small cult of Satan worshippers lived in a small city. As a part of the practice of their religious beliefs, a cat was required to be sacrificed to the glory of Satan after a live dissection of the animal in which it endured frightful pain. In the course of such a religious sacrifice, the priest was arrested on the complaint of the local Humane Society and charged under a statute punishing cruelty to animals. On appeal, a conviction of the priest probably will be

A. sustained on the grounds that belief in or worship of Satan does not enjoy constitutional protection.

B. sustained on the grounds that sincere religious belief is not an adequate defense on these facts.

C. overturned on the grounds that the constitutionally guaranteed freedom of religion and its expression was violated.

D. overturned on the grounds that the beliefs of the cult members in the need for the sacrifice might be reasonable, and their act was religious.

1. An appropriations act passed by Congress over the President's veto directs that one billion dollars "shall be spent" by the federal government for the development of a new military weapons system, which is available only from the Arms Corporation. On the order of the President, the Secretary of Defense refuses to authorize a contract for purchase of the weapons system. The Arms Corporation sues the Secretary of Defense alleging an unlawful withholding of these federal funds. The strongest constitutional argument for the Arms Corporation is that

A. passage of an appropriation over a veto makes the spending mandatory.

B. Congress' power to appropriate funds includes the power to require that the funds will be spent as directed.

C. the President's independent constitutional powers do not specifically refer to spending.

D. the President's power to withhold such funds is limited to cases where foreign affairs are directly involved.

1. A state has enacted a new election code designed to increase voter responsibility in the exercise of the franchise and to enlarge citizen participation in the electoral process. None of its provisions conflicts with federal statutes. Which of the following is the strongest reason for finding unconstitutional a requirement in the state code that each voter must be literate in English?

A. The requirement violates Article I Section 2 of the Constitution, which provides that representatives to Congress be chosen "by the People of the several States."

B. The requirement violates Article I, Section 4 of the Constitution, which gives Congress the power to "make or alter" state regulations providing for the "Times" and "Manner" of holding elections for senators and representatives.

C. the requirement violates the due process clause of the Fourteenth Amendment.

D. The requirement violates the equal protection clause of the Fourteenth Amendment.

1. X-- A state has enacted a new election code designed to increase voter responsibility in the exercise of the franchise and to enlarge citizen participation in the electoral process. None of its provisions conflicts with federal statutes. The state election code provides that in a special-purpose election for directors of a state watershed improvement district, the franchise is limited to landowners within the district, because they are the only ones directly affected by the outcome. Each vote is weighted according to the proportion of the holding of that individual in relation to the total affected property. The best argument in support of the statute and against the application of the "one man, one vote" principle in this situation is that the principle

A. applies only to elections of individuals to statewide public office.

B. does not apply where property rights are involved.

C. does not apply, because the actions of such a district principally affect landowners.

D. does not apply, because of rights reserved to the states by the Tenth Amendment.

1. A state provides by statute, "No person may be awarded any state construction contract without agreeing to employ only citizens of the state and of the United States in performance of the contract."

If the state statute is attacked as violating the commerce clause, which of the following defenses is the WEAKEST?

A. The statute will help protect the workers of the state from competition by foreign workers.

B. The statute will help assure that workers with jobs directly affecting the performance of public contracts are dedicated to their jobs.

C. The statute will help assure a continuously available and stable work force for the execution of public contracts.

D. The statute will help assure that only the most qualified individuals work on public contracts.

1. A state provides by statute, "No person may be awarded any state construction contract without agreeing to employ only citizens of the state and of the United States in performance of the contract. "Suppose the state supreme court declares the statute to be unconstitutional on the grounds that it violates the privileges and immunities clause of the Fourteenth Amendment to the federal constitution and the equal protection clause of the state constitution. If the state seeks review in the United States Supreme Court, which of the following statements is most accurate?

A. The United States Supreme Court may properly review that decision by certiorari only.

B. The United States Supreme Court may properly review the decision by appeal only.

C. The United States Supreme Court may properly review that decision by appeal or certiorari.

D. The United States Supreme Court may not properly review that decision.

1. X-- As part of a comprehensive federal aid-to-education program, Congress included the following provisions as conditions for state receipt of federal funds: (1) Whenever textbooks are provided to students without charge, they must include no religious instruction and must be made available on the same terms to students in all public and private schools accredited by the state educational authority. (2) Salary supplements can be paid to teachers in public and private schools, up to ten percent of existing salary schedules, where present compensation is less than the average salary for persons of comparable training and experience, provided that no such supplement is paid to any teacher who instructs in religious subjects. (3) Construction grants can be made toward the cost of physical plant at private colleges and universities, provided that no part of the grant is used for buildings in which instruction in religious subject matters is offered. A federal taxpayer challenges the provision that allows the distribution of free textbooks to students in a private school where religious instruction is included in the curriculum. On the question of the adequacy of the taxpayer's standing to raise the constitutional question, the most likely result is that standing will be

A. sustained, because any congressional spending authorization can be challenged by any taxpayer.

B. sustained, because the challenge to the exercise of congressional spending power is based on a claimed violation of specific constitutional limitations on the exercise of such power.

C. denied, because there is insufficient nexus between the taxpayer and the challenged expenditures.

D. denied, because, in the case of private schools, no state action is involved.

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A federal taxpayer challenges the salary supplements for teachers in private schools where religious instruction is included in the curriculum. On the substantive constitutional issue, the most likely result is that the salary supplements will be

A. sustained, because the statute provides that no supplements will be made to teachers who are engaged in any religious instruction.

B. sustained, because to distinguish between private and public school teachers would violate the religious freedom clause of the First Amendment.

C. held unconstitutional, because some religions would benefit disproportionately.

D. held unconstitutional, because the policing of the restriction would amount to an excessive entanglement with religion.

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A federal taxpayer also challenges the construction grants to church-operated private colleges and universities. The most likely result is that the construction grants will be

A. sustained, because aid to one aspect of an institution of higher education not shown to be pervasively sectarian does not necessarily free it to spend its other resources for religious purposes.

B. sustained, because bricks and mortar do not aid religion in a way forbidden by the establishment clause of the First Amendment.

C. held unconstitutional, because any financial aid to a church-operated school strengthens the religious purposes of the institution.

D. held unconstitutional, because the grants involve or cause an excessive entanglement with religion.

1. A state accredits both public and private schools, licenses their teachers, and supplies textbooks on secular subjects to all such schools. A private school that offers elementary and secondary education in the state denies admission to all non-Caucasians. In a suit to enjoin as unconstitutional the continued racially exclusionary admissions policy of the school, which of the following is the strongest argument AGAINST the school?

A. Because education is a public function, the school may not discriminate on racial grounds.

B. The state is so involved in school regulation and support that the equal protection clause of the Fourteenth Amendment is applicable to the school.

C. The state is constitutionally obligated to eliminate segregation in all public and private educational institutions within the state.

D. Any school with teachers who are licensed by the state is forbidden to discriminate on racial grounds.

1. A state statute requires that all buses which operate as common carriers on the highways of the state shall be equipped with seat belts for passengers. An interstate carrier challenges the validity of the statute and the right of the state to make the requirement. What is the best basis for a constitutional challenge by the carrier?

A. Violation of the due process clause of the Fourteenth Amendment

B. Violation of the equal protection clause of the Fourteenth Amendment

C. Unreasonable burden on interstate commerce

D. Difficulty of enforcement

1. X-- A state college instructor was discharged because of her refusal to comply with a state statute requiring public employees to swear or affirm that they will (1) "uphold and defend" the state and federal constitutions and (2) "oppose the overthrow" of the state or federal governments "by force, violence, or by any improper method." The statute had previously been held constitutional by the state supreme court. The instructor filed a complaint in federal district court alleging the unconstitutionality of the statute and seeking an injunction and damages.

Which of the following is the state's strongest argument for sustaining the validity of the statute?

A. Government employment is a privilege, not a right.

B. The oath as a whole is only a commitment to abide by constitutional processes.

C. The First and Fourteenth Amendments permit a state to fix the conditions of state employment.

D. The state has a compelling need to keep disloyal persons out of governmental positions of trust.

1. All lawyers practicing in a particular state must be members of the State Bar Association, by order of the state supreme court. Several state officials serve on the Bar Association's Board of Bar Governors. The Board of Bar Governors authorizes the payment of dues for two staff members to the Cosmopolitan Club, a private dining club licensed to sell alcoholic beverages. The Cosmopolitan Club is frequented by affluent businessmen and professionals and by legislators. It is generally known that the purpose of the membership of the Bar Association staff is to enable them to go where members of the "elite" meet and to lobby for legislation in which the Bar Association is interested. The State Bar Association has numerous committees and subcommittees concerned with family law, real estate law, unauthorized practice, etc., and its recommendations often influence state policy. Some committee meetings are held at the Cosmopolitan Club. The club is known to have rules which restrict membership by race, religion, and sex.

The plaintiffs, husband and wife, who are members of the State Bar Association, petition the Board of Bar Governors to adopt a resolution prohibiting the payment of club dues to and the holding of meetings of the Bar Association or its committees at places which discriminate on the basis of race, religion, or sex. After substantial public discussion, the Board of Bar Governors, by close vote, fails to pass such a resolution. These events receive extensive coverage in the local newspapers. The plaintiffs bring an action in federal court seeking an injunction against such payments and the holding of meetings in such places as the Cosmopolitan Club.

The strongest argument for the plaintiffs is

A. private rights to discriminate and associate freely must defer to a public interest against discrimination on the basis of race, religion, or sex.

B. the failure of the State Bar Association to pass a resolution forbidding discrimination on the basis of race, religion, or sex constitutes a denial of equal protection.

C. the State Bar Association is an agency of the state and its payment of dues to such private clubs promotes discrimination on the basis of race, religion, and sex.

D. the State Bar Association's payment of dues to such private clubs promotes discrimination on the basis of race, religion, and sex.

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Which of the following actions should a federal district court take with respect to jurisdiction?

A. Hear the case on the merits, because a federal claim is presented.

B. Hear the case on the merits, because the expenditure of state funds in support of segregation is forbidden by the Fifth Amendment.

C. Abstain from jurisdiction, because the constitutional issue should be litigated first in a state court.

D. Dismiss the case for lack of jurisdiction, because the issue of Bar Association activities is solely within the domain of state law.

1. X-- A state enacts the Young Adult Marriage Counseling Act, which provides that, before any persons less than 30 years of age may be issued a marriage license, they must receive at least five hours of marriage counseling from a state-licensed social worker. This counseling is designed to assure that applicants for marriage licenses know their legal rights and duties in relation to marriage and parenthood, understand the "true nature" of the marriage relationship, and understand the procedures for obtaining divorces. A man, aged 25, contemplated marrying a woman, aged 25. Both are residents of the state. The man has not yet proposed to the woman because he is offended by the counseling requirement.The man sues in court seeking a declaratory judgment that the Young Adult Marriage Counseling Act is unconstitutional. Which of the following is the clearest ground for dismissal of this action by the court?

A. The man and woman are residents of the same state.

B. No substantial federal question is presented.

C. The suit presents a nonjusticiable political question.

D. The suit is unripe.

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In a case in which the constitutionality of the Young Adult Marriage Counseling Act is in issue, the burden of persuasion will probably be on the

A. person challenging the law, because there is a strong presumption that elected state legislators acted properly.

B. person challenging the law, because the Tenth Amendment authorized states to determine the conditions on which they issue marriage licenses.

C. state, because there is a substantial impact on the right to marry, and that right is fundamental.

D. state, because there is a substantial impact in the discrete and insular class of young adults.

1. X-- A state statute made it a misdemeanor to construct any building of more than five stories without an automatic fire sprinkler system. A local construction company built in the state a ten-story federal office building. It constructed the building according to the precise specifications of a federal contract authorized by federal statutes. Because the building was built without the automatic fire sprinkler system required by state law, the state prosecuted the private contractor.

Which of the following is the company's strongest defense to that prosecution?

A. The state sprinkler requirement denies the company property or liberty without due process.

B. The state sprinkler requirement denies the company equal protection of the laws.

C. As applied, the state sprinkler requirement violates the supremacy clause.

D. As applied, the state sprinkler requirement violates the obligation of contracts clause.

1. X-- A federal statute requires United States civil service employees to retire at age 75. However, that statute also states that civil service employees of the armed forces must retire at age 65.

The plaintiff, a 65-year-old service employee of the Department of the Army, seeks a declaratory judgment that would forbid his mandatory retirement until age 75.The strongest argument that the plaintiff can make to invalidate the requirement that he retire at age 65 is that the law

A. denies him a privilege or immunity of national citizenship.

B. deprives him of a property right without just compensation.

C. is not within the scope of any of the enumerated powers of Congress in Article I, Section 8.

D. invidiously discriminates against him on the basis of age in violation of the Fifth Amendment.

1. Congress passes a law regulating the wholesale and retail prices of "every purchase or sale of oil, natural gas, and electric power made in the United States." The strongest argument in support of the constitutionality of this statute is that

A. the Constitution expressly empowers Congress to enact laws for "the general welfare."

B. Congress has the authority to regulate such products' interstate transportation and importation from abroad.

C. Congress may regulate the prices of every purchase and sale of goods and services made in this country, because commerce includes buying and selling.

D. in inseverable aggregates, the domestic purchases or sales of such products affect interstate or foreign commerce.

1. Congress enacted a statute providing that persons may challenge a state energy law on the ground that it is in conflict with the federal Constitution in either federal or state court. According to this federal statute, any decision by a lower state court upholding a state energy law against a challenge based on the federal constitution may be appealed directly to the United States Supreme Court. The provisions of this statute that authorize direct United States Supreme Court review of specified decisions rendered by lower state courts are

A. constitutional, because congressional control over questions of energy usage is plenary.

B. constitutional, because Congress may establish the manner in which the appellate jurisdiction of the United States Supreme Court is exercised.

C. unconstitutional, because they infringe on the sovereign right of states to have their supreme courts review decisions of their lower state courts.

D. unconstitutional, because under Article III of the Constitution the United States Supreme Court does not have authority to review directly decisions of lower state courts.

1. Congress enacts a criminal statute prohibiting "any person from interfering in any way with any right conferred on another person by the equal protection clause of the Fourteenth Amendment."

Application of this statute to a private citizen, would be most clearly constitutional if the citizen, with threats of violence, coerces

A. a public school teacher to exclude black pupils from her class, solely because of their race.

B. black pupils, solely because of their race, to refrain from attending a privately owned and operated school licensed by the state.

C. the bus driver operating a free school bus service under the sponsorship of a local church to refuse to allow black pupils on the bus, solely because of their race.

D. the federal official in charge of distributing certain federal benefits directly to students to refrain from distributing them to black pupils, solely because of their race.

1. A federal statute sets up a program of dental education. The statute provides that the Secretary of Health and Human Services "shall, on a current basis, spend all of the money appropriated for this purpose" and "shall distribute the appropriated funds" by a specified formula to state health departments that agree to participate in the program. In the current year Congress has appropriated $100 million for expenditure on this program. In order to ensure a budget surplus in the current fiscal year, the President issued an executive order directing the various cabinet secretaries to cut expenditures in this year by 10 percent in all categories. He also orders certain programs to be cut more drastically because he believes that "they are not as important to the general welfare as other programs." The President identifies the dental education program as such a program and orders it to be cut by 50 percent. Assume that no other federal statutes are relevant. To satisfy constitutional requirements, how much money must the Secretary of Health and Human Services distribute for the dental education program this year?

A. $50 million, because the President could reasonably determine that this program is not as important to the general welfare as other programs.

B. $50 million, because as chief executive the President has the constitutional authority to control the actions of all of his subordinates by executive order.

C. $90 million, because any more drastic cut for the program would be a denial of equal protection to beneficiaries of this program as compared to beneficiaries of other programs.

D. $100 million, because the President may not unilaterally suspend the effect of a valid federal statute imposing a duty to spend appropriated monies.

1. X-- A state statute provides that persons moving into a community to attend a college on a full-time basis may not vote in any elections for local or state officials that are held in that community. Instead, the statute provides that for voting purposes all such persons shall retain their residence in the community from which they came. In that state the age of majority is 18.

Which of the following is the strongest argument to demonstrate the unconstitutionality of this state statute?

A. A state does not have an interest that is sufficiently compelling to justify the exclusion from voting of an entire class of persons.

B. There are less restrictive means by which the state could assure that only actual residents of a community vote in its elections.

C. Most persons moving to a community to attend college full-time are likely to have attained the age of majority under the laws of this state.

D. On its face this statute impermissibly discriminates against interstate commerce.

1. Congress enacts a statute punishing "each and every conspiracy entered into by any two or more persons for the purpose of denying black persons housing, employment, or education, solely because of their race." Under which of the following constitutional provisions is the authority of Congress to pass such a statute most clearly and easily justifiable?

A. The obligation of contracts clause

B. The general welfare clause of Article I, Section 8

C. The Thirteenth Amendment

D. The Fourteenth Amendment

1. X-- A federal criminal law makes it a crime for any citizen of the United States not specially authorized by the President to negotiate with a foreign government for the purpose of influencing the foreign government in relation to a dispute with the United States. The strongest constitutional ground for the validity of this law is that

A. under several of its enumerated powers, Congress may legislate to preserve the monopoly of the national government over the conduct of United States foreign affairs.

B. the President's inherent power to negotiate for the United States with foreign countries authorizes the President, even in the absence of statutory authorization, to punish citizens who engage in such negotiations without permission.

C. the law deals with foreign relations and therefore is not governed by the First Amendment.

D. federal criminal laws dealing with international affairs need not be as specific as those dealing with domestic affairs.

1. Pursuant to a state statute, a student applied for tuition assistance to attend the Institute of Liberal Arts. He was qualified for such assistance in every way except that he was a resident alien who did not intend to become a United States citizen. The state's restriction of such grants to United States citizens or resident aliens seeking such citizenship is probably

A. valid, because aliens are not per se "a discrete and insular minority" specially protected by the Fourteenth Amendment.

B. valid, because the line drawn by the state for extending aid was reasonably related to a legitimate state interest.

C. invalid, because the justifications for this restriction are insufficient to overcome the burden imposed on a state when it uses such an alienage classification.

D. invalid, because the privileges and immunities clause of Article IV does not permit such an arbitrary classification.

1. Congress passes an act requiring that all owners of bicycles in the United States register them with a federal bicycle registry. The purpose of the law is to provide reliable evidence of ownership to reduce bicycle theft. No fee is charged for the registration. Although most stolen bicycles are kept or resold by the thieves in the same cities in which the bicycles were stolen, an increasing number of bicycles are being taken to cities in other states for resale.

Is this act of Congress constitutional?

A. Yes, because Congress has the power to regulate property for the general welfare.

B. Yes, because Congress could determine that in inseverable aggregates bicycle thefts affect interstate commerce.

C. No, because most stolen bicycles remain within the state in which they were stolen.

D. No, because the registration of vehicles is a matter reserved to the states by the Tenth Amendment.

1. X-- A state statute flatly bans the sale or distribution of contraceptive devices to minors. A national retailer of drugs and related items is charged with violating the statute. Which of the following is the strongest constitutional argument the retailer could make in defending itself against prosecution for violation of this statute?

A. The statute constitutes an undue burden on interstate commerce.

B. The statute denies minors one of their fundamental rights without due process.

C. The statute denies the retailer a privilege or immunity of state citizenship.

D. The statute violates the First Amendment right to freedom of religion because it regulates morals.

1. Congress enacted a law prohibiting the killing, capture, or removal of any form of wildlife upon or from any federally owned land. Which of the following is the most easily justifiable source of national authority for this federal law?

A. The commerce clause of Article I, Section 8

B. The privileges and immunities clause of Article IV

C. The enforcement clause of the Fourteenth Amendment

D. The property clause of Article IV, Section 3

1. X-- Congress enacts a law providing that all disagreements between the United States and a state over federal grant-in-aid funds shall be settled by the filing of a suit in the federal district court in the affected state. "The judgment of that federal court shall be transmitted to the head of the federal agency dispensing such funds who, if satisfied that the judgment is fair and lawful, shall execute the judgment according to its terms." This law is

A. constitutional, because disagreements over federal grant-in-aid funds necessarily involve federal questions within the judicial power of the United States.

B. constitutional, because the spending of federal monies necessarily includes the authority to provide for the effective settlement of disputes involving them.

C. unconstitutional, because it vests authority in the federal court to determine a matter prohibited to it by the Eleventh Amendment.

D. unconstitutional, because it vests authority in a federal court to render an advisory opinion.

1. The President of the United States recognizes the country of Ruritania and undertakes diplomatic relations with its government through the Secretary of State. Ruritania is governed by a repressive totalitarian government. In an appropriate federal court, a citizen brings a suit against the President and Secretary of State to set aside this action on the ground that it is inconsistent with the principles of our constitutional form of government. The citizen has a lucrative contract with the United States Department of Commerce to provide commercial information about Ruritania. The contract expressly terminates, however, "when the President recognizes the country of Ruritania and undertakes diplomatic relations with its government."

Which of the following is the most proper disposition of the citizen's suit by the federal court?

A. Suit dismissed, because the citizen does not have standing to bring this action.

B. Suit dismissed, because there is not diversity between the citizen and the defendants.

C. Suit dismissed, because it presents a nonjusticiable political question.

D. Suit decided on the merits.

1. A state statute requires the permanent removal from parental custody of any child who has suffered "child abuse." That term is defined to include "corporal punishment of any sort." A father very gently spanks his six-year-old son on the buttocks whenever he believes that spanking is necessary to enforce discipline on him. Such a spanking occurs not more than once a month and has never physically harmed the child. The state files suit under the statute to terminate the father's parental rights solely because of these spankings. The father defends only on the ground that the statute in question is unconstitutional as applied to his admitted conduct. In light of the nature of the rights involved, which of the following is the most probable burden of persuasion on this constitutional use?

A. The state has the burden of persuading the court that the application of this statute to the father is necessary to accomplish a compelling state interest.

B. The state has the burden of persuading the court that the application of this statute to the father is rationally related to a legitimate state interest.

C. The father has the burden of persuading the court that the application of this statute to him is not necessary to accomplish a compelling state interest.

D. The father has the burden of persuading the court that the application of this statute to him is not rationally related to a legitimate state interest.

1. According to a state statute, a candidate for state office may have his name placed on the official election ballot only if he files a petition with the appropriate state official containing a specified number of voter signatures. A politician failed to get his name placed on the state ballot as an independent candidate for governor because he failed to file a petition with the number of voter signatures required by state statute. In a suit against the appropriate state official in federal district court, the politician sought an injunction against signature requirement on the ground that it was unconstitutional.

Which of the following, if established, constitutes the strongest argument for the politician?

A. Compliance with the petition signature requirement is burdensome.

B. The objectives of the statute could be satisfactorily achieved by less burdensome means.

C. Because of the petition signature requirement, very few independent candidates have ever succeeded in getting on the ballot.

D. The motivation for the statute was a desire to keep candidates off the ballot if they did not have strong support among voters.

1. Congress passes an Energy Conservation Act. The act requires all users of energy in this country to reduce their consumption by a specified percentage, to be set by a presidential executive order. The act sets forth specific standards the President must use in setting the percentage and detailed procedures to be followed.

The provision that allows the President to set the exact percentage is probably

A. constitutional, because it creates a limited administrative power to implement the statute.

B. constitutional, because inherent executive powers permit such action even without statutory authorization.

C. unconstitutional as an undue delegation of legislative power to the executive.

D. unconstitutional, because it violates the due process clause of the Fifth Amendment.

1. The federal government has complete jurisdiction over certain park land located within the state. To conserve the wildlife that inhabits that land, the federal government enacts a statute forbidding all hunting of animals in the federal park. That statute also forbids the hunting of animals that have left the federal park and have entered the state.

A hunter has a hunting license from the state authorizing him to hunt deer anywhere in the state. On land within the state located adjacent to the federal park, the hunter shoots a deer he knows has recently left the federal land.

The hunter is prosecuted for violating the federal hunting law. The strongest ground supporting the constitutionality of the federal law forbidding the hunting of wild animals that wander off federal property is that

A. this law is a necessary and proper means of protecting United States property.

B. the animals are moving in the stream of interstate commerce.

C. the police powers of the federal government encompass protection of wild animals.

D. shooting wild animals is a privilege, not a right.

1. Three states, East Winnetka, Midland, and West Hampton, are located next to one another in that order. The states of East Winnetka and West Hampton permit the hunting and trapping of snipe, but the state of Midland strictly forbids it in order to protect snipe, a rare species of animal, from extinction. The state of Midland has a state statute that provides "Possession of snipe traps is prohibited. Any game warden finding a snipe trap within the state shall seize and destroy it." Snipe traps cost about $15 each.

An ardent snipe trapper is a resident of West Hampton. She drove her car to East Winnetka to purchase a new snipe trap from a manufacturer there. In the course of her trip back across Midland with the trap in her car, the snipe trapper stopped in a Midland state park to camp for a few nights. While she was in that park, a Midland game warden saw the trap, which was visible on the front seat of her car. The warden seized the trap and destroyed it in accordance with the Midland statute after the trapper admitted that the seized item was a prohibited snipe trap. No federal statutes or federal administrative regulations apply.

The snipe trapper can demonstrate that common carriers are permitted to transport snipe traps as cargo across Midland for delivery to another state and that in practice the Midland statute is enforced only against private individuals transporting those traps in private vehicles. If the trapper challenges the application of the Midland statute to her on the basis only of a denial of equal protection, the application of the statute will probably be found

A. constitutional, because the traps constitute contraband in which the snipe trapper could have no protected property interest.

B . constitutional, because there is a rational basis for differentiating between the possession of snipe traps as interstate cargo by common carriers and the possession of snipe traps by private individuals.

C. unconstitutional, because the state cannot demonstrate a compelling public purpose for making this differentiation between common carriers and such private individuals.

D. unconstitutional, because interstate travel is a fundamental right that may not be burdened by state law.

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A valid federal administrative rule, adopted under a federal consumer product safety act, regulates the design of snipe traps. The rule was issued to prevent traps from causing injury to human beings, e.g. by pinching fingers while persons were setting the traps. No other federal law applies. Which of the following best states the effect on the Midland state statute?

A. The federal rule preempts the Midland state statute, because the federal rule regulates the same subject matter, snipe traps.

B. The federal rule preempts the Midland state statute, because the federal rule does not contain affirmative authorization for continued state regulation.

C. The federal rule does not preempt the Midland state statute, because the Midland state statute regulates wild animals, a field of exclusive state power.

D. The federal rule does not preempt the Midland state statute, because the purposes of the federal rule and the Midland state statute are different.

1. X-- There is a high and persistent unemployment in the industrialized state of Green. Its legislature therefore enacted a statute requiring every business with annual sales in Green of over $1 million to purchase each year goods and/or services in Green equal in value to at least half of its sales in Green.

Which of the following parties most clearly has standing to contest the constitutionality of this statute of Green in federal court?

A. A business in another state that supplies from that other state 95 percent of the goods and services bought by a corporation that has annual sales in Green of $20 million.

B. A corporation selling $300,000 worth of goods in Green but presently purchasing only $10,000 in goods and services in Green.

C. The governor of an adjacent state on the behalf of the state and its residents.

D. The owner of high-grade, secured bonds issued by a corporation with sales in Green of $10 million that currently purchases only $1 million in goods and services in Green.

1. A state statute makes fraud for personal financial gain a crime. The defendant was convicted of violating this statute on three separate occasions. Following his most recent conviction, he professed to have undergone a religious conversion and proclaimed himself to be the divine minister of "St. Rockport," an alleged messiah who would shortly be making his appearance on earth. The defendant solicited cash donations from the public to support his efforts to spread the word of St. Rockport and his coming appearance on earth.

Following complaints by several contributors who claimed he defrauded them, the defendant was again charged with fraud under this state statute. The charge was that the defendant "should have known that his representations about St. Rockport were false and, therefore, that he made them solely to collect cash donations for his personal gain." A witness for the prosecution in the defendant's trial stated that the defendant had admitted that, at times, he had doubts about the existence of St. Rockport. The defendant was the only religious minister prosecuted for fraud under this state statute.

The strongest constitutional defense that the defendant could assert would be that this prosecution

A. deprived him of the equal protection of the laws because other religious ministers have not been charged under this statute.

B. denied him procedural due process because it placed upon the defendant the burden of rebutting evidence, submitted by the state of his bad faith in raising this money.

C. denied him rights conferred by the obligation of contracts clause by preventing him from taking money from persons who wished to contract with him to spread the word of St. Rockport.

D. denied him the free exercise of religion in violation of the First and Fourteenth Amendments because it required the state to determine the truth or falsity of the content of his religious beliefs.

1. A major corporation is privately owned and incorporated in State A. It contracted with the United States to construct a dam across a river in State B. State B imposed a gross receipts tax on all business conducted within the state. State B sued the corporation to collect that tax on the receipts the corporation received under this federal contract. No federal statutes or administrative rules are applicable, and the contract between the United States and the corporation does not mention state taxation. The court should hold the state tax, as applied here, to be

A. constitutional, because a state has exclusive jurisdiction over all commercial transactions executed wholly within its borders.

B. constitutional, because private contractors performing work under a federal contract are not immune in these circumstances from nondiscriminatory state taxation.

C. unconstitutional, because it violates the supremacy clause.

D. unconstitutional, because it imposes an undue burden on interstate commerce.

1. X--On a wholly random basis, a state agency has given a few probationary employees who were not rehired at the end of their probationary period a statement of reasons and an opportunity for a hearing; but the agency has very rarely done so. No statute or rule of the agency required such a statement of reasons or a hearing.

The employment of a probationary employee was terminated without a statement of reasons or an opportunity for a hearing. The agency did not even consider whether it should give him either.

A suit by the employee requesting a statement of reasons and a hearing will probably be

A. successful on the grounds that failure to give the employee reasons and an opportunity for a hearing constituted a bill of attainder.

B. successful on the grounds that an agency's inconsistent practices, even if unintentional, deny adversely affected persons the equal protection of the laws.

C. unsuccessful, because the employee does not have a right to be rehired that is protected by procedural due process.

D. unsuccessful, because the conditions of state employment are matters reserved to the states by the Tenth Amendment.

1. A state statute provides that only citizens of the United States may be employed by that state. In an action brought in a federal court, a resident alien who was prevented from obtaining state employment as a garbage collector solely because of his alien status challenged the statute's constitutionality as applied to his circumstances.

Which of the following statements concerning the burden of persuasion applicable to this suit is correct?

A. The alien must demonstrate that there is no rational relationship between the citizenship requirement and any legitimate state interest.

B. The alien must demonstrate that the citizenship requirement is not necessary to advance a compelling state interest.

C. The state must demonstrate that there is a rational relationship between the citizenship requirement and a legitimate state interest.

D. The state must demonstrate that the citizenship requirement is necessary to advance a compelling state interest.

1. The High National Grasslands is owned by the United States and is located in the center of a large western state. Acting pursuant to a federal statute authorizing such action, the United States Bureau of Land Management leased the grazing rights in the High National Grasslands to ranchers located nearby. A large company owns a vast amount of rangeland adjacent to the High National Grasslands and leases its land for livestock grazing purposes to the same ranchers, but at prices higher than those charged by the Bureau. The company sued the Bureau in an appropriate federal district court to restrain the Bureau from competing with that company by leasing the High National Grasslands.

Which of the following constitutional provisions may most easily and directly be used to justify the federal statute authorizing this leasing program of the Bureau of Land Management?

A. The general welfare clause of Article I, Section 8

B. The federal property clause of Article IV, Section 3

C. The commerce clause of Article I, Section 8

D. The supremacy clause of Article VI

1. A resident of a state brought suit in federal district court against a corporation of that state. The resident seeks recovery of $12,000 actual and $12,000 punitive damages arising from the corporation's sale to him of a defective automobile. The resident's suit is based only on a common law contract theory. From a constitutional standpoint, should the federal district court hear this suit on its merits?

A. Yes, because Article III vests federal courts with jurisdiction over cases involving the obligation of contracts.

B. Yes, because it is an action affecting interstate commerce.

C. No, because this suit is not within the jurisdiction of an Article III court.

D. No, because there is no case or controversy within the meaning of Article III.

1. A statute authorizes a specified federal administrative agency to issue rules governing the distribution of federal grant funds for scientific research. The statute provides that, in issuing those rules, the agency must follow procedures and substantive standards contained in the statute. In a severable provision, the statute also provides the otherwise valid rules issued by the agency under authority delegated to it by this statute may be set aside by a majority vote of a designated standing joint committee of Congress.

The provision of this statute relating to the power of the designated standing joint committee of Congress is

A. constitutional, because it is a necessary and proper means of ensuring that the rules issued by this agency are actually consistent with the will of Congress.

B. constitutional, because discretionary money grants authorized by statute are privileges, not rights, and, therefore, Congress has greater freedom to intervene in their administration than it has to intervene in the administration of regulatory laws.

C. unconstitutional, because it denies equal protection of the laws to members of Congress who are not appointed to the joint legislative committee authorized to set aside rules of this agency.

D. unconstitutional, because it authorizes a congressional change of legal rights and obligations by means other than those specified in the Constitution for the enactment of laws.

1. X-- A federal statute enacted pursuant to the powers of Congress to enforce the Fourteenth Amendment and to regulate commerce among the states prohibits any state from requiring any of its employees to retire from state employment solely because of their age. The statute expressly authorized employees required by a state to retire from state employment solely because of their age to sue the state government in federal district court for any damages resulting from that state action. On the basis of this federal statute, a retiree sues State X in federal district court. State X moves to dismiss the suit on the ground that Congress lacks authority to authorize such suits against a state.

Which of the following is the strongest argument that the retiree can offer in opposition to the state's motion to dismiss this suit?

A. When Congress exercises power vested in it by the Fourteenth Amendment, Congress may enact appropriate remedial legislation expressly subjecting the state to private suits for damages in federal court.

B. When Congress exercises power vested in it by any provision of the Constitution, Congress has unlimited authority to authorize private actions for damages against a state.

C. While the Eleventh Amendment restrains the federal judiciary, that amendment does not limit the power of Congress to modify the sovereign immunity of the states.

D. While the Eleventh Amendment applies to suits in federal court by citizens of one state against another state, it does not apply to such suits by citizens against their own state.

1. Small retailers located in the state of Yellow are concerned about the loss of business to certain large retailers located nearby in bordering states. In an effort to deal with this concern, the legislature of Yellow enacted a statute requiring all manufacturers and wholesalers who sell goods to retailers in Yellow to do so at prices that are no higher than the lowest prices at which they sell them to retailers in any of the states that border Yellow. Several manufacturers and wholesalers who are located in states bordering Yellow and who sell their goods to retailers in those states and in Yellow bring an action in federal court to challenge the constitutionality of this statute.

Which of the following arguments offered by these plaintiffs is likely to be most persuasive in light of applicable precedent?

The state statute

A. deprives them of their property or liberty without due process of law.

B. imposes an unreasonable burden on interstate commerce.

C. deprives them of a privilege or immunity of national citizenship.

D. denies them the equal protection of the laws.

1. X-- An interstate bus company operates in a five-state area. A federal statute authorizes the Interstate Commerce Commission (ICC) to permit interstate carriers to discontinue entirely any unprofitable route. The interstate bus company applied to the ICC for permission to drop a very unprofitable route through the sparsely populated Shaley Mountains. The ICC granted that permission even though the interstate bus company provided the only public transportation into the region.

A man is the owner of a mountain resort in the Shaley Mountains, whose customers usually arrived on vehicles operated by the interstate bus company. After exhausting all available federal administrative remedies, the man filed suit against the interstate bus company in the trial court of the state in which the Shaley Mountains are located to enjoin the discontinuance by the interstate bus company of its service to that area. The man alleged that the discontinuance of service by the interstate bus company would violate a statute of that state prohibiting common carriers of persons from abandoning service to communities having no alternate form of public transportation.

The state court should

A. dismiss the action, because the man lacks standing to sue.

B. direct the removal of the case to federal court, because this suit involves a substantial federal question.

C. hear the case on its merits and decide for the man because, on these facts, a federal agency is interfering with essential state functions.

D. hear the case on its merits and decide for the interstate bus company, because a valid federal law preempts the state statute on which the man relies.

1. A plaintiff challenged the constitutionality of a state tax law, alleging that it violated the equal protection clauses of both the United States Constitution and the state constitution. The state supreme court agreed and held the tax law to be invalid. It said: "We hold that this state tax law violates the equal protection clause of the United States Constitution and also the equal protection clause of the state constitution because we interpret that provision of the state constitution to contain exactly the same prohibition against discriminatory legislation as is contained in the equal protection clause of the Fourteenth Amendment to the United States Constitution."

The state sought review of this decision in the United States Supreme Court, alleging that the state supreme court's determination of the federal constitutional issue was incorrect.

How should the United States Supreme Court dispose of the case if it believes that this interpretation of the federal Constitution by the state supreme court raises an important federal question and is incorrect on the merits?

A. Reverse the state supreme court decision, because the equal protection clause of a state constitution must be construed by the state supreme court in a manner that is congruent with the meaning of the equal protection clause of the federal Constitution.

B. Reverse the state supreme court decision with respect to the equal protection clause of the federal Constitution and remand the case to the state supreme court for further proceedings, because the state and federal constitutional issues are so intertwined that the federal issue must be decided so that this case may be disposed of properly.

C. Refuse to review the decision of the state supreme court, because it is based on an adequate and independent ground of state law.

D. Refuse to review the decision of the state supreme court, because a state government may not seek review of the decisions of its own courts in the United States Supreme Court.

1. X-- A federal statute prohibits the construction of nuclear energy plants without a license from the Federal Nuclear Plant Siting Commission. The statute provides that the Commission may issue a license authorizing the construction of a proposed nuclear energy plant 30 days after the Commission makes a finding that the plant will comply with specified standards of safety, technological and commercial feasibility, and public convenience. In a severable provision, the Commission's enabling statute also provides that the Congress, by simple majorities in each house, may veto the issuance of a particular license by the Commission if such a veto occurs within 30 days following the required Commission finding.

Early last year, the Commission found that a particular energy company, met all statutory requirements and, therefore, voted to issue the energy company a license authorizing it to construct a nuclear energy plant. Because they believed that the issuance of a license to the energy company was not in accord with the applicable statutory criteria, a majority of each of the two houses of Congress voted, within the specified 30-day period, to veto the license. On the basis of that veto, the Commission refused to issue the license. Subsequently, the energy company sued the Commission in an appropriate federal district court, challenging the constitutionality of the Commission's refusal to issue the license.

In this suit, the court should hold the congressional veto of the license of the energy company to be

A. invalid, because any determination by Congress that particular agency action does not satisfy statutory criteria violates Article III, Section 1 of the Constitution because it constitutes the performance of a judicial function by the legislative branch.

B. invalid, because Article I, Section 7 of the Constitution has been interpreted to mean that any action of Congress purporting to alter the legal rights of persons outside of the legislative branch must be presented to the President for his signature or veto.

C. valid, because Congress has authority under the commerce clause to regulate the construction of nuclear energy plants.

D. valid, because there is a compelling national interest in the close congressional supervision of nuclear plant siting in light of the grave dangers to the public health and safety that are associated with the operation of such plants.

1. Congressional hearings determined that the use of mechanical power hammers is very dangerous to the persons using them and to persons in the vicinity of the persons using them. As a result, Congress enacted a statute prohibiting the use of mechanical power hammers on all construction projects in the United States. Subsequently, a study conducted by a private research firm concluded that nails driven by mechanical power hammers have longer-lasting joining power than hand-driven nails. After learning about this study, a city council enacted an amendment to its building safety code requiring the use of mechanical power hammers in the construction of all buildings intended for human habitation.

This amendment to the city's building safety code is

A. unconstitutional, because it was enacted subsequent to the federal statute.

B. unconstitutional, because it conflicts with the provisions of the federal statute.

C. constitutional, because the federal statute does not expressly indicate that it supersedes inconsistent state or local laws.

D. constitutional, because the long-term safety of human habitation justifies some additional risk to the people engaged in their construction.

1. X--A city has had a severe traffic problem on its streets. As a result, it enacted an ordinance prohibiting all sales to the public of food or other items by persons selling directly from trucks, cars, or other vehicles located on city streets. The ordinance included an inseverable grandfather provision exempting from its prohibition vendors who, for 20 years or more, have continuously sold food or other items from such vehicles located on the streets of the city.

A retail vendor of ice cream products qualifies for this exemption and is the only food vendor that does. A yogurt retailer has a business similar to the ice cream vendor, but the yogurt vendor has been selling to the public directly from trucks located on the streets of the city only for the past ten years. The yogurt vendor filed suit in an appropriate federal district court to enjoin the enforcement of this ordinance on the ground that it denies the yogurt vendor the equal protection of the laws.

In this case, the court will probably rule that the ordinance is

A. constitutional, because it is narrowly tailored to implement the city's compelling interest in reducing traffic congestion and, therefore, satisfies the strict scrutiny test applicable to such cases.

B. constitutional, because its validity is governed by the rational basis test, and the courts consistently defer to economic choices embodied in such legislation if they are even plausibly justifiable.

C. unconstitutional, because the nexus between the legitimate purpose of the ordinance and the conduct it prohibits is so tenuous and its provisions are so under inclusive that the ordinance fails to satisfy the substantial relationship test applicable to such cases.

D. unconstitutional, because economic benefits or burdens imposed by legislatures on the basis of grandfather provisions have consistently been declared invalid by courts as per se violations of the equal protection clause of the Fourteenth Amendment.

1. A federal statute prohibits the sale or resale, in any place in this country, of any product intended for human consumption or ingestion into the human body that contains designated chemicals known to cause cancer, unless the product is clearly labeled as dangerous. The constitutionality of this federal statute may most easily be justified on the basis of the power of Congress to

**A**. regulate commerce among the states.

B. enforce the Fourteenth Amendment.

C. provide for the general welfare.

D. promote science and the useful arts.

1. X-- A federal law provides that all motor vehicle tires discarded in this country must be disposed of in facilities licensed by the federal Environmental Protection Agency. Pursuant to this federal law and all proper federal procedural requirements, that agency has adopted very strict standards for the licensing of such facilities. As a result, the cost of disposing of tires in licensed facilities is substantial.

A particular state has a very large fleet of motor vehicles, including trucks used to support state-owned commercial activities and police cars. The state disposes of used tires from both kinds of state motor vehicles in a stated-owned and -operated facility. This state facility is unlicensed, but its operation in actual practice meets most of the standards imposed by the federal Environmental Protection Agency on facilities it licenses to dispose of tires.

Consistent with United States Supreme Court precedent, may the state continue to dispose of its used tires in this manner?

A. No, because a state must comply with valid federal laws that regulate matters affecting interstate commerce.

B. No, because some of the tires come from vehicles that are used by the state solely in its commercial activities.

C. Yes, because some of the tires come from vehicles that are used by the state in the performance of core state governmental functions such as law enforcement.

D. Yes, because the legitimate needs of the federal government are satisfied by the fact that the unlicensed state disposal scheme meets, in actual practice, most of the federal standards for the licensing of such facilities.

1. Congress enacted a statute providing grants of federal funds for the restoration and preservation of courthouses that were built before 1900 and are still in use. The statute contains an inseverable condition requiring that any courthouse restored with the aid of such a grant must be equipped with ramps and other facilities necessary to accommodate physically handicapped people.

A law of a particular state requires public buildings in the state to have ramps and other facilities for handicapped people. It exempts from those requirements any building that is more than 70 years old if the State Board of Architects finds that the installation of such facilities would destroy the architectural integrity of the building.

The county courthouse in the state was built in 1895 and is still in use. It does not contain ramps or other special facilities for handicapped people. The State Board of Architects has determined that the installation of those facilities would destroy the architectural integrity of the building. The county board applies for a federal grant to restore and preserve that county's courthouse.

If the county board restores the courthouse with the aid of a federal restoration and preservation grant, is the board bound to install ramps and other facilities for handicapped people in that building?

A. Yes, because Congress may impose reasonable conditions related to the public welfare on grants of federal funds to public bodies when the public bodies are free to accept or reject the grants.

B. Yes, because the rights of handicapped and disabled people are fundamental rights that take precedence, as a constitutional matter, over considerations of architectual integrity.

C. No, because the Constitution does not authorize the federal government to direct the actions of the states or any of their political subdivisions with respect to matters affecting their own governmental buildings.

D. No, because any acceptance of this condition by the county board of supervisors would, as a matter of law, be considered to be under duress.

1. "Look-alike drugs" is the term used to describe nonprescription drugs that look like narcotic drugs and are sold on the streets as narcotic drugs. After extensive hearings, Congress concluded that the sale of look-alike drugs was widespread in this country and was creating severe health and law enforcement problems. To combat these problems, Congress enacted a comprehensive statute that regulates the manufacture, distribution, and sale of all nonprescription drugs in the United States.

Which of the following sources of constitutional authority can most easily be used to justify the authority of Congress to enact this statute?

A. The spending power

B. The commerce clause

C. The general welfare clause

D. The enforcement powers of the Fourteenth Amendment

1. X--After several well-publicized deaths caused by fires in products made from highly flammable fabrics, a state enacted a statute prohibiting "the manufacture or assembly of any product in this state which contains any fabric that has not been tested and approved for flame retardancy by the Zetest Testing Company." The Zetest Testing Company is a privately owned and operated business located the state.

For many years, a fabric mill, located in the state has had its fabrics tested for flame retardancy by a competing testing company, located in a different state. The competitor is a reliable organization that uses a process for testing and approving fabrics for flame retardancy identical in all respects to that used by the Zetest Testing Company.

Because the fabric mill wishes to continue to have its fabric tested solely by the competing testing company, the fabric mill files an action its state court challenging the constitutionality of the statute as applied to its circumstances.

In this suit, the court should hold the statute to be

A. constitutional, because it is reasonably related to the protection of the reputation of the fabric industry located in the state.

B. constitutional, because it is a legitimate means of protecting the safety of the public.

C. unconstitutional, because it denies to the fabric mill the equal protection of the laws.

D. unconstitutional, because it imposes an unreasonable burden on interstate commerce.

1. Public schools in a state are financed, in large part, by revenue derived from real estate taxes imposed by each school district on the taxable real property located in that district. Public schools also receive other revenue from private gifts, federal grants, student fees, and local sales taxes. For many years, the state has distributed additional funds, which come from the state treasury, to local school districts in order to equalize the funds available on a per-student basis for each public school district. These additional funds are distributed on the basis of a state statutory formula that considers only the number of students in each public school district and the real estate tax revenue raised by that district. The formula does not consider other revenue received by a school district from different sources.

The school boards of two school districts, together with parents and schoolchildren in those districts, bring suit in federal court to enjoin the state from allocating the additional funds from the state treasury to this formula. They allege that the failure of the state, in allocating this additional money, to take into account a school district's sources of revenue other than revenue derived from taxes levied on real estate located there violates the Fourteenth Amendment. The complaint does not allege that the allocation of the additional state funds based on the current statutory formula has resulted in a failure to provide minimally adequate education to any child.

Which of the following best describes the appropriate standard by which the court should review the constitutionality of the state statutory funding formula?

A. Because classifications based on wealth are inherently suspect, the state must demonstrate that the statutory formula is necessary to vindicate a compelling state interest.

B. Because the statutory funding formula burdens the fundamental right to education, the state must demonstrate that the formula is necessary to vindicate a compelling state interest.

C. Because no fundamental right or suspect classification is implicated in this case, the plaintiffs must demonstrate that the funding allocation formula bears no rational relationship to any legitimate state interest.

D. Because the funding formula inevitably leads to disparities among the school districts in their levels of total funding, the plaintiffs must only demonstrate that the funding formula is not substantially related to the furtherance of an important state interest.

1. The constitution of a state authorizes a five-member state reapportionment board to redraw state legislative districts every ten years. In the last state legislative reapportionment, the board, by a unanimous vote, divided the greater metropolitan area, composed of a large city and several contiguous townships, into three equally populated state legislative districts. The result of that districting was that 40% of the area's total black population resided in one of those districts, 45% of the area's total black population resided in the second of those districts, and 15% resided in the third district.

A registered voter, who is black and is a resident of the city, brings suit in an appropriate court against the members of the state reapportionment board, seeking declaratory and injunctive relief that would require the boundary lines of the state legislative districts in the greater metropolitan area be redrawn. His only claim is that the current reapportionment violates the Fifteenth Amendment because it improperly dilutes the voting power of the blacks who reside in that area.

If no federal statute is applicable, which of the following facts, if proven, would most strongly support the validity of the action of the state reapportionment board?

A. In drawing the current district lines, the reapportionment board precisely complied with state constitutional requirements that state legislative districts be compact and follow political subdivision boundaries to the maximum extent feasible.

B. The reapportionment board was composed of three white members and two black members and both of the board's black members were satisfied that its plan did not improperly dilute the voting power of the blacks who reside in that area.

C. Although the rate of voter registration among blacks is below that of voter registrations among whites in the greater metropolitan area, two black legislators have been elected from that area during the last 15 years.

D. The total black population of the greater metropolitan area amounts to only 15% of the population that is required to comprise a single legislative district.

1. Which of the following acts by the United States Senate would be constitutionally IMPROPER?

A. The Senate decides, with the House of Representatives, that a disputed state ratification of a proposed constitutional amendment is valid.

B. The Senate determines the eligibility of a person to serve as a senator.

C. The Senate appoints a commission to adjudicate finally a boundary dispute between two states.

D. The Senate passes a resolution calling on the President to pursue a certain foreign policy.

1. The Federal Family Film Enhancement Act assesses an excise tax of 10% on the price of admission to public movie theaters when they show films that contain actual or simulated scenes of human sexual intercourse.

Which of the following is the strongest argument against the constitutionality of this federal act?

A. The act imposes a prior restraint on the freedom of speech protected by the First Amendment.

B. The act is not rationally related to any legitimate national interest.

C. The act violates the equal protection concepts embodied in the due process clause of the Fifth Amendment because it imposes a tax on the price of admission to view certain films and not on the price of admission to view comparable live performances.

D. The act imposes a tax solely on the basis of the content of speech without adequate justification and, therefore, it is prohibited by the freedom of speech clause of the First Amendment.

1. X--A city ordinance makes the city building inspector responsible for ensuring that all buildings in that city are kept up to the building code standards, and requires the inspector to refer for prosecution all known building code violations. Another ordinance provides that the city building inspector may be discharged for "good cause." The building inspector took a newspaper reporter through a number of run-down buildings in a slum neighborhood. After using various epithets and slurs to describe the occupants of these buildings, the building inspector stated to the reporter: "I do not even try to get these buildings up to code or to have their owners prosecuted for code violations because if these buildings are repaired, the people who live in them will just wreck them again." The reporter published these statements in a story in the local newspaper. The building inspector admitted he made the statements.

On the basis of these statements, the city council discharged the building inspector.

Is the action of the city council constitutional?

A. Yes, because the statements demonstrate that the building inspector has an attitude toward a certain class of persons that interferes with the proper performance of the obligations of his job.

B. Yes, because the building inspector is a government employee and a person holding such a position may not make public comments inconsistent with current governmental policy.

C. No, because the statements were lawful comments on a matter of public concern.

D. No, because the statements were published in a newspaper that is protected by the Fourteenth Amendment.

1. Insurance is provided in a particular state only by private companies. Although the state insurance commissioner inspects insurance companies for solvency, the state does not regulate their rates or policies. An insurance company charges higher rates for burglary insurance to residents of one part of a county in the state than to residents of another section of the same county because of the different crime rates in those areas.

The plaintiff is a resident of the county who was charged the higher rate by the insurance company because of the location of her residence. The plaintiff sues the insurance company, alleging that the differential in insurance rates unconstitutionally denies her the equal protection of the law.

Will the plaintiff's suit succeed?

A. Yes, because the higher crime rate in the plaintiff's neighborhood demonstrates that the county police are not giving persons who reside there the equal protection of the laws.

B. Yes, because the insurance rate differential is inherently discriminatory.

C. No, because the constitutional guarantee of equal protection of the law is not applicable to the actions of these insurance companies.

D. No, because there is a rational basis for the differential in insurance rates.

1. The National AIDS Prevention and Control Act is a new, comprehensive federal statute that was enacted to deal with the public health crisis caused by the AIDS virus. Congress and the President were concerned that inconsistent lower court rulings with respect to the constitutionality, interpretation, and application of the statute might adversely affect or delay its enforcement and, thereby, jeopardize the public health. As a result, they included a provision in the statute providing that all legal challenges concerning those matters may be initiated only by filing suit directly in the United States Supreme Court.

The provision authorizing direct review of the constitutionality, interpretation, or application of this statute only in the United States Supreme Court is

A. constitutional, because it is authorized by the Article I power of Congress to enact all laws that are "necessary and proper" to implement the general welfare.

B. constitutional, because Article III provides that the jurisdiction of the United States Supreme Court is subject to such exceptions and such regulations as Congress shall make.

C. unconstitutional, because it denies persons who wish to challenge this statute the equal protection of the laws by requiring them to file suit in a court different from that in which persons who wish to challenge other statutes may file.

D. unconstitutional, because it is inconsistent with the specification in Article III of the original jurisdiction of the United States Supreme Court.

1. X--A state has a statute providing that an unsuccessful candidate in a primary election for a party's nomination for elected public office may not become a candidate for the same office at the following general election by nominating petition or by write-in votes. A woman sought her party's nomination for governor in the May primary election. After losing in the primary, the woman filed nominating petitions containing the requisite number of signatures to become a candidate for the office of governor in the following general election. The chief elections officer of the state refused to certify the woman's petitions solely because of the above statute. The woman then filed suit in federal district court challenging the constitutionality of this state statute.

As a matter of constitutional law, which of the following is the proper burden of persuasion in this suit?

A. The woman must demonstrate that the statute is not necessary to achieve a compelling state interest.

B. The woman must demonstrate that the statute is not rationally related to a legitimate state interest.

C. The state must demonstrate that the statute is the least restrictive means of achieving a compelling state interest.

D. The state must demonstrate that the statute is rationally related to a legitimate state interest.

1. In order to provide funds for a system of new major airports near the ten largest cities in the United States, Congress levies a tax of $25 on each airline ticket issued in the United States. The tax applies to every airline ticket, even those for travel that does not originate in, terminate at, or pass through any of those ten large cities. As applied to the issuance in the United States of an airline ticket for travel between two cities that will not be served by any of the new airports, this tax is

A. constitutional, because Congress has broad discretion in choosing the subjects of its taxation and may impose taxes on subjects that have no relation to the purpose for which those tax funds will be expended.

B. constitutional, because an exemption for the issuance of tickets for travel between cities that will not be served by the new airports would deny the purchasers of all other tickets the equal protection of the laws.

C. unconstitutional, because the burden of the tax outweighs its benefits for passengers whose travel does not originate in, terminate at, or pass through any of the ten largest cities.

D. unconstitutional, because the tax adversely affects the fundamental right to travel.

1. To encourage the growth of its population, a state established a program that awarded $1,000 to the parents of each child born within the state, provided that at the time of the child's birth the mother and father of the newborn were citizens of the United States. A family are aliens who are permanent residents of the United States and have resided in the state for three years. When their first child was born two months ago, they applied for and were denied the $1,000 award by state officials on the sole ground that they are not citizens of the United States. The family filed suit in federal court contending that their exclusion from the award program was unconstitutional. Assume no federal statute addresses this question.

In this case, the court should hold that the exclusion of aliens from the state award program is

A. constitutional, because the Tenth Amendment reserves to the states plenary authority over the spending of state funds.

B. constitutional, because the state has a legitimate interest in encouraging the growth of its population, and a rational legislature could believe that families in which both parents are United States citizens are more likely to stay in the state and contribute to its future prosperity than those in which one or both of the parents are aliens.

C. unconstitutional, because strict scrutiny governs judicial review of such state classifications based on alienage, and the state cannot demonstrate that this classification is necessary to advance a compelling state interest.

D. unconstitutional, because state classifications based on alienage are impermissible unless explicitly authorized by an act of Congress.

1. A city's police officers shot and killed a plaintiff's friend as he attempted to escape arrest for an armed robbery he had committed. The plaintiff brought suit in federal district court against the police department and the city police officers involved, seeking only a judgment declaring unconstitutional the state statute under which the police acted. That newly enacted statute authorized the police to use deadly force when necessary to apprehend a person who has committed a felony. In his suit, the plaintiff alleged that the police would not have killed his friend if the use of deadly force had not been authorized by the statute.

The federal district court should

A. decide the case on its merits, because it raises a substantial federal question.

B. dismiss the action, because it involves a nonjusticiable political question.

C. dismiss the action, because it does not present a case or controversy.

D. dismiss the action, because the Eleventh Amendment prohibits federal courts from deciding cases of this type.

1. X--A shipper contracted with an interstate carrier to ship household goods from the state of Green to his new home in the state of Pink. A federal statute provides that all liability of an interstate mover to a shipper for loss of or damage to the shipper's goods in transit is governed exclusively by the contract between them. The statute also requires the interstate carrier to offer a shipper at least two contracts with different levels of liability. In full compliance with that federal statute, the interstate carrier offered the shipper a choice between two shipping agreements that provided different levels of liability on the part of the interstate carrier. The less expensive contract limited the interstate carrier's liability in case of loss or damage to less than full value. The shipper voluntarily signed the less expensive contract with the the interstate carrier, fixing the interstate carrier's liability at less than the full value of the shipment. The interstate carrier's truck was involved in an accident in the state of Pink. The accident was entirely a product of the negligence of the interstate carrier's driver. The shipper's household goods were totally destroyed. In accordance with the contract, the interstate carrier reimbursed the shipper for less than the full value of the goods. The shipper then brought suit against the interstate carrier under the tort law of the state of Pink claiming that he was entitled to be reimbursed for the full value of the goods. The interstate carrier filed a motion to dismiss.

In this suit, the court should

A. dismiss the case, because the federal statute governing liability of interstate carriers is the supreme law of the land and preempts state tort law.

B. dismiss the case, because the contractual relationship between the shipper and the interstate carrier is governed by the obligation of contracts clause of the Constitution.

C. deny the motion to dismiss, because the full faith and credit clause of the Constitution requires that state tort law be given effect.

D. deny the motion to dismiss, because it is unconstitutional for a federal statute to authorize the interstate carrier to contract out of any degree of liability for its own negligence.

1. A city operates a cemetery pursuant to a city ordinance. The ordinance requires the operation of the city cemetery to be supported primarily by revenues derived from the sale of cemetery lots to individuals. The ordinance further provides that the purchase of a cemetery lot entitles the owner to perpetual care of the lot and entitles the owner to erect on the lot, at the owner's expense, a memorial monument or marker of the owner's choice, subject to certain size restrictions. The city ordinance requires the city to maintain the cemetery, including mowing the grass, watering flowers, and plowing snow, and provides for the expenditure of city tax funds for such maintenance if revenues from the sale of cemetery lots are insufficient. Although cemetery lots are sold at full fair market value, which includes the current value of perpetual care, the revenue from the sale of such lots has been insufficient in recent years to maintain the cemetery. As a result, a small amount of city tax funds has also been used for that purpose.

A group of city taxpayers brings suit against the city challenging the constitutionality of the city ordinance insofar as it permits the owner of a cemetery lot to erect a religious memorial monument or marker on his or her lot.

Is this suit likely to be successful?

A. No, because only a small amount of city tax funds has been used to maintain the cemetery.

B. No, because the purpose of the ordinance is entirely secular, its primary effect neither advances nor inhibits religion, and it does not foster an excessive entanglement with religion.

C. Yes, because city maintenance of any religious object is a violation of the establishment clause of the First Amendment as incorporated into the Fourteenth Amendment.

D. Yes, because no compelling governmental interest justifies authorizing private persons to erect religious monuments or markers in a city-operated cemetery.

1. X-- A school board in a small city issued a rule authorizing public school principals to punish, after a hearing, students who engage in violations of the board's student behavior code. According to the rule, violators of the behavior code may be punished in a variety of ways including being required to sit in designated school confinement rooms during all school hours, with their hands clasped in front of them, for a period of up to 15 school days.

A fifth grade student in the city's elementary school was charged with placing chewed bubble gum on a classmate's chair, a violation of the student behavior code. He had never violated the code before and was otherwise an attentive and well-behaved student. After a hearing on the charges, the student's principal determined that the student had violated the behavior code in the manner charged, and ordered the student to spend the next 15 school days in the school confinement room with his hands clasped in front of him. The student's parents filed suit in federal court challenging, solely on constitutional grounds, the principal's action in ordering the student to spend the next 15 school days in the school confinement room with his hands clasped in front of him.

Which of the following arguments would be most helpful to the student's parents in this suit?

A. Because the school board rule limits the freedom of movement of students and subjects them to bodily restraint, it denies them a privilege and immunity of citizenship guaranteed them by Article IV, Section 2.

B. Because the school board rule is substantially overbroad in relation to any legitimate purpose, it constitutes a facial violation of the equal protection clause of the Fourteenth Amendment.

C. Because application of the school board rule in this case denies the student freedom of movement and subjects him to bodily restraint in a manner grossly disproportionate to his offense and circumstances, it violates the due process clause of the Fourteenth Amendment.

D. Because the school board rule is enforced initially by administrative rather than judicial proceedings, it constitutes a prohibited bill of attainder.

1. X--A state statute declares that after five years of continuous service in their positions, all state employees, including faculty members at the state university, are entitled to retain their positions during "good behavior." The statute also contains a number of procedural provisions. Any state employee who is dismissed after that five-year period must be given reasons for the dismissal before it takes effect. In addition, such an employee must, upon request, be granted a post-dismissal hearing before an administrative board to seek reinstatement and back pay. The statute precludes any other hearing or opportunity to respond to the charges. That post-dismissal hearing must occur within six months after the dismissal takes effect. The burden of proof at such a hearing is on the state, and the board may uphold the dismissal only if it is supported by a preponderance of the evidence. An employee who is dissatisfied with a decision of the board after a hearing may appeal its decision to the state courts. The provisions of this statute are inseverable.

A teacher who had been employed continuously for seven years as a faculty member at the state university was dismissed. A week before the dismissal took effect, she was informed that she was being dismissed because of a charge that she accepted a bribe from a student in return for raising the student's final grade in her course. At that time she requested an immediate hearing to contest the propriety of her dismissal.

Three months after her dismissal, she was granted a hearing before the state administrative board. The board upheld her dismissal, finding that the charge against her was supported by a preponderance of the evidence presented at the hearing.

The faculty member did not appeal the decision of the state administrative board to the state courts. Instead, she sought a declaratory judgment in federal district court to the effect that the state statute prescribing the procedures for her dismissal is unconstitutional.

In this case, the federal district court should

A. dismiss the suit, because a claim that a state statute is unconstitutional is not ripe for adjudication by a federal court until all judicial remedies in state courts provided for by state law have been exhausted.

B. hold the statute unconstitutional because the due process clause of the Fourteenth Amendment requires a state to demonstrate beyond a reasonable doubt the facts constituting good cause for termination of a state employee.

C. hold the statute unconstitutional, because a state may not ordinarily deprive an employee of a property interest in a job without giving the employee an opportunity for some kind of a predismissal hearing to respond to the charges against that employee.

D. hold the statute constitutional, because the due process clause of the Fourteenth Amendment entitles state employees who have a right to their jobs during good behavior only to a statement of reasons for their dismissal and an opportunity for a post-dismissal hearing.

108.X--A professional motorcycle rider put on a performance in a privately owned stadium during which he leaped his motorcycle over 21 automobiles. Spectators were charged $5 each to view the jump and were prohibited from using cameras. However, the local television station filmed the whole event from within the stadium without the knowledge or consent of the rider and showed the film in its entirety on the evening newscast that day. The rider thereafter brought suit to recover damages from the station for the admittedly unauthorized filming and broadcasting of the act. The television station raised only constitutional defenses.

The court should

A. hold against the rider, because the First and Fourteenth Amendments authorize press coverage of newsworthy entertainment events.

B. hold against the rider, because under the First and Fourteenth Amendments news broadcasts are absolutely privileged.

C. find the station liable, because its action deprives the rider of his property without due process.

D. find the station liable, because the First and Fourteenth Amendments do not deprive an entertainer of the commercial value of his or her performances.

1. Congress passed a bill prohibiting the President from granting a pardon to any person who had not served at least one-third of the sentence imposed by the court which convicted that person. The President vetoed the bill, claiming that it was unconstitutional. Nevertheless, Congress passed it over his veto by a two-thirds vote of each house.

This act of Congress is

A. constitutional, because it was enacted over the President's veto by a two-thirds vote of each house.

B. constitutional, because it is a necessary and proper means of carrying out the powers of Congress.

C. unconstitutional, because it interferes with the plenary power of the President to grant pardons.

D. unconstitutional, because a Presidential veto based upon constitutional grounds may be overridden only with the concurrence of three-fourths of the state legislatures.

1. Small retailers located in a particular state are concerned about the loss of business to certain large retailers located nearby in bordering states. In an effort to deal with this concern, the legislature of the state enacted a statute requiring all manufacturers and wholesalers who sell goods to retailers in the state to do so at prices that are no higher than the lowest prices at which they sell them to retailers in any of the states that border that state. Several manufacturers and wholesalers who are located in states bordering the state and who sell their goods to retailers in those states and in the state bring an action in federal court to challenge the constitutionality of this statute.

Which of the following arguments offered by these plaintiffs is likely to be most persuasive in light of applicable precedent?

The state statute

A. deprives them of their property or liberty without due process of law.

B. imposes an unreasonable burden on interstate commerce.

C. deprives them of a privilege or immunity of national citizenship.

D. denies them the equal protection of the laws.

1. A federally owned and operated office building in a particular state is heated with a new, pollution-free heating system. However, in the coldest season of the year, this new system is sometimes insufficient to supply adequate heat to the building. The appropriation statute providing the money for construction of the new heating system permitted use of the old, pollution-generating system when necessary to supply additional heat. When the old heating system operates (only about two days in any year), the smokestack of the building emits smoke that exceeds the state's pollution-control standards.

May the operators of the federal office building be prosecuted successfully by state authorities for violating that state's pollution control standards?

A. Yes, because the regulation of pollution is a legitimate state police power concern.

B. Yes, because the regulation of pollution is a joint concern of the federal government and the state and, therefore, both of them may regulate conduct causing pollution.

C. No, because the operations of the federal government are immune from state regulation in the absence of federal consent.

D. No, because the violations of the state pollution-control standards involved here are so de minimis that they are beyond the legitimate reach of state law.

1. X-- A state statute requires each insurance company that offers burglary insurance policies in the state to charge a uniform rate for such insurance to all of its customers residing within the same county in that state. So long as it complies with this requirement, a company is free to charge whatever rate the market will bear for its burglary insurance policies.

An insurance company located in the state files suit in federal district court against appropriate state officials to challenge this statute on constitutional grounds. The insurance company wishes to charge customers residing within the same county in the state rates for burglary insurance policies that will vary because they would be based on the specific nature of the customer's business, on its precise location, and on its past claims.

In this suit, the court should

A. hold the statute unconstitutional, because the statute deprives the insurance company of its liberty or property without due process of law.

B. hold the statute unconstitutional, because the statute imposes an undue burden on interstate commerce.

C. hold the statute constitutional, because the statute is a reasonable exercise of the state's police power.

D. abstain from ruling on the merits of this case until the state courts have had an opportunity to pass on the constitutionality of this state statute.

1. X--Widgets are manufactured wholly from raw materials mined and processed in a particular state. The only two manufacturers of widgets in the United States are also located in that state. However, their widgets are purchased by retailers located in every state. The state's legislature is considering the adoption of a statute that would impose a tax solely on the manufacture of widgets. The tax is to be calculated at 3% of their wholesale value.

Which of the following arguments would be LEAST helpful to the state in defending the constitutionality of this proposed state tax on widgets?

A. At the time widgets are manufactured and taxed they have not yet entered the channels of interstate commerce.

B. The economic impact of this tax will be passed on to both in-state and out-of-state purchasers of widgets and, therefore, it is wholly nondiscriminatory in its effect.

C. Because of the powers reserved to them by the Tenth Amendment, states have plenary authority to construct their tax system in any manner they choose.

D. A tax on the manufacturer of widgets may be imposed only by the state in which the manufacturing occurs and, therefore, it is not likely to create the danger of a multiple tax burden on interstate commerce.

1. X--Twenty percent of the residents of Green City are members of minority racial groups. These residents are evenly distributed among the many different residential areas of the city. The five city council members of Green City are elected from five single-member electoral districts that are nearly equally populated. No candidate has ever been elected to the city council who was a member of a minority racial group. A group of citizens who are members of minority racial groups file suit in federal district court seeking a declaratory judgment that the single-member districts in Green City are unconstitutional. They claim that the city diminishes the ability of voters who are members of minority racial groups to affect the outcome of the city elections. They seek an order from the court forcing the city to adopt an at-large election system in which the five candidates with the greatest vote totals would be elected to the city council. No state or federal statutes are applicable to the resolution of this suit.

Which of the following constitutional provisions provides the most obvious basis of plaintiff's claim in this suit?

A. The Thirteenth Amendment.

B. The due process clause of the Fourteenth Amendment.

C. The privileges and immunities clause of the Fourteenth Amendment.

D. The Fifteenth Amendment.

1. The Sports Championship Revenue Enhancement Act is a federal statute that was enacted as part of a comprehensive program to eliminate the federal budget deficit. That act imposed, for a period of five years, a 50% excise tax on the price of tickets to championship sporting events. Such events included the World Series, the Super Bowl, major college bowl games, and similar championship sports events. This federal tax is probably

A. constitutional, because the compelling national interest in reducing the federal budget deficit justifies this tax as a temporary emergency measure.

B. constitutional, because an act of Congress that appears to be a revenue raising measure on its face is not rendered invalid because it may have adverse economic consequences for the activity taxed.

C. unconstitutional, because a 50% tax is likely to reduce attendance at championship sporting events and, therefore, is not rationally related to the legitimate interest of Congress in eliminating the budget deficit.

D. unconstitutional, because Congress violates the equal protection component of the Fifth Amendment by singling out championship sporting events for this tax while failing to tax other major sporting events to which tickets are sold.

1. The Federal Computer Abuse Act establishes the Federal Computer Abuse Commission, authorizes the Commission to issue licenses for the possession of computers on terms that are consistent with the purposes of the act, and makes the unlicensed possession of a computer a crime. The provisions of the Federal Computer Abuse Act are inseverable.

A user applied to the Federal Computer Abuse Commission for a license to possess a computer. The Commission held, and the user participated in, a trial-type proceeding on the user's license application. In that proceeding it was demonstrated that the user repeatedly and intentionally used computers to introduce secret destructive computer programs (computer viruses) into electronic data banks without the consent of their owners. As a result, the Commission denied the user's application for a license. The license denial was based on a Commission rule authorized by the Computer Abuse Act that prohibited the issuance of computer licenses to persons who had engaged in such conduct. Nevertheless, the user retained and continued to use his computer. He was subsequently convicted of the crime of unlicensed possession of a computer. On appeal, he challenges the constitutionality of the licensing provision of the Federal Computer Abuse Act.

In this case, the reviewing court would probably hold that act to be

A. constitutional, because the Constitution generally authorizes Congress to enact all laws that are necessary and proper to advance the general welfare, and Congress could reasonably believe that possession of computers by people like the user constitutes a threat to the general welfare.

B. constitutional, because Congress may use the authority vested in it by the commerce clause to regulate the possession of computers and the provisions of this act do not violate any prohibitory provision of the Constitution.

C. unconstitutional, because Congress may not impose a criminal penalty on action that is improper merely because it is inconsistent with an agency rule.

D. unconstitutional, because the mere possession of a computer is a wholly local matter that is beyond the regulatory authority of Congress.

1. The United States Department of Energy regularly transports nuclear materials through a particular city on the way to a nuclear weapons processing plant it operates in a nearby state. The city recently adopted an ordinance prohibiting the transportation of any nuclear materials in or through the city. The ordinance declares that its purpose is to protect the health and safety of the residents of that city.

May the Department of Energy continue to transport these nuclear materials through the city?

A. No, because the ordinance is rationally related to the public health and safety of the city's residents.

B. No, because the Tenth Amendment reserves to the states certain unenumerated sovereign powers.

C. Yes, because the Department of Energy is a federal agency engaged in a lawful federal function and, therefore, its activities may not be regulated by a local government without the consent of Congress.

D. Yes, because the ordinance enacted by the city is invalid because it denies persons transporting such materials the equal protection of the laws.

1. The legislature of a particular state enacted a statute requiring that all law enforcement officers in that state be citizens of the United States. An alien, lawfully admitted to permanent residency five years before the enactment of this statute, sought employment as a forensic pathologist in the state coroner's office. He was denied such a job solely because he was not a citizen.

The alien thereupon brought suit in federal district court against appropriate state officials seeking to invalidate this citizenship requirement on federal constitutional grounds.

The strongest ground upon which to attack this citizenship requirement is that it

A. constitutes an ex post facto law as to previously admitted aliens.

B. deprives an alien of a fundamental right to employment without the due process of law guaranteed by the Fourteenth Amendment.

C. denies an alien a right to employment in violation of the privileges and immunities clause of the Fourteenth Amendment.

D. denies an alien the equal protection of the laws guaranteed by the Fourteenth Amendment.

1. The open-air amphitheatre in the city park of a town has been utilized for concerts and other entertainment programs. Until this year, each of the groups performing in that city facility was allowed to make its own arrangements for sound equipment and sound technicians. After recurring complaints from occupants of residential buildings adjacent to the city park about intrusive noise from some performances held in the amphitheatre, the town's city council passed an ordinance establishing city control over all sound amplification at all programs held there. The ordinance provided that the town's Department of Parks would be the sole provider in the amphitheatre of sound amplification equipment and of the technicians to operate the equipment "to ensure a proper balance between the quality of the sound at such performances and respect for the privacy of nearby residential neighbors."

Which of the following standards should a court use to determine the constitutionality on its face of this content neutral ordinance.

A. The ordinance is narrowly tailored to serve a substantial government interest, and does not unreasonably limit alternative avenues of expression.

B. The ordinance is rationally related to a legitimate government interest, and does not unreasonably limit alternative avenues of expression.

C. The ordinance is rationally related to a legitimate government interest and does not restrict the expressive rights involved any more than is reasonable under the circumstances.

D. The ordinance is substantially related to a legitimate governmental interest and does not restrict the expressive rights involved any more than is reasonable in light of the surrounding circumstances.

1. A state wanted to prevent its only major league baseball team, privately owned, from moving to a rival state. After a heated political debate in the legislature, the state enacted legislation providing for a one-time grant of $10 million in state funds to the baseball team to cover part of the projected income losses the team would suffer during the next five years if it remained in that state. The legislation required that the team remain in the state for at least ten years if it accepted the grant.

After accepting the grant, the owners of the baseball team decided to build a new $150 million stadium in the state. As plans for the construction of the new stadium proceeded, it became evident that all of the contractors and subcontractors would be white males, and that they had been chosen by the owners of the baseball team without public bids because these contractors and subcontractors had successfully built the only other new baseball stadium in the region. Several contractors who were females or members of minority racial groups filed suit against the owners of the the baseball team in federal district court to compel public solicitation of bids for the construction of its new stadium on an equal opportunity basis, and to enjoin construction of the stadium until compliance was ensured. Their only claim was that the contracting practices of the owners of the baseball team denied them the equal protection of the laws in violation of the Fourteenth Amendment.

In this suit, the court will probably rule that

A. the nexus between the actions of the owners of the baseball team and the one-time grant of monies to them by the state is sufficiently substantial to subject their actions to the limitations of the Fourteenth Amendment.

B. the intense public preoccupation with the activities of major league baseball teams coupled with the fact that baseball is considered to be our national pastime is sufficient to justify application of the Fourteenth Amendment to the activities of major league teams.

C. in the absence of additional evidence of state involvement in the operations or decisions of the owners of the baseball team, a one-time grant of state monies to them is insufficient to warrant treating their actions as subject to the limitations of the Fourteenth Amendment.

D. the issues presented by this case are nonjusticiable political questions because there is a lack of judicially manageable standards to resolve them and they are likely to be deeply involved in partisan politics.

1. In response to massive layoffs of employees of automobile assembly plants located in a particular state, the legislature of that state enacted a statute which prohibits the parking of automobiles manufactured outside of the United States in any parking lot or parking structure that is owned or operated by the state or any of its instrumentalities. This statute does not apply to parking on public streets.

Which of the following is the strongest argument with which to challenge the constitutionality of this statute?

A. The statute imposes an undue burden on foreign commerce.

B. The statute denies the owners of foreign-made automobiles the equal protection of the laws.

C. The statute deprives the owners of foreign-made automobiles of liberty or property without due process of law.

D. The statute is inconsistent with the privileges and immunities clause of the Fourteenth Amendment.

1. The National Ecological Balance Act prohibits the destruction or removal of any wild animals located on lands owned by the United States without express permission from the Federal Bureau of Land Management. Violaters are subject to fines of up to $1,000 per offense.

After substantial property damage was inflicted on residents of a particular state by hungry coyotes, the state legislature passed the Coyote Bounty Bill, which offers $25 for each coyote killed or captured within the state. A national forest, owned by the federal government, is located entirely within the state. Many coyotes live in this national forest.

Without seeking permission from the Bureau of Land Management, a hunter shot several coyotes in the national forest and collected the bounty from the state. As a result, he was subsequently tried in federal district court, convicted, and fined $1,000 for violating the National Ecological Balance Act. A hunter appealed his conviction to the United States Court of Appeals.

On appeal, the Court of Appeals should hold the National Ecological Balance Act, as applied to a hunter to be

A. constitutional, because the property clause of Article IV, Section 3, of the Constitution authorizes such federal statutory controls and sanctions.

B. constitutional, because Article I, Section 8, of the Constitution authorizes Congress to enact all laws necessary and proper to advance the general welfare.

C. unconstitutional, because Congress may not use its delegated powers to override the Tenth Amendment right of the state to legislate in areas of traditional state governmental functions, such as the protection of the property of its residents.

D. unconstitutional, because Congress violates the full faith and credit clause of Article IV when it punishes conduct that has been authorized by state action.

1. A law of a state imposed a generally applicable sales tax payable by the vendor. That law exempted from its provisions the sale of "all magazines, periodicals, newspapers, and books." In order to raise additional revenue, the state legislature eliminated that broad exemption and substituted a narrower exemption. The new, narrower exemption excluded from the state sales tax only the sale of those "magazines, periodicals, newspapers, and books that are published or distributed by a recognized religious faith and that consist wholly of writings sacred to such a religious faith."

One magazine is a monthly publication devoted to history and politics. The magazine paid under protest the sales tax due on its sales according to the amended sales tax law. The magazine then filed suit against the state in an appropriate state court for a refund of the sales taxes paid. It contended that the state's elimination of the earlier, broader exemption and adoption of the new, narrower exemption restricted to sacred writings of recognized religious faiths violates the First and Fourteenth Amendments to the Constitution. In this case, the court will probably rule that

A. the magazine lacks standing to sue for a refund of sales taxes imposed by a generally applicable state law because Article III of the Constitution precludes taxpayers from bringing such suits.

B. the Eleventh Amendment bars the state court from exercising jurisdiction over this suit in the absence of a law of the state expressly waiving the state's immunity.

C. the new, narrower exemption from the state sales tax law violates the establishment clause of the First and Fourteenth Amendments by granting preferential state support to recognized religious faiths for the communication of their religious beliefs.

D. the new, narrower exemption from the state sales tax law violates the freedom of the press guaranteed by the First and Fourteenth Amendments because it imposes a prior restraint on nonreligious publications that are required to pay the tax.

1. A statute in a particular state provided state monetary grants to private dance, theater, and opera groups located in that state. The statute required recipients of such grants to use the granted monies for the acquisition, construction, and maintenance of appropriate facilities for the public performance of their performing arts. The last section of the statute conditioned the award of each such grant on the recipient's agreement to refrain from all kinds of political lobbying calculated to secure additional tax support for the performing arts. The strongest constitutional basis for an attack upon the validity of the last section of the statute would be based upon the

A. commerce clause.

B. obligation of contracts clause.

C. Fifth Amendment.

D. First and Fourteenth Amendments.

1. X--Assume that Congress passed and the President signed the following statute:"The appellate jurisdiction of the United States Supreme Court shall not extend to any case involving the constitutionality of any state statute limiting the circumstances in which a woman may obtain an abortion, or involving the constitutionality of this statute." The strongest argument against the constitutionality of this statute is that

A. Congress may not exercise its authority over the appellate jurisdiction of the Supreme Court in a way that seriously interferes with the establishment of a supreme and uniform body of federal constitutional law.

B. Congress may only regulate the appellate jurisdiction of the Supreme Court over cases initially arising in federal courts.

C. the appellate jurisdiction of the Supreme Court may only be altered by a constitutional amendment.

D. the statute violates the equal protection clause of the Fourteenth Amendment.

1. The federal statute admitting a particular state to the Union granted the state certain public lands, and established some very ambiguous conditions on the subsequent disposition of these lands by the state. This federal statute also required the new state to write those exact same conditions into its state constitution. One hundred years later, a statute of the state dealing with the sale of these public lands was challenged in a state court lawsuit on the ground that it was inconsistent with the conditions contained in the federal statute, and with the provisions of the state constitution that exactly copy the conditions contained in the federal statute. The trial court decision in this case was appealed to the state supreme court. In its opinion, the state supreme court dealt at length with the ambiguous language of the federal statute and with cases interpreting identical language in federal statutes admitting other states to the union. The state supreme court opinion did not discuss the similar provisions of the state constitution, but it did hold that the challenged state statute is invalid because it is "inconsistent with the language of the federal statute and therefore is inconsistent with the identical provisions of our state constitution."

If the losing party in the state supreme court seeks review of the decision of that court in the United States Supreme Court, the United States Supreme Court should

A. accept the case for review and determine the validity and interpretation of the federal statute if it is an important and substantial question.

B. ask the state supreme court to indicate more clearly whether it relied on the state constitutional provision in rendering its decision.

C. decline to review the case on the ground that the decision of the state supreme court rests on an adequate and independent state ground.

D. decline to review the case because a decision by a state supreme court concerning the proper disposition of state public lands is not reviewable by the United States Supreme Court.

1. A proposed federal statute would prohibit all types of discrimination against black persons on the basis of their race in every business transaction executed anywhere in the United States by any person or entity, governmental or private. Is this proposed federal statute likely to be constitutional?

A. Yes, because it could reasonably be viewed as an exercise of Congress's authority to enact laws for the general welfare.

B. Yes, because it could reasonably be viewed as a means of enforcing the provisions of the Thirteenth Amendment.

C. No, because it would regulate purely local transactions that are not in interstate commerce.

D. No, because it would invade the powers reserved to the states by the Tenth Amendment.

1. Members of a religious group calling itself the Friends of Lucifer believe in Lucifer as their Supreme Being. The members of this group meet once a year on top of Mt. Snow, located in a U.S. National Park, to hold an overnight encampment and a midnight dance around a large campfire. They believe this overnight encampment and all of its rituals are required by Lucifer to be held on top of Mt. Snow. U.S. National Park Service rules that have been consistently enforced prohibit all overnight camping and all campfires on Mt. Snow because of the very great dangers overnight camping and campfires would pose in that particular location. As a result, the park Superintendent denied a request by the Friends of Lucifer for a permit to conduct these activities on top of Mt. Snow. The park Superintendent, who was known to be violently opposed to cults and other unconventional groups had, in the past, issued permits to conventional religious groups to conduct sunrise services in other areas of that U.S. National Park. The Friends of Lucifer brought suit in Federal Court against the U.S. National Park Service and the Superintendent of the park to compel issuance of the requested permit. As a matter of constitutional law, the most appropriate result in this suit would be a decision that denial of the permit was

A. invalid, because the free exercise clause of the First Amendment prohibits the Park Service from knowingly interfering with religious conduct.

B. invalid, because these facts demonstrate that the action of the Park Service purposefully and invidiously discriminated against the Friends of Lucifer.

C. valid, because the establishment clause of the First Amendment prohibits the holding of religious ceremonies on federal land.

D. valid, because religiously motivated conduct may be subjected to nondiscriminatory time, place, and manner restrictions that advance important public interests.

1. The Personnel Handbook of a particular city contains all of that city's personnel policies. One section of the handboook states that "where feasible and practicable, supervisors are encouraged to follow the procedures specified in this Handbook before discharging a city employee." Those specified procedures include a communication to the employee of the reasons for the contemplated discharge and an opportunity for a pretermination trial-type hearing at which the employee may challenge those reasons. After a year of service, the secretary to the City Council was discharged without receiving any communication of reasons for her contemplated discharge and without receiving an opportunity for a pretermination trial-type hearing. The secretary files suit in federal district court to challenge her discharge solely on constitutional grounds. Which of the following best describes the initial burden of persuasion in that suit?

A. The City Council must demonstrate that its personnel handbook created no constitutionally protected interest in city employment or in the procedures by which such employment is terminated.

B. The City Council must demonstrate that the secretary's termination was for good cause.

C. The secretary must demonstrate that state law creates a constitutionally protected interest in her employment or in the procedures by which her employment is terminated.

D. The secretary must demonstrate that she reasonably believed that she could work for the city for as long as she wished.

1. X--Terrorists in a foreign country kidnapped the United States ambassador to that country. They threatened to kill her unless the President of the United States secured the release of an identified person who was a citizen of that country and was held in a prison in State A in the United States pursuant to a valid conviction by that state.

The President responded by entering into an agreement with the foreign country which provided that the country would secure the release of the United States ambassador on a specified date in return for action by the President that would secure the release of the identified person held in the state prison. The President then ordered the governor of the state to release the prisoner in question. The governor refused. No federal statutes are applicable.

Which of the following is the strongest constitutional argument for the authority of the President to take action in these circumstances requiring the governor of the state to release the state prisoner?

A. The power of the President to conduct the foreign affairs of the United States includes a plenary authority to take whatever action the President deems wise to protect the safety of our diplomatic agents.

B. The power of the President to appoint ambassadors authorizes him to take any action that he may think desirable to protect them from injury because, upon appointment, those officials become agents of the President.

C. The power of the President to negotiate with foreign nations impliedly authorizes the President to make executive agreements with them which prevail over state law.

D. The duty of the President to execute faithfully the laws authorizes him to resolve finally any conflicts between state and federal interests, making the determination of such matters wholly nonjusticiable.

1. A newly enacted federal statute appropriates $100 million in federal funds to support basic research by universities located in the United States. The statute provides that "the ten best universities in the United States" will each receive $10 million. It also provides that "the ten best universities" shall be "determined by a poll of the presidents of all the universities in the nation, to be conducted by the United States Department of Education." In responding to that poll, each university president is required to apply the well-recognized and generally accepted standards of academic quality that are specified in the statute. The provisions of the statute are inseverable.

Which of the following statements about this statute is correct?

A. The statute is unconstitutional, because the reliance by Congress on a poll of individuals who are not federal officials to determine the recipients of its appropriated funds is an unconstitutional delegation of legislative power.

B. The statute is unconstitutional, because the limitation on recipients to the ten best universities is arbitrary and capricious and denies other high quality universities the equal protection of the laws.

C. The statute is constitutional, because Congress has plenary authority to determine the objects of its spending and the methods used to achieve them, so long as they may reasonably be deemed to serve the general welfare and do not violate any prohibitory language in the Constitution.

D. The validity of the statute is nonjusticiable, because the use by Congress of its spending power necessarily involves political considerations that must be resolved finally by those branches of the government that are closest to the political process.

1. State A spends several million dollars a year on an oyster conservation program. As part of that program, the state limits, by statute, oyster fishing in its coastal waters to persons who have state oyster permits. In order to promote conservation, it issues only a limited number of oyster permits each year. The permits are effective for only one year from the date of their issuance and are awarded on the basis of lottery, in which there is no differentiation between resident and nonresident applicants. However, each nonresident who obtains a permit is charged an annual permit fee that is $5 more than the fee charged residents.

A large fishing company operates from a port in another state and is incorporated in that other state. Each of the boats of the fishing company has a federal shipping license that permits it "to engage in all aspects of the coastal trade, to fish and to carry cargo from place to place along the coast, and to engage in other lawful activities along the coast of the United States." These shipping licenses are authorized by federal statute. Assume no other federal statutes or administrative rules apply.

Although it had previously held a State A oyster permit, the fishing company did not obtain a permit in that state's lottery this year. Which of the following is the strongest argument that can be made in support of a continued right of the fishing company to fish for oysters this year in the coastal waters of State A?

A. Because the state law provides higher permit charges for nonresidents, it is an undue burden on interstate commerce.

B. Because the state law provides higher permit charges for nonresidents, it denies the fishing company the privileges and immunities of state citizenship.

C. Because it holds a federal shipping license, the fishing company has a right to fish for oysters in state waters despite the state law.

D. Because the fishing company previously held a State A oyster permit and the state knows that the company is engaged in a continuing business operation, the refusal to grant the fishing company a permit this year is a taking of its property without due process of law.

1. The United States Department of the Interior granted a concessionaire the food and drink concession stand in a federal park located in a particular state. The concessionaire operated his concession stand out of the federally owned facilities in the park. The federal statute authorizing the Interior Department to grant such concession stands provided that the grantees would pay only a nominal rental fee for use of these federal facilities because of the great benefit their concession stands would provide to the people of the United States.

The legislature of the state enacted a statute imposing an occupancy tax on the occupants of real estate within that state that is not subject to state real estate taxes. The statute was intended to equalize the state tax burden on such occupants with that of people occupying real estate that is subject to state real estate taxes. Pursuant to that statute, the state Department of Revenue attempted to collect the state occupancy tax from the concessionaire because the federal facilities occupied by the concessionaire were not subject to state real estate taxes. The concessionaire sued to invalidate the state occupancy tax as applied to him. The strongest ground upon which the concessionaire could challenge the occupancy tax is that it violates the

A. commerce clause by unduly burdening the interstate tourist trade.

B. privileges and immunities clause of the Fourteenth Amendment by interfering with the fundamental right to do business on federal property.

C. equal protection of the laws clause of the Fourteenth Amendment because the tax treats him less favorably than federal concessionaires in other states who do not have to pay such occupancy.

D. supremacy clause of Article VI and the federal statute authorizing such concession stands.

1. An ordinance of a particular city requires that its mayor have continuously been a resident of the city for at least five years at the time he or she takes office. A candidate, who is thinking about running for mayor in an election that will take place next year, will have been a resident of the city for only four and one-half years at the time the mayor elected then takes office. Before he decides whether to run for the position of mayor, the candidate wants to know whether he could lawfully assume that position if he were elected. As a result, the candidate files suit in the local federal district court for a declaratory judgment that the city's five-year-residence requirement is unconstitutional and that he is entitled to a place on his political party's primary election ballot for mayor. He names the chairman of his political party as the sole defendant but does not join any election official. The chairman responds by joining the candidate in requesting the court to declare the city's residence requirement invalid. In this case, the court should

A. refuse to determine the merits of this suit, because there is no case or controversy.

B. refuse to issue such a declaratory judgment, because an issue of this kind involving only a local election does not present a substantial federal constitutional question.

C. issue the declaratory judgment, because a residency requirement of this type is a denial of the equal protection of the laws.

D. issue the declaratory judgment, because the candidate will have substantially complied with the residency requirement.

1. A local high school has had a very high rate of pregnancy among its students. In order to help students who keep their babies to complete high school, the local high school has established an infant day-care center for children of its students and also offers classes in childcare. Because the childcare classes are always overcrowded, the school limits admission to those classes solely to the high school students who are mothers of babies in the infant day-care center. A student at the high school has legal custody of his infant son. The school provides care for his son in its infant day-care center but will not allow him to enroll in the childcare classes. He brings suit against the school challenging, on constitutional grounds, his exclusion from the childcare classes.

Which of the following best states the burden of persuasion in this case?

A. The student must demonstrate that the admission requirement is not rationally related to a legitimate governmental interest.

B. The student must demonstrate that the admission requirement is not as narrowly drawn as possible to achieve a substantial governmental interest.

C. The school must demonstrate that the admission policy is the least restrictive means by which to achieve a compelling governmental interest.

D. The school must demonstrate that the admission policy is substantially related to an important governmental interest.

1. X-- A statute of a particular state prohibits the use of state-owned or state-operated facilities for the performance of abortions that are not "necessary to save the life of the mother." That statute also prohibits state employees from performing any such abortions during the hours they are employed by the state. A citizen of the state was in her second month of pregnancy. She sought an abortion at the State Hospital, a state-owned and state-operated facility. The citizen did not claim that the requested abortion was necessary to save her life. The officials in charge of the hospital refused to perform the requested abortion solely on the basis of the state statute. The citizen immediately filed suit against those officials in an appropriate federal district court. She challenged the constitutionality of the state statute and requested the court to order the hospital to perform the abortion she sought.

In this case, the court will probably hold that the state statute is

A. unconstitutional, because a limit on the availability of abortions performed by the state employees or in state-owned or state-operated facilities to situations in which it is necessary to save the life of the mother impermissibly interferes with the fundamental right of the citizen to decide whether to have a child.

B. unconstitutional, because it impermissibly discriminates against poor persons who cannot afford to pay for abortions in privately owned and operated facilities and against persons who live far away from privately owned and operated abortion clinics.

C. constitutional, because it does not prohibit a woman from having an abortion or penalize her for doing so, it is rationally related to the legitimate governmental goal of encouraging childbirth, and it does not interfere with the voluntary performance of abortions by private physicians in private facilities.

D. constitutional, because the use of state-owned or state-operated facilties and access to the services of state employees are privileges and not rights and, therefore, a state may condition them on any basis it chooses.

1. X--Radon is a harmful gas found in the soil of certain regions of the United States. A state statute requires occupants of residences with basements susceptible to the intrusion of radon to have their residences tested for the presence of radon and to take specified remedial steps if the test indicates the presence of radon above specified levels. The statute also provides that the testing for radon may be done only by testers licensed by a state agency. According to the statute, a firm may be licensed to test for radon only if it meets specified rigorous standards relating to the accuracy of its testing. These standards may easily be achieved with current technology; but the technology required to meet them is 50% more expensive than the technology required to measure radon accumulations in a slightly less accurate manner.

The United States Environmental Protection Agency (EPA) does not license radon testers. However, a federal statute authorizes the EPA to advise on the accuracy of various methods of radon testing and to provide to the general public a list of testers that use methods it believes to be reasonably accurate.

A recently established state firm uses a testing method that the EPA has stated is reasonably accurate. The firm is also included by the EPA on a list of testers using methods of testing it believes to be reasonably accurate. The firm applies for a state radon testing license, but its application is denied because the firm cannot demonstrate that the method of testing for radon it uses is sufficiently accurate to meet the rigorous state statutory standards. The firm sues appropriate state officials in federal court claiming that the state may not constitutionally exclude the firm from performing the required radon tests in the state. In this suit, the court will probably rule in favor of

A. the firm, because the full faith and credit clause of the Constitution requires the state to respect and give effect to the action of the EPA in including the firm on its list of testers that use reasonably accurate methods.

B. the firm, because the supremacy clause of the Constitution requires the state to respect and give effect to the action of the EPA in including the firm on its list of testers that use reasonably accurate methods.

C. The state, because the federal statute and the action of the EPA in including the firm on its list of testers that use reasonably accurate methods are not inconsistent with the more rigorous state licensing requirement, and that requirement is reasonably related to a legitimate public interest.

D. The state, because radon exposure is limited to basement areas, which, by their very nature, cannot move in interstate commerce.

1. A state legislature recently enacted a statute forbidding public utilities regulated by the state's public service commission to increase their rates more than once every two years. A power company, a public utility regulated by that commission, has just obtained approval of the commission for a general rate increase. The power company has routinely filed for a rate increase every ten to 14 months during the last 20 years. Because of uncertainties about future fuel prices, the power company cannot ascertain with any certainty the date when it will need a further rate increase; but it thinks it may need such an increase sometime within the next 18 months. The power company files an action in the federal district court in the state requesting a declaratory judgment that this new state statute forbidding public utility rate increases more often than once every two years is unconstitutional. Assume no federal statute is relevant.

In this case, the court should

A. hold the statute unconstitutional, because such a moratorium on rate increases deprives utilities of their property without due process of law.

B. hold the statute constitutional, because the judgment of a legislature on a matter involving economic regulation is entitled to great deference.

C. dismiss the complaint, because this action is not ripe for decision.

D. dismiss the complaint, because controversies over state-regulated utility rates are outside of the jurisdiction conferred on federal courts by Article III of the Constitution.

1. X-- A clerical worker has been employed for the past two years in a permanent position in the County Public Records Office in a particular state. The clerk has been responsible for copying and filing records of real estate transactions in that office. The clerk works in a nonpublic part of the office and has no contact with members of the public. However, state law provides that all real estate records in that office are to be made available for public inspection. On the day an attempted assassination of the governor of the state was reported on the radio, the clerk remarked to a coworker, "Our governor is such an evil man, I am sorry they did not get him." The clerk's coworker reported this remark to the clerk's employer, the county recorder. After the clerk admitted to making the remark, the county recorder dismissed him stating that "there is no room in this office for a person who hates the governor so much." The clerk sued for reinstatement and back pay. His only claim is that the dismissal violated his constitutional rights. In this case, the court should hold that the county recorder's dismissal of the clerk was

A. unconstitutional, because it constitutes a taking without just compensation of the clerk's property interest in his permanent position with the county.

B. unconstitutional, because in light of the clerk's particular employment duties his right to express himself on a matter of public concern outweighed any legitimate interest the state might have had in discharging him.

C. constitutional, because the compelling interest of the state in having loyal and supportive employees outweighs the interest of any state employee in his or her job or in free speech on a matter of public concern.

D. no justiciable, because public employment is a privilege rather than a right and, therefore, the clerk lacked standing to bring this suit.

1. A city has an ordinance that prohibits the location of "adult theaters and bookstores" (theaters and bookstores presenting sexually explicit performances or materials) in residential or commercial zones within the city. The ordinance was intended to protect surrounding property from the likely adverse secondary effects of such establishments. "Adult theaters and bookstores" are freely permitted in the areas of the city zoned industrial, where those adverse secondary effects are not as likely. A storekeeper is denied a zoning permit to open an adult theater and bookstore in a building owned by him in an area zoned commercial. As a result, the storekeeper brings suit in an appropriate court challenging the constitutionality of the zoning ordinance. Which of the following statements regarding the constitutionality of this ordinance is most accurate?

A. The ordinance is valid, because a city may enforce zoning restrictions on speech-related businesses to ensure that the messages they disseminate are acceptable to the residents of adjacent property.

B. The ordinance is valid, because a city may enforce this type of time, place, and manner regulation on speech-related businesses, so long as this type of regulation is designed to serve a substantial governmental interest and does not unreasonably limit alternative avenues of communication.

C. The ordinance is invalid, because a city may not enforce zoning regulations that deprive potential operators of adult theatres and bookstores of their freedom to choose the location of their businesses.

D. The ordinance is invalid, because a city may not zone property in a manner calculated to protect property from the likely adverse secondary effects of adult theaters and bookstores.

1. A state statute provides that assessments of real property for tax purposes must represent the "actual value" of the property. The County Tax Commission, in making its assessments, has uniformly and consistently determined the "actual value" of real property solely by reference to the price at which the particular property was last sold. In recent years, the market values of real property in the county have been rising at the rate of 15% per year.

A homeowner is required to pay real estate taxes on her home in the county that are 200% to 300% higher than those paid by many other owners of similar homes in similar neighborhoods in that county, even though the current market values of their respective homes and the homeowner's home are nearly identical. The reason the taxes on the homeowner's home are higher than those imposed on the other similar homes in similar neighborhoods is that she bought her home much more recently than the other owners and, therefore, it is assessed at a much higher "actual value" than their homes. Persistent efforts by the homeowner to have her assessment reduced or the assessments of the others raised by the County Tax Commission have failed.

The homeowner has now filed suit against the County Tax Commission, charging only that the tax assessment on her property is unconstitutional.

The strongest constitutional argument to support the homeowner's claim is that the comparative overvaluation of the homeowner's property by the County Tax Commission in making tax assessments over time

A. deprives the homeowner of the equal protection of the laws.

B. deprives the homeowner of a privilege or immunity of national citizenship.

C. constitutes a taking of private property for public use without just compensation.

D. constitutes an ex post facto law.

1. A generally applicable state statute requires an autopsy by the county coroner in all cases of death that are not obviously of natural causes. The purpose of this law is to ensure the discovery and prosecution of all illegal activity resulting in death. In the 50 years since its enactment, the statute has been consistently enforced.

A husband and wife are sincere practicing members of a religion that maintains it is essential for a deceased person's body to be buried promptly and without any invasive procedures, including an autopsy. When the the couple's son died of mysterious causes and an autopsy was scheduled, the the couple filed an action in state court challenging the constitutionality of the state statute, and seeking an injunction prohibiting the county coroner from performing an autopsy on their son's body. In this action, the couple claimed only that the application of this statute in the circumstances of their son's death would violate their right to the free exercise of religion as guaranteed by the First and Fourteenth Amendments. Assume that no federal statutes are applicable.

As applied to the couple's case, the court should rule that the state's autopsy statute is

A. constitutional, because a dead individual is not a person protected by the due process clause of the Fourteenth Amendment.

B. constitutional, because it is a generally applicable statute and is rationally related to a legitimate state purpose.

C. unconstitutional, because it is not necessary to vindicate a compelling state interest.

D. unconstitutional, because it is not substantially related to an important state interest.

1. X--A mineral is added to bodies of fresh water to prevent the spread of certain freshwater parasites. The presence of those parasites threatens the health of organisms living in rivers and streams throughout the country and imperils the freshwater commercial fishing industry. The mineral is currently mined only in one particular state.

In order to raise needed revenue, Congress recently enacted a statute providing for the imposition of a $100 tax on each ton of the mineral that is mined in the United States. Because it will raise the cost of the mineral, this tax is likely to reduce the amount of the mineral that is added to freshwater rivers and streams and, therefore, is likely to have an adverse effect on the interstate freshwater commercial fishing industry. The mineral producers in the state have filed a lawsuit in federal court challenging this tax solely on constitutional grounds.

Is this tax constitutional?

A. No, because only producers in the state will pay the tax and, therefore, it is not uniform among the states and denies mineral producers the equal protection of the laws.

B. No, because it is likely to have an adverse effect on the freshwater commercial fishing industry and Congress has a responsibility under the clause to protect, foster, and advance such interstate industries.

C. Yes, because the tax is a necessary and proper means of exercising federal authority over the navigable waters of the United States.

D. Yes, because the power of Congress to impose taxes is plenary, this tax does not contain any provisions extraneous to tax needs or purposes, and it is not barred by any prohibitory language in the Constitution.

1. Water District is an independent municipal water-supply district incorporated under the applicable laws of a particular state. The district was created solely to supply water to an entirely new community in a recently developed area of the state. That new community is racially, ethnically, and socioeconomically diverse, and the community has never engaged in any discrimination against members of minority groups. The five-member, elected governing board of the newly created district contains two persons who are members of racial minority groups. At its first meeting, the governing board of the district adopted a rule unqualifiedly setting aside 25% of all positions on the staff of the district and 25% of all contracts to be awarded by the district to members of racial minority groups. The purpose of the rule was "to help redress the historical discrimination against these groups in this country and to help them achieve economic parity with other groups in our society." Assume that no federal statute applies. A suit by appropriate parties challenges the constitutionality of these set-asides. In this suit, the most appropriate ruling on the basis of applicable United States Supreme Court precedent would be that the set-asides are

A. unconstitutional, because they would deny other potential employees or potential contractors the equal protection of the laws.

B. unconstitutional, because they would impermissibly impair the right to contract of other potential employees or potential contractors.

C. constitutional, because they would assure members of racial minority groups the equal protection of the laws.

D. constitutional, because the function and activities of the district are of a proprietary nature rather than a governmental nature and, therefore, are not subject to the usual requirements of the Fourteenth Amendment.

1. X-- Current national statistics show a dramatic increase in the number of elementary and secondary school students bringing controlled substances (drugs) to school for personal use or distribution to others. In response, Congress enacted a statute requiring each state legislature to enact a state law that makes it a state crime for any person to possess, use, or distribute, within 1,000 feet of any elementary or secondary school, any controlled substance that has previously been transported in interstate commerce and that is not possessed, used, or distributed pursuant to a proper physician's prescription. This federal statute is

A. unconstitutional, because Congress has no authority to require a state legislature to enact any specified legislation.

B. unconstitutional, because the possession, use, or distribution, in close proximity to a school, of a controlled substance that has previously been transported in interstate commerce does not have a sufficiently close nexus to such commerce to justify its regulation by Congress.

C. constitutional, because it contains a jurisdictional provision that will ensure, on a case-by-case basis, that any particular controlled substance subject to the terms of this statute will, in fact, affect interstate commerce.

D. constitutional, because Congress possesses broad authority under both the general welfare clause and the commerce clause to regulate any activities affecting education that also have, in inseverable aggregates, a substantial effect on interstate commerce.

1. Congress recently enacted a statute imposing severe criminal penalties on anyone engaged in trading in the stock market who, in the course of that trading, takes "unfair advantage" of other investors who are also trading in the stock market. The statute does not define the term "unfair advantage." There have been no prosecutions under this new statute. The members of an association of law school professors that is dedicated to increasing the clarity of the language used in criminal statutes believe that this statute is unconstitutionally vague. Neither the association nor any of its members is currently engaged in, or intends in the future to engage in, trading in the stock market. The association and its members bring suit against the Attorney General of the United States in a federal district court, seeking an injunction against the enforcement of this statute on the ground that it is unconstitutional. May the federal court determine the merits of this suit?

A. Yes, because the suit involves a dispute over the constitutionality of a federal statute.

B. Yes, because the plaintiffs seek real relief of a conclusive nature--an injunction against enforcement of this statute.

C. No, because the plaintiffs do not have an interest in the invalidation of this statute that is adequate to ensure that the suit presents an Article III controversy.

D. No, because a suit for an injunction against enforcement of a criminal statute may not be brought in federal court at any time prior to a bona fide effort to enforce that statute.

1. A city enacted an ordinance banning from its public sidewalks all machines dispensing publications consisting wholly of commercial advertisements. The ordinance was enacted because of a concern about the adverse aesthetic effects of litter from publications distributed on the public sidewalks and streets. However, the city continued to allow machines dispensing other types of publications on the public sidewalks. As a result of the city ordinance, 30 of the 300 sidewalk machines that were dispensing publications in the city were removed. Is this city ordinance constitutional?

A. Yes, because regulations of commercial speech are subject only to the requirement that they be rationally related to a legitimate state goal, and that requirement is satisfied here.

B. Yes, because the city has a compelling interest in protecting the aesthetics of its sidewalks and streets, and such a ban is necessary to vindicate this interest.

C. No, because it does not constitute the least restrictive means with which to protect the aesthetics of the city's sidewalks and streets.

D. No, because there is not a reasonable fit between the legitimate interest of the city in preserving the aesthetics of its sidewalks and streets and the means it chose to advance that interest.

1. A state enacted a statute providing for the closure of the official state records of arrest and prosecution of all persons acquitted of a crime by a court or against whom criminal charges were filed and subsequently dropped or dismissed. The purpose of this statute is to protect these persons from further publicity or embarrassment relating to those state proceedings. However, this statute does not prohibit the publication of such information that is in the possession of private persons

A prominent businessman in the state was arrested and charged with rape. Prior to trial, the prosecutor announced that new information indicated that the charges should be dropped. He then dropped the charges without further explanation, and the records relating thereto were closed to the public pursuant to the state statute.

The newspaper in the state conducted an investigation to determine why the businessman was not prosecuted, but was refused access to the closed official state records. In an effort to determine whether the law enforcement agencies involved were properly doing their duty, the newspaper filed suit against appropriate state officials to force opening of the records and to invalidate the statute on constitutional grounds.

Which of the following would be most helpful to the state in defending the constitutionality of this statute?

A. The fact that the statute treats in an identical manner the arrest and prosecution records of all persons who have been acquitted of a crime by a court or against whom criminal charges were filed and subsequently dropped or dismissed.

B. The argument that the rights of the press are no greater than those of citizens generally.

C. The fact that the statute only prohibits public access to these official state records and does not prohibit the publication of information they contain that is in the possession of private persons.

D. The argument that the state may seal official records owned by the state on any basis its legislature chooses.

1. A federal statute appropriated $7 million for a nationwide essay contest on "How the United States Can Best Stop Drug Abuse." The statute indicates that its purpose is to generate new, practical ideas for eliminating drug abuse in the United States. Contest rules set forth in the statute provide that winning essays are to be selected on the basis of the "originality, aptness, and feasibility of their ideas." The statute expressly authorizes a first prize of $1 million, 50 second prizes of $100,000 each, and 100 third prizes of $10,000 each. It also states that judges for the contest are to be appointed by the President of the United States with the advice and consent of the Senate, and that all residents of the United States who are not employees of the federal government are eligible to enter and win the contest. A provision of the statute authorizes any taxpayer of the United States to challenge its constitutionality. In a suit by a federal taxpayer to challenge the constitutionality of the statute, the court should

A. refuse to decide its merits, because the suit involves policy questions that are inherently political and, therefore, non justiciable.

B. hold the statute unconstitutional, because it does not provide sufficient guidelines for awarding the prize money appropriated by Congress and, therefore, unconstitutionally delegates legislative power to the contest judges.

C. hold the statute unconstitutional, because its relationship to legitimate purposes of the spending power of Congress is too tenuous and conjectural to satisfy the necessary and proper clause of Article I.

D. hold the statute constitutional, because it is reasonably related to the general welfare, it states concrete objectives, and it provides adequate criteria for conducting the essay contest and awarding the prize money.

1. Kelly County, in State A, is located adjacent to the border of State B. The communities located in Kelly County are principally suburbs of Scarletville, a large city located in State B, and therefore there is a large volume of traffic between that city and Kelly County. While most of that traffic is by private passenger automobiles, some of it is by taxicabs and other kinds of commercial vehicles.An ordinance of Kelly County, the stated purpose of which is to reduce traffic congestion, provides that only taxicabs registered in Kelly County may pick up or discharge passengers in the county. The ordinance also provides that only residents of Kelly County may register taxicabs in that county.

Which of the following is the proper result in a suit brought by Scarletville taxicab owners challenging the constitutionality of this Kelly County ordinance?

A. Judgment for Scarletville taxicab owners, because the fact that private passenger automobiles contribute more to the traffic congestion problem in Kelly County than do taxicabs indicates that the ordinance is not a reasonable means by which to solve that problem.

B. Judgment for Scarletville taxicab owners, because the ordinance unduly burdens interstate commerce by insulating Kelly County taxicab owners from out-of-state competition without adequate justification.

C. Judgment for Kelly County, because the ordinance forbids taxicabs registered in other counties of State A as well as in states other than State A to operate in Kelly County and, therefore, it does not discriminate against interstate commerce.

D. Judgment for Kelly County, because Scarletville taxicab owners do not constitute a suspect class and the ordinance is reasonably related to the legitimate governmental purpose of reducing traffic congestion.

1. A city ordinance requires a taxicab operator's license to operate a taxicab that city. The ordinance states that the sole criteria for the issuance of such a license are driving ability and knowledge of the geography of the city. An applicant is tested by the city for these qualifications with a detailed questionnaire, written and oral examinations, and a practical behind-the-wheel demonstration.

The ordinance does not limit the number of licenses that may be issued. It does, however, allow any citizen to file an objection to the issuance of a particular license, but only on the ground that an applicant does not possess the required qualifications. City licensing officials are also authorized by the ordinance to determine, in their discretion, whether to hold an evidentiary hearing on an objection before issuing a license.

A woman applies for a taxicab operator's license and is found to be fully qualified after completing the usual licensing process. Her name is then posted as a prospective licensee, subject only to the objection process. A licensed taxicab driver files an objection to the issuance of such a license to the woman solely on the ground that the grant of a license to the woman would impair the value of the licensed driver's existing license. The licensed driver demands a hearing before a license is issued to the woman so that he may have an opportunity to prove his claim. City licensing officials refuse to hold such a hearing, and they issue a license to the woman. The licensed driver petitions for review of this action by city officials in an appropriate court, alleging that the Constitution requires city licensing officials to grant his request for a hearing before issuing a license to the woman.

In this case, the court should rule for

A. the licensed driver, because the due process clause of the Fourteenth Amendment requires all persons whose property may be adversely affected by governmental action to be given an opportunity for a hearing before such action occurs.

B. the licensed driver, because the determination of whether to hold a hearing may not constitutionally be left to the discretion of the same officials whose action is being challenged.

C. city officials, because the licensed driver had the benefit of the licensing ordinance and, therefore may not now question actions taken under it.

D. city officials, because the licensing ordinance does not give the licensed driver any property interest in being free of competition from additional licensees.

1. X--A state statute permits a person's name to appear on the general election ballot as a candidate for statewide public office if the person pays a $100 filing fee and provides proof from the State Elections Board that he or she was nominated in the immediately preceding primary election by one of the state's two major political parties. It also permits the name of an independent candidate or a candidate of a smaller party to appear on the general election ballot if that person pays a filing fee of $1,000, and submits petitions signed by at least 3% of the voters who actually cast ballots for the office of governor in the last state election. The state maintains that these filing requirements are necessary to limit the size of the election ballot, to eliminate frivolous candidacies, and to help finance the high cost of elections. Historically, very few of the state's voters who are members of racial minority groups have been members of either of the two major political parties. Recently, a new political party has been formed by some of these voters.

Which of the following constitutional provisions would be most helpful to the new political party as a basis for attacking the constitutionality of this statute?

A. The First Amendment.

B. The Thirteenth Amendment.

C. The Fourteenth Amendment.

D. The Fifteenth Amendment.

1. X-- A federal statute provides that the cities in which certain specified airports are located may regulate the rates and services of all limousines that serve those airports, without regard to the origin or destination of the passengers who use the limousines.

The cities of Redville and Greenville are located adjacent to each other in different states. The airport serving both of them is located in Redville and is one of those airports specified in the federal statute. The Redville City Council has adopted a rule that requires any limousines serving the airport to charge only the rates authorized by the Redville City Council.

A prominent limousine service has a lucrative business transporting passengers between Greenville and the airport in Redville, at much lower rates than those required by the Redville City Council. It transports passengers in interstate traffic only; it does not provide local service within Redville. The new rule adopted by the Redville City Council will require the prominent limousine service to charge the same rates as limousines operating only in Redville.

Must the prominent limousine service comply with the new rule of the Redville City Council?

A. Yes, because the airport is located in Redville and, therefore, its city council has exclusive regulatory authority over all transportation to and from the airport.

B. Yes, because Congress has authorized this form of regulation by Redville and, therefore, removed any constitutional impediments to it that may have otherwise existed.

C. No, because the rule would arbitrarily destroy a lucrative existing business and, therefore, would amount to a taking without just compensation.

D. No, because the limousine service is engaged in interstate commerce and this rule is an undue burden on that commerce.

1. X--A federal statute with inseverable provisions established a new five-member national board with broad regulatory powers over the operation of the securities, banking, and commodities industries, including the power to issue rules with the force of law. The statute provides for three of the board members to be appointed by the President with the advice and consent of the Senate. They serve seven-year terms and are removable only for good cause. The other two members of the board were designated in the statute to be the respective general counsel of the Senate and House of Representatives Committees on Government Operations. The statute stipulated that they were to serve on the board for as long as they continued in those positions.

Following all required administrative procedures, the board issued an elaborate set of rules regulating the operations of all banks, securities dealers, and commodities brokers. A company that was subject to the board's rules sought a declaratory judgment that the rules were invalid because the statute establishing the board was unconstitutional.

In this case, the court should rule that the statute establishing the national board is

A. unconstitutional, because all members of federal boards having broad powers that are quasi-legislative in nature, such as rulemaking, must be appointed by Congress.

B. unconstitutional, because all members of federal boards exercising executive powers must be appointed by the President or in a manner otherwise consistent with the appointments clause of Article II.

C. constitutional, because the necessary and proper clause authorizes Congress to determine the means by which members are appointed to boards created by Congress under its power to regulate commerce among the states.

D. constitutional, because there is a substantial nexus between the power of Congress to legislate for the general welfare and the means specified by Congress in this statute for the appointment of board members.

1. X--A federal statute provides that the United States Supreme Court has authority to review any case filed in a United States Court of Appeals, even though that case has not yet been decided by the court of appeals. The Environmental Protection Agency (EPA), an agency in the executive branch of the federal government, issued an important environmental rule. Although the rule had not yet been enforced against them, companies that would be adversely affected by the rule filed a petition for review of the rule in a court of appeals, seeking a declaration that the rule was invalid solely because it was beyond the statutory authority of the EPA. The companies made no constitutional claim. A statute specifically provides for direct review of EPA rules by a court of appeals without any initial action in a district court. The companies filed a petition for a writ of certiorari in the Supreme Court requesting immediate review of this case by the Supreme Court before the court of appeals has actually decided the case. The EPA acknowledges that the case is important enough to warrant Supreme Court review and that it should be decided promptly, but it asks the Supreme Court to dismiss the petition on jurisdictional grounds. The best constitutional argument in support of the EPA's request is that

A. the case is not within the original jurisdiction of the Supreme Court as defined by Article III, and it is not a proper subject of that court's appellate jurisdiction because it has not yet been decided by any lower court.

B. the case is appellate in nature, but it is beyond the appellate jurisdiction of the Supreme Court, because Article III states that its jurisdiction extends only to cases arising under the Constitution.

C. Article III precludes federal courts from reviewing the validity of any federal agency rule in any proceeding other than an action to enforce the rule.

D. Article III provides that all federal cases, except those within the original jurisdiction of the Supreme Court, must be initiated by an action in a federal district court.

1. X—In recent years, several large corporations incorporated and headquartered in a particular state have suddenly been acquired by out-of-state corporations that have moved all of their operations out of this state. Other corporations incorporated and headquartered in this particular state have successfully resisted such attempts at acquisition. In an effort to preserve jobs in the state and to protect its domestic corporations against their sudden acquisition by out-of-state purchasers, the state legislature enacts a statute governing acquisitions of shares in all corporations incorporated in the state. This statute requires that any acquisition of more than 25% of the voting shares of a corporation incorporated in the state that occurs over a period of less than one year must be approved by the holders of record of a majority of the shares of the corporation as of the day before the commencement of the acquisition of those shares. The statute expressly applies to acquisitions of the state's corporations by both in-state and out-of-state entities. Assume that no federal statute applies. Is this state statute constitutional?

A. No, because one of the purposes of the statute is to prevent out-of-state entities from acquiring corporations incorporated and headquartered in the state.

B. No, because the effect of the statute will necessarily be to hinder the acquisition of the state's corporations by other corporations, many of whose shareholders are not residents of the state and, therefore, it will adversely affect the interstate sale of securities.

C. Yes, because the statute imposes the same burden on both in-state and out-of-state entities wishing to acquire one of the state's corporations, it regulates only the acquisition of the state's corporations, and it does not create an impermissible risk of inconsistent regulation on this subject by different states.

D. Yes, because corporations exist only by virtue of state law and, therefore, the negative implications of the commerce clause do not apply to state regulations governing their creation and acquisition.

1. The legislature of a state enacts a statute that it believes reconciles the state's interest in the preservation of human life with a woman's right to reproductive choice. That statute permits a woman to have an abortion on demand during the first trimester of pregnancy but prohibits a woman from having an abortion after that time unless her physician determines that the abortion is necessary to protect the woman's life or health.

If challenged on constitutional grounds in an appropriate court, this statute will probably be held

A. constitutional, because the state has made a rational policy choice that creates an equitable balance between the compelling state interest in protecting fetal life and the fundamental right of a woman to reproductive choice.

B. constitutional, because recent rulings by the United States Supreme Court indicate that after the first trimester a fetus may be characterized as a person whose right to life is protected by the due process clause of the Fourteenth amendment.

C. unconstitutional, because the state has, without adequate justification, placed an undue burden on the fundamental right of a woman to reproductive choice prior to fetal viability.

D. unconstitutional, because a statute unqualifiedly permitting abortion at one stage of pregnancy, and denying it at another with only minor exceptions, establishes an arbitrary classification in violation of the equal protection clause of the Fourteenth Amendment.

1. X-- The vaccination of children against childhood contagious diseases (such as measles, diphtheria and whooping cough) has traditionally been a function of private doctors and local and state health departments. Because vaccination rates have declined in recent years, especially in urban areas, the President proposes to appoint a Presidential Advisory Commission on Vaccination which would be charged with conducting a national publicity campaign to encourage vaccination as a public health measure. No federal statute authorizes or prohibits this action by the President. The activities of the Presidential Advisory Commission on Vaccination would be financed entirely from funds appropriated by Congress to the Office of the President for "such other purposes as the President may think appropriate." May the President constitutionally create such a commission for this purpose?

A. Yes, because the President has plenary authority to provide for health, safety, and welfare of the people of the United States.

B. Yes, because this action is within the scope of executive authority vested in the President by the Constitution, and no federal statute prohibits it.

C. No, because the protection of children against common diseases by vaccination is a traditional state function and, therefore, is reserved to the states by the Tenth Amendment.

D. No, because Congress has not specifically authorized the creation and support of such a new federal agency.

1. A major city in a particular state is a center for businesses that assemble personal computers. Components for these computers are manufactured elsewhere in the state and in other states, then shipped to this city, where the computers are assembled. An ordinance of the city imposes a special license tax on all of the many companies engaged in the business of assembling computers in that city. The tax payable by each such company is a percentage of the company's gross receipts.

The state statute that authorizes municipalities to impose this license tax has a "State content" provision. To comply with this provision of state law, the city license tax ordinance provides that the tax paid by any assembler of computers subject to this tax ordinance will be reduced by a percentage equal to the proportion of computer components manufactured in the state.

A prominent company assembles computers in the city and sells them from its offices in the city to buyers throughout the United States. All of the components of its computers come from outside the state. Therefore, the company must pay the city license tax in full without receiving any refund. Other city computer assemblers use components manufactured in the state in varying proportions and, therefore, are entitled to partial reductions of their city license tax payments.

Following prescribed procedure, the company brings an action in proper court asking to have the city's special license tax declared unconstitutional on the ground that it is inconsistent with the negative implications of the commerce clause.

In this case, the court should rule

A. against the prominent company, because the tax falls only on companies resident in the major city and, therefore, does not discriminate against or otherwise adversely affect interstate commerce.

B. against the prominent company, because the commerce clause does not interfere with the right of a state to foster and support businesses located within its borders by encouraging its residents to purchase the products of those businesses.

C. for the prominent company, because any tax on a company engaged in interstate commerce, measured in whole or in part by its gross receipts, is a per se violation of the negative implications of the commerce clause.

D. for the prominent company, because the tax improperly discriminates against interstate commerce by treating in-state products more favorably than out-of-state products.

1. A city ordinance requires every operator of a taxicab in the city to have a license and permits revocation of that license only for "good cause." The city taxicab operator's licensing ordinance conditions the issuance of such a license on an agreement by the licensee that the licensee "not display in or on his or her vehicle any bumper sticker or other placard or sign favoring a particular candidate for any elected municipal office." The ordinance also states that it imposes this condition in order to prevent the possible imputation to the city council of the views of its taxicab licensees and that any licensee who violates this condition shall have his or her license revoked. One holder of a city taxicab operator's license decorates his cab with bumper stickers and other signs favoring specified candidates in a forthcoming election for municipal offices. A proceeding is initiated against him to revoke his taxicab operator's license on the sole basis of that admitted conduct. In this proceeding, does this license holder have a meritorious defense based on the United States Constitution?

A. No, because he accepted the license with knowledge of the condition and, therefore, has no standing to contest it.

B. No, because a taxicab operator's license is a privilege and not a right and, therefore, is not protected by the due process clause of the Fourteenth Amendment.

C. Yes, because such a proceeding threatens the license holder with a taking of property, his license, without just compensation.

D. Yes, because the condition imposed on taxicab operators' licenses restricts political speech based wholly on its content, without any adequate governmental justification.

1. A baseball fan has a fierce temper and an extremely loud voice. Attending a baseball game in which a number of calls went against the home team, the fan repeatedly stood up, brandished his fist, and angrily shouted, "Kill the umpires." The fourth time he engaged in this conduct, many other spectators followed the fan in rising from their seats, brandishing fists, and shouting, "Kill the umpires." he home team lost the game. Although no violence ensued, spectators crowded menacingly around the umpires after the game. As a result, the umpires were able to leave the field and stadium only with the help of a massive police escort. For his conduct, the fan was charged with inciting to riot and was convicted in a jury trial in state court. He appealed. The state supreme court reversed his conviction. In its opinion, the court discussed in detail decisions of the United States Supreme Court dealing with the First Amendment free speech clause as incorporated into the Fourteenth Amendment. At the end of that discussion, however, the court stated that it "need not resolve how, on the basis of these cases," the United States Supreme Court would decide the fan's case. Instead, the court stated, "this court has always given the free-speech guarantee of the state's constitution the broadest possible interpretation. As a result, we hold that in this case, where no riot or other violence actually occurred, the state constitution does not permit this conviction for incitement to riot to stand."

The United States Supreme Court grants a writ of certiorari to review this decision of the state supreme court.

In this case, the United States Supreme Court should

A. affirm the state supreme court's decision, because the fan's ballpark shout is commonplace hyperbole that cannot, consistently with the First and Fourteenth Amendments, be punished.

B. remand the case to the state supreme court with directions that it resolve the First and Fourteenth Amendment free-speech issue that it discussed in such detail.

C. dismiss the writ as improvidently granted, because the state supreme court's decision rests on an independent and adequate state law ground.

D. reverse the decision of the state supreme court, because incitement to violent action is not speech protected by the First and Fourteenth Amendments.

1. A state imposes a tax on the "income" of each of its residents. As defined in the taxing statute, "income" includes the fair rental value of the use of any automobile provided by the taxpayer's employer for personal use. The federal government supplies automobiles to some of its employees who are residents of the state so that they may perform their jobs properly. A federal government employee supplied with an automobile for this purpose may also use it for the employee's own personal business.

Assume there is no federal legislation on this subject.

May the state collect this tax on the fair rental value of the personal use of the automobiles furnished by the federal government to these employees?

A. No, because such a tax would be a tax on the United States.

B. No, because such a tax would be a tax upon activities performed on behalf of the United States, since the automobiles are primarily used by these federal employees in the discharge of their official duties.

C. Yes, because the tax is imposed on the employees rather than on the United States, and the tax does not discriminate against persons who are employed by the United States.

D. Yes, because an exemption from such state taxes for federal employees would be a denial to others of the equal protection of the laws.

1. A city's zoning ordinance contains provisions restricting places of "adult entertainment" to two specified city blocks within the commercial center of the city. These provisions of the ordinance define "adult entertainment" as "live or filmed nudity or sexual activity, real or simulated, of an indecent nature." A business owner proposes to operate an adult entertainment establishment outside the two-block area zoned for such establishments but within the commercial center of the city. When his application for permission to do so is rejected solely because it is inconsistent with provisions of the zoning ordinance, he sues the appropriate officials of the city, seeking to enjoin them from enforcing the adult entertainment provisions of the ordinance against him. He asserts that these provisions of the ordinance violate the First Amendment as made applicable to the city by the Fourteenth Amendment.

In this case, the court hearing the business owner's request for an injunction would probably hold that the adult entertainment provisions of the city zoning ordinance are

A. constitutional, because they do not prohibit adult entertainment everywhere in the city, and the city has a substantial interest in keeping the major part of its commercial center free of uses it considers harmful to that area.

B. constitutional, because adult entertainment of the kind described in these provisions of the city ordinance is not protected by the free speech guarantee of the First and Fourteenth Amendment.

C. unconstitutional, because they prohibit in the commercial area of the city adult entertainment that is not "obscene" within the meaning of the First and Fourteenth Amendments.

D. unconstitutional, because zoning ordinances that restrict freedom of speech may be justified only by a substantial interest in preserving the quality of a community's residential neighborhoods.

1. A licensed barber works in a particular state. A state barber licensing statute provides that the Barber Licensing Board may revoke a barber license if it finds that the licensee has used his or her business premises for an illegal purpose. The licensed barber was arrested by federal narcotics enforcement agents on a charge of selling cocaine in his barbershop in violation of federal laws. However, the local United States Attorney declined to prosecute and the charges were dropped.

Nevertheless, the Barber Licensing Board commenced a proceeding against the barber to revoke his license on the ground that the barber used his business premises for illegal sales of cocaine. At a subsequent hearing before the board, the only pieces of evidence against the barber were affidavits by unnamed informants, who were not present or available for cross-examination. Their affidavits stated that they purchased cocaine from the barber in his barbershop. Based solely on this evidence, the board found that the barber used his business premises for an illegal purpose and ordered his license revoked.

In a suit by the barber to have this revocation set aside, his best constitutional argument is

A. the barber's inability to cross-examine his accusers denied him a fair hearing and caused him to be deprived of his barber license without due process of law.

B. the administrative license revocation proceeding was invalid, because it denied full faith and credit to the dismissal of the criminal charges by the United States Attorney.

C. Article II requires a penalty of the kind imposed on John to be imposed by a court rather than an administrative agency.

D. the existence of federal laws penalizing the illegal sale of cocaine preempts state action relating to drug trafficking of the kind involved in the barber's case.

1. The state of Red sent three of its employees to a city located in the state of Blue to consult with a chemical laboratory there about matters of state business. While in the course of their employment, the three employees of Red negligently released into local Blue waterways some of the chemical samples they had received from the laboratory in Blue.

Persons in Blue injured by the release of the chemicals sued the three Red state employees and the state of Red in Blue state courts for the damages they suffered. After a trial in which all of the defendants admitted jurisdiction of the Blue state court and fully participated, plaintiffs received a judgment against all of the defendants for $5 million, which became final.

Subsequently, plaintiffs sought to enforce their Blue state court judgment by commencing a proper proceeding in an appropriate court of Red. In that enforcement proceeding, the state of Red argued, as it had done unsuccessfully in the earlier action in Blue state court, that its liability is limited by a law of Red to $100,000 in any tort case. Because the three individual employees of Red are able to pay only $50,000 of the judgment, the only way the injured persons can fully satisfy their Blue state court judgment is from the funds of the state of Red.

Can the injured persons recover the full balance of their Blue state court judgment from the state of Red in the enforcement proceeding they filed in a court of Red?

A. Yes, because the final judgment of the Blue court is entitled to full faith and credit in the courts of Red.

B. Yes, because a limitation on damage awards against Red for tortious actions of its agents would violate the equal protection clause of the Fourteenth Amendment.

C. No, because the Tenth Amendment preserves the right of a state to have its courts enforce the state's public policy limiting its tort liability.

D. No, because the employees of Red were negligent and, therefore, their actions were not authorized by the state of Red.

1. A student contracted for an expensive cable television service for a period of six months solely to view the televised trial of a defendant, who was on trial for murder in a court of a particular state. In the midst of the trial, the judge prohibited any further televising of the defendant's trial because he concluded that the presence of television cameras was disruptive. The student brought an action in federal district court against the judge in the defendant's case asking only for an injunction that would require the judge to resume the televising of the defendant's trial. The student alleged that the judge's order to stop the televising of the defendant's trial deprived him of property--his investment in cable television service--without due process of law. Before the student's case came to trial, the defendant's criminal trial concluded in a conviction and sentencing. There do not appear to be any obvious errors in the proceeding that led to the result in the defendant's case. After the defendant's conviction and sentencing, the opposing party in the student's case moved to dismiss the suit.

The most proper disposition of this motion by the federal court would be to

A. defer action on the motion until after any appellate proceedings in the defendant's case have concluded, because the defendant might appeal, his conviction might be set aside, he might be tried again, and television cameras might be barred from the new trial.

B. defer action on the motion until after the state Supreme Court expresses a view on its proper disposition, because the state law of mootness governs suits in federal court when the federal case is inexorably intertwined with a state proceeding.

C. grant the motion, because the subject matter of the controversy between the student and the defendant has ceased to exist and there is no strong likelihood that it will be revived.

D. deny the motion, because the student has raised an important constitutional question--whether his investment in cable service solely to view the defendant's trial is property protected by the due process clause of the Fourteenth Amendment.

1. X-- A company wanted to expand the size of the building it owned that housed the company's supermarket by adding space for a coffeehouse. The company's building was located in the center of five acres of land owned by the company and devoted wholly to parking for its supermarket customers. City officials refused to grant a required building permit for the coffeehouse addition unless the company established in its store a child care center that would take up space at least equal to the size of the proposed coffeehouse addition, which was to be 20% of the existing building. This action of the city officials was authorized by provisions of the applicable zoning ordinance.

In a suit filed in state court against appropriate officials of the city, the company challenged this child care center requirement solely on constitutional grounds. The lower court upheld the requirement even though the city officials presented no evidence and made no findings to justify it other than a general assertion that there was a shortage of child care facilities in the city. The company appealed.

The court hearing the appeal should hold that the requirement imposed by the city on the issuance of this building permit is

A. constitutional, because the burden was on the company to demonstrate that there was no rational relationship between this requirement and a legitimate governmental interest, and the company could not do so because the requirement is reasonably related to improving the lives of families and children residing in the city.

B. constitutional, because the burden was on the company to demonstrate that this requirement was not necessary to vindicate a compelling governmental interest, and the city failed to meet its burden under that standard.

C. unconstitutional, because the burden was on the city to demonstrate that this requirement was necessary to vindicate a compelling governmental interest, and the city failed to meet its burden under that standard.

D. unconstitutional, because the burden was on the city to demonstrate a rough proportionality between this requirement and the impact of the company's proposed action on the community, and the city failed to do so.

1. The governor of a state proposes to place a Christmas nativity scene, the components of which would be permanently donated to the state by private citizens, in the city's Capitol Building rotunda where the state's legislature meets annually. The governor further proposes to display this state-owned nativity scene annually from December 1 to December 31, next to permanent displays that depict the various products manufactured in the state. The governor's proposal is supported by all members of both houses of the legislature. If challenged in a lawsuit on establishment clause grounds, the proposed nativity scene display would be held

A. unconstitutional, because the components of the nativity scene would be owned by the state rather than by private persons.

B. unconstitutional, because the nativity scene would not be displayed in a context that appeared to depict and commemorate the Christmas season as a primarily secular holiday.

C. constitutional, because the components of the nativity scene would be donated to the state by private citizens rather than purchased with state funds.

D. constitutional, because the nativity scene would be displayed alongside an exhibit of various products manufactured in the state.

1. Congress wishes to enact legislation prohibiting discrimination in the sale or rental of housing on the basis of the affectional preference or sexual preference or sexual orientation of the potential purchaser or renter. Congress wishes this statute to apply to all public and private vendors and lessors of residential property in this country, with a few narrowly drawn exceptions. The most credible argument for congressional authority to enact such a statute would be based upon the

A. general welfare clause of Article I, Section 8, because the conduct the statute prohibits could reasonably be deemed to be harmful to the national interest.

B. commerce clause of Article I, Section 8, because, in inseverable aggregates, the sale or rental of almost all housing in this country could reasonably be deemed to have a substantial effect on interstate commerce.

C. enforcement clause of the Thirteenth Amendment, because that amendment clearly prohibits discrimination against the class of persons protected by this statute.

D. enforcement clause of the Fourteenth Amendment, because that amendment prohibits all public and private actors from engaging in irrational discrimination.

1. A city owns and operates a large public auditorium. It leases the auditorium to any group that wishes to use it for a meeting, lecture, concert, or contest. Each user must post a damage deposit and pay rent, which is calculated only for the actual time the building is used by the lessee. Reservations are made on a first-come, first-served basis. A private organization that permits only males to serve in its highest offices rented the auditorium for its national convention. The organization planned to install its new officers at that convention. It broadly publicized the event, inviting members of the general public to attend the installation ceremony at the city auditorium. No statute or administrative rule prohibits the organization from restricting its highest offices to men. An appropriate plaintiff sues the private organization seeking to enjoin it from using the city auditorium for the installation of its new officers. The sole claim of the plaintiff is that the use of this auditorium by the organization for the installation ceremony is unconstitutional because the organization disqualifies women from serving in its highest offices. Will the plaintiff prevail?

A. Yes, because the Fourteenth Amendment prohibits such an organization from discriminating against women in any of its activities to which it has invited members of the general public.

B. Yes, because the organization's use of the city auditorium for this purpose subjects its conduct to the provisions of the Fourteenth Amendment.

C. No, because the freedom of association protected by the Fourteenth Amendment prohibits the city from interfering in any way with the organization's use of city facilities.

D. No, because the organization is not a state actor and, therefore, its activities are not subject to the provisions of the Fourteenth Amendment.

1. X-- A particular state has a state employee grievance system that requires any state employee who wishes to file a grievance against the state to submit that grievance for final resolution to a panel of three arbitrators chosen by the parties from a statewide board of 13 arbitrators. In any given case, the grievant and the state alternate in exercising the right of each party to eliminate five members of the board, leaving a panel of three members to decide their case. At the present time, the full board is composed of seven male arbitrators and six female arbitrators.

A female state employee filed a sexual harassment grievance against her male supervisor and the state. The state's attorney exercised all of her five strikes to eliminate five of the female arbitrators. At the time she did so, the state's attorney stated that she struck the five female arbitrators solely because she believed women, as a group, would necessarily be biased in favor of another woman who was claiming sexual harassment. Counsel for the state employee eliminated four males and one female arbitrator, all solely on the grounds of specific bias or conflicts of interest. As a result, the panel was all male.

When the panel ruled against the state employee on the merits of her case, she filed an action in an appropriate state court, challenging the panel selection process as a gender-based denial of equal protection of the laws.

In this case, the court should hold that the panel selection process is

A. unconstitutional, because the gender classification used by the state's attorney in this case does not satisfy the requirements of intermediate scrutiny.

B. unconstitutional, because the gender classification used by the state's attorney in this case denies the grievant the right to a jury made up of her peers.

C. constitutional, because the gender classification used by the state's attorney in this case satisfies the requirements of the strict scrutiny test.

D. constitutional, because the gender classification used by the state's attorney in this case satisfies the requirements of the rational basis test.

1. A senator makes a speech on the floor of the United States Senate in which she asserts that William, a federal civil servant with minor responsibilities, was twice convicted of fraud by the courts of a particular state. In making this assertion, the senator relied wholly on research done by her chief legislative assistant. In fact, it was a different man named William and not William the civil servant, who was convicted of these crimes in the state court proceedings. This mistake was the result of carelessness on the legislative assistant's part.

No legislation affecting the appointment or discipline of civil servants or the program of the federal agency for which the federal civil servant works was under consideration at the time the senator made her speech about him on the floor of the Senate.

The federal civil servant sues the senator and the legislative assistant for defamation. Both defendants move to dismiss the complaint.

As a matter of constitutional law, the court hearing this motion should

A. grant it as to the legislative assistant, because he is protected by the freedom of speech guarantee against defamation actions by government officials based on his mere carelessness; but deny it as to the senator, because, as an officer of the United States, she is a constituent part of the government and, therefore, has no freedom of speech rights in that capacity.

B. grant it as to both defendants, because the senator is immune from suit for any speech she makes in the Senate under the speech or debate clause of Article I, Section 6, and the legislative assistant may assert the senator's immunity for his assistance to her in preparing the speech.

C. deny it as to both defendants, because any immunity of the senator under the speech or debate clause does not attach to a speech that is not germane to pending legislative business, and the legislative assistant is entitled to no greater immunity than the legislator he was assisting.

D. deny it as to the legislative assistant, because he is not a legislator protected by the speech or debate clause; but grant it as to the senator, because she is immune from suit for her speech by virtue of that clause.

1. A doctor, who resides in the city of Greenville in the state of Green, is a physician licensed to practice in both Green and the neighboring state of Red. The doctor finds that the most convenient place to treat her patients who need hospital care is in the publicly owned and operated Redville Municipal Hospital of the city of Redville in the state of Red, which is located just across the state line from Greenville. For many years the doctor had successfully treated her patients in that hospital. Early this year she was notified that she could no longer treat patients in the Redville hospital because she was not a resident of Red, and a newly adopted rule of Redville Municipal Hospital, which was adopted in conformance with all required procedures, stated that every physician who practices in that hospital must be a resident of Red.

Which of the following constitutional provisions would be most helpful to the doctor in an action to challenge her exclusion from the Redville hospital solely on the basis of this hospital rule?

A. The bill of attainder clause.

B. The privileges and immunities clause of Article IV.

C. The due process clause of the Fourteenth Amendment.

D. The ex post facto clause.

1. A state statute prohibits any retailer of books, magazines, pictures, or posters from "publicly displaying or selling to any person any material that may be harmful to minors because of the violent or sexually explicit nature of its pictorial content." Violation of this statute is a misdemeanor. A corner store displays publicly and sells magazines containing violent and sexually explicit pictures. The owner of this store is prosecuted under the above statute for these actions.

In defending against this prosecution in a state trial court, the argument that would be the best defense for the corner store is that the statute violates the

A. First Amendment as it is incorporated into the Fourteenth Amendment, because the statute is excessively vague and overbroad.

B. First Amendment as it is incorporated into the Fourteenth Amendment, because a state may not prohibit the sale of violent or sexually explicit material in the absence of proof that the material is utterly without any redeeming value in the marketplace of ideas.

C. equal protection of the laws clause, because the statute irrationally treats violent and sexually explicit material that is pictorial differently from such material that is composed wholly of printed words.

D. equal protection of the laws clause, because the statute irrationally distinguishes between violent and sexually explicit pictorial material that may harm minors and such material that may harm only adults.

1. A federal statute imposes an excise tax of $100 on each new computer sold in the United States. It also appropriates the entire proceeds of that tax to a special fund, which is required to be used to purchase licenses for computer software that will be made available for use, free of charge, to any resident of the United States.

Is this statute constitutional?

A. No, because the federal government may not impose any direct taxes on citizens of the United States.

B. No, because this statute takes without just compensation the property of persons who hold patents or copyrights on computer software.

C. Yes, because it is a reasonable exercise of the power of Congress to tax and spend for the general welfare.

D. Yes, because the patent power authorizes Congress to impose reasonable charges on the sale of technology and to spend the proceeds of those charges to advance the use of technology in the United States.

1. A toy manufacturer that has its headquarters and sole manufacturing plant in a particular state developed a "Martian" toy that simulates the exploration of Mars by a remote-controlled vehicle. It accurately depicts the Martian landscape and the unmanned exploratory vehicle traversing it. The toy is of high quality, safe, durable, and has sold very well. Other toy manufacturers, all located outside the state, developed similar toys that are lower in price. These manufacturers have contracts to sell their Martian toys to outlets in the state. Although these toys are safe and durable, they depict the Martian landscape less realistically than the toys manufactured in the state. Nevertheless, because of the price difference, sales of these toys have cut severely into the sales of the Martian toys manufactured in the state. The state legislature subsequently enacted a law "to protect the children of the state from faulty science and to protect in-state toy manufacturers from unfair competition." This law forbids the sale in the state of any toy that purports to represent extraterrestrial objects and does not satisfy specified scientific criteria. The Martian toy manufactured in the state satisfies all of these criteria; none of the Martian toys of the competing manufacturers meets the requirements.

Is the state law constitutional?

A. No, because it abrogates the obligations of the contracts between the other toy manufacturers and the in-state outlets who have agreed to sell their Martian toys.

B. No, because it imposes an undue burden on interstate commerce.

C. Yes, because it deals only with a local matter, the sale of toys in this particular state's stores.

D. Yes, because the state's interest in protecting the state's children from faulty science justifies this burden on interstate commerce.

1. According to a state law, state employees may be fired only "for good cause." A woman who was a resident and an employee of the state was summarily fired on the sole ground that she had notified federal officials that the state was not following federal rules governing the administration of certain federally funded state programs on which she worked. The state denied the woman's request for a hearing to allow her to contest the charge. There is no record of any other state employee having been terminated for this reason.

In a suit to enjoin the state from firing her, which of the following claims provides the LEAST support for the woman's suit?

A. Firing her unconstitutionally abridges her freedom of speech.

B. Firing her unconstitutionally denies her a privilege or immunity of state citizenship protected by Article IV.

C. Firing her violates the supremacy clause of Article VI because it interferes with the enforcement of federal rules.

D. Firing her without affording an opportunity for a hearing is an unconstitutional denial of procedural due process.

1. X-- Two tenured professors at a state university drafted a new university regulation prohibiting certain kinds of speech on campus. Students, staff, and faculty convicted by campus tribunals of violating the regulation were made subject to penalties that included fines, suspensions, expulsions, and termination of employment. The regulation was widely unpopular and there was a great deal of public anger directed toward the professors who drafted it. The following year, the state legislature approved a severable provision in the appropriations bill for the university declaring that none of the university's funding could be used to pay the two professors, who were specifically named in the provision. In the past, the professors' salaries had always been paid from funds appropriated to the university by the legislature, and the university had no other funds that could be used to pay them.

If the professors challenge the constitutionality of the appropriations provision, is the court likely to uphold the provision?

A. No, because it amounts to the imposition of a punishment by the legislature without trial.

B. No, because it was based on conduct the professors engaged in before it was enacted.

C. Yes, because the Eleventh Amendment gives the state legislature plenary power to appropriate state funds in the manner that it deems most conducive to the welfare of its people.

D. Yes, because the full faith and credit clause requires the court to enforce the provision strictly according to its terms.

1. A state constitution provides that in every criminal trial "the accused shall have the right to confront all witnesses against him face to face." A defendant was convicted in state court of child abuse based on testimony from a six-year-old child. The child testified while she was seated behind one-way glass, which allowed the defendant to see the child but did not allow the child to see the defendant. The defendant appealed to the state supreme court claiming that the inability of the witness to see the defendant while she testified violated both the United States Constitution and the state constitution. Without addressing the federal constitutional issue, the state supreme court reversed the defendant's conviction and ordered a new trial. The state supreme court held that "the constitution of this state is clear, and it requires that while testifying in a criminal trial, a witness must be able to see the defendant." The state petitioned the United States Supreme Court for a writ of certiorari.

On which ground should the United States Supreme Court DENY the state's petition?

A. A state may not seek appellate review in the United States Supreme Court of the reversal of a criminal conviction by its own supreme court.

B. The decision of the state supreme court was based on an adequate and independent state ground.

C. The Sixth Amendment to the United States Constitution does not require that a witness against a criminal defendant be able to see the defendant while the witness testifies.

D. The state supreme court's decision requires a new trial, and therefore it is not a final judgment.

1. Several public high school students asked the superintendent of the public school district whether the minister of a local church could deliver an interdenominational prayer at their graduation ceremony in the school auditorium. None of the students or their guests at graduation would be required to pray while the minister delivered the prayer.

Would the minister's delivery of such a prayer at the public high school graduation be constitutional?

A. No, because it would be an unconstitutional establishment of religion.

B. No, because it would deny attendees who are not members of the minister's denomination the right to freely exercise their religion.

C. Yes, because none of the students or their guests would be required to pray at the graduation ceremony.

D. Yes, because the idea for the prayer originated with the students and not with school officials.

1. X--Congress passed a statute directing the United States Forest Service, a federal agency, to issue regulations to control campfires on federal public lands and to establish a schedule of penalties for those who violate the new regulations. The statute provided that the Forest Service regulations should "reduce, to the maximum extent feasible, all potential hazards that arise from campfires on Forest Service lands." The Forest Service issued the regulations and the schedule of penalties directed by Congress. The regulations include a rule that provides for the doubling of the fine for any negligent or prohibited use of fire if the user is intoxicated by alcohol or drugs.

Which of the following is the best argument for sustaining the constitutionality of the Forest Service's rule providing for the fines?

A. The executive branch of government, of which the Forest Service is part, has inherent rule-making authority over public lands.

B. The rule is issued pursuant to a valid exercise of Congress's power to delegate rule-making authority to federal agencies.

C. The rule is justified by a compelling governmental interest in safeguarding forest resources.

D. The rule relates directly to law enforcement, which is an executive rather than legislative function, and hence it does not need specific congressional authorization.

1. X--A city zoning ordinance requires anyone who proposes to operate a group home to obtain a special use permit from the city zoning board. The zoning ordinance defines a group home as a residence in which four or more unrelated adults reside. An individual applied for a special use permit to operate a group home for convicts during their transition from serving prison sentences to their release on parole. Although the proposed group home met all of the requirements for the special use permit, the zoning board denied the individual's application because of the nature of the proposed use. The individual sued the zoning board seeking declaratory and injunctive relief on constitutional grounds.

Which of the following best states the appropriate burden of persuasion in this action?

A. Because housing is a fundamental right, the zoning board must demonstrate that denial of the permit is necessary to serve a compelling state interest.

B. Because the zoning board's action has the effect of discriminating against a quasi-suspect class in regard to a basic subsistence right, the zoning board must demonstrate that the denial of the permit is substantially related to an important state interest.

C. Because the zoning board's action invidiously discriminates against a suspect class, the zoning board must demonstrate that denial of the permit is necessary to serve a compelling state interest.

D. Because the zoning board's action is in the nature of an economic or social welfare regulation, the individual seeking the permit must demonstrate that the denial of the permit is not rationally related to a legitimate state interest.

1. A purchaser bought land in the mountain foothills just outside a resort town and planned to build a housing development there. Soon thereafter, the county in which the land was located unexpectedly adopted a regulation that, for the first time, prohibited all construction in several foothill and mountain areas, including the area of the purchaser's property. The purpose of the county's regulation was "to conserve for future generations the unique natural wildlife and plant habitats" in the mountain areas. Since the adoption of the regulation, the purchaser has been unable to lease or sell the property at any price. Several realtors have advised the purchaser that the property is now worthless. The purchaser sued the county, claiming that the regulation has taken the purchaser's property and that the county therefore owes the purchaser just compensation.

Is the court likely to rule in favor of the purchaser?

A. No, because the county did not take title to the property from the purchaser.

B. No, because the regulation has not caused or authorized any uninvited physical invasion or intrusion onto the property.

C. Yes, because the conservation objective of the county ordinance is not sufficiently compelling to justify the substantial diminution in the property value.

D. Yes, because the effect of the county's regulation is to deny the purchaser's investment-backed expectation and essentially all economically beneficial use of the property.

1. A man bought an antique car from a car dealer in State A. Under State A law, a person who buys from such a dealer acquires good title, even if the property was stolen from a previous owner. The man showed the car at an antique car show in State B. A woman recognized the car as having been stolen from her. Under State B law, a person whose property is stolen may reclaim it, even if the current possessor is an innocent purchaser. The woman sued the man in a State B court to reclaim the car. The man defended, claiming that he had good title under the law of State A. Nevertheless, the State B court applied State B law, and the woman prevailed. The man did not appeal. The sheriff gave the woman possession of the car. Several months later, the woman drove the car to State A. The man brought a new suit against the woman, claiming that the State B court in the prior suit should have applied the State A law, which protected innocent purchasers. The woman appeared and moved to dismiss the suit.

What should the State A court do?

A. Apply the federal law of sale of goods, because the car has moved in interstate commerce.

B. Apply the State A law, because the car is currently located in State A.

C. Dismiss the suit, because the State A court must give full faith and credit to the State B judgment.

D. Remove the case to federal court, because the car has moved in interstate commerce, and therefore the case raises a federal question.

1. X--A state statute requires, without exception, that a woman under the age of 18 notify one of her parents at least 48 hours before having an abortion. A proper lawsuit challenges the constitutionality of this state statute. In that suit, should the court uphold the constitutionality of the statute?

A. No, because a 48-hour waiting period is excessively long and, therefore, it imposes an undue burden on a woman's right to procure an abortion.

B. No, because the state law does not provide a bypass procedure that would allow a court to authorize a minor to obtain an abortion without prior parental notification under appropriate circumstances.

C. Yes, because parents' rights to supervise their minor daughter's health care outweighs any individual right she may have.

D. Yes, because such parental notification and waiting-period requirements do not impose an undue burden on a minor's right to procure an abortion.

1. A group of students at a state university's law school wished to debate the future of affirmative action in that state and at that law school. For this debate they requested the use of a meeting room in the law school that is available on a first-come, first-served basis for extracurricular student use. Speakers presenting all sides of the issue were scheduled to participate. The law school administration refused to allow the use of any of its meeting rooms for this purpose solely because it believed that "such a debate, even if balanced, would have a negative effect on the morale of the law school community and might cause friction among the students that would disrupt the institution's educational mission."

Is the refusal of the law school administration to allow the use of its meeting room for this purpose constitutional?

A. No, because the law school administration cannot demonstrate that its action was necessary to vindicate a compelling state interest.

B. No, because the law school administration cannot demonstrate that its action was rationally related to a legitimate state interest.

C. Yes, because the law school administration's only concern was the adverse effect of such a discussion of affirmative action on the immediate audience and the mission of the institution.

D. Yes, because the law students do not have a right to use a state-owned law school facility for a meeting that is not organized and sponsored by the law school itself.

1. X-- The president issued an executive order in an effort to encourage citizens to use the metric (Celsius) system of temperatures. Section 1 of the executive order requires the United States Weather Bureau, a federal executive agency, to state temperatures only in Celsius in all weather reports. Section 2 of the executive order requires all privately owned federally licensed radio and television stations giving weather reports to report temperatures only in Celsius. No federal statute is applicable.

Is the president's executive order constitutional?

A. Section 1 is constitutional, but Section 2 is not.

B. Section 2 is constitutional, but Section 1 is not.

C. Sections 1 and 2 are constitutional.

D. Sections 1 and 2 are unconstitutional.

1. The childhood home of a former U.S. president is part of a national park located in a city. The National Park Service entered into a contract with an independent antique collector to acquire items owned by residents of the city during the president's lifetime. According to the contract, the collector purchases items and then sells them to the Park Service at a price equal to the collector's cost plus a 10% commission. Purchases by antique collectors are ordinarily subject to the sales tax of the state in which the city is located. The collector files suit in state court to enjoin collection of the tax on these purchases, claiming that the sales tax is unconstitutional as applied to them.

Should the state court issue the injunction?

A. No, because as the purchaser of these antiques, the collector rather than the federal government is liable for the tax.

B. No, because the suit is within the exclusive jurisdiction of the federal courts.

C. Yes, because the federal government is contractually obligated to pay the amount of the sales tax when it covers the collector's cost of these antiques.

D. Yes, because under the supremacy clause, the federal program to acquire these antiques preempts the state sales tax on the purchase of these items.

1. A federal statute required the National Bureau of Standards to establish minimum quality standards for all beer sold in the United States. The statute also provided that public proceedings must precede adoption of the standards, and that once they were adopted, the standards would be subject to judicial review. No standards have yet been adopted. Several officials of the National Bureau of Standards have indicated their personal preference for beer produced by a special brewing process commonly referred to as pasteurization. However, these officials have not indicated whether they intend to include a requirement for pasteurization in the minimum beer quality standards to be adopted by the Bureau. A brewery that produces an unpasteurized beer believes that its brewing process is as safe as pasteurization. The brewery is concerned that, after the appropriate proceedings, the Bureau may adopt quality standards that will prohibit the sale of any unpasteurized beer. As a result, the brewery sued in federal district court to enjoin the Bureau from adopting any standards that would prohibit the sale of unpasteurized beer in this country.

How should the district court dispose of the suit?

A. Determine whether the Bureau could reasonably believe that pasteurization is the safest process by which to brew beer, and if the Bureau could reasonably believe that, refuse to issue the injunction against the Bureau.

B. Determine whether the process used by the brewery is as safe as pasteurization and, if it is, issue the injunction against the Bureau.

C. Refuse to adjudicate the merits of the suit at this time and stay the action until the Bureau has actually issued beer quality standards.

D. Refuse to adjudicate the merits of the suit, because it does not involve a justiciable case or controversy.

1. X--The United States Congress enacted a federal statute providing that any state may "require labeling to show the state or other geographic origin of citrus fruit that is imported into the receiving state." Pursuant to the federal statute, a state that produced large quantities of citrus fruit enacted a law requiring all citrus fruit imported into the state to be stamped with a two-letter postal abbreviation signifying the state of the fruit's origin. The law did not impose any such requirement for citrus fruit grown within the state. When it adopted the law, the state legislature declared that its purpose was to reduce the risks of infection of local citrus crops by itinerant diseases that have been found to attack citrus fruit. A national association of citrus growers sued to have the state law declared unconstitutional. The association claims that the law is prohibited by the negative implications of the commerce clause of the Constitution.

Which of the following is the best argument in favor of the state's effort to have this lawsuit dismissed?

A. Any burden on interstate commerce imposed by the state law is outweighed by a legitimate state interest.

B. Congress has the authority to authorize specified state regulations that would otherwise be prohibited by the negative implications of the commerce clause, and it has done so in this situation.

C. The state law does not discriminate against out-of-state citrus growers or producers.

D. The state law furthers a legitimate state interest, the burden it imposes on interstate commerce is only incidental, and the state's interest cannot be satisfied by other means that are less burdensome to interstate commerce.

1. A man intensely disliked his neighbors, who were of a different race. One night, intending to frighten his neighbors, he spray-painted their house with racial epithets and threats that they would be lynched. The man was arrested and prosecuted under a state law providing that "any person who threatens violence against another person with the intent to cause that person to fear for his or her life or safety may be imprisoned for up to five years." In defense, the man claimed that he did not intend to lynch his neighbors, but only to scare them so that they would move away.

Can the man constitutionally be convicted under this law?

A. No, because he was only communicating his views and had not commenced any overt action against the neighbors.

B. Yes, because he was engaged in trespass when he painted the words on his neighbors' house.

C. Yes, because his communication was a threat by which he intended to intimidate his neighbors.

D. Yes, because his communication was racially motivated and thus violated the protections of the Thirteenth Amendment.

1. A city owned and operated a municipal bus system. The city sold space on its buses for the posting of placards. Decisions on the type of placards that could be posted on the buses were left wholly to the discretion of the administrator of the bus system. Although most of the placards that appeared on city buses were commercial advertisements, the administrator had often sold space on the buses for placards promoting various political, charitable, and religious causes. A circus bought space on the city buses for placards advertising its forthcoming performances. An animal rights organization asked the administrator to sell it space for a placard with photographs showing the mistreatment of animals in circus shows.

The administrator denied the organization's request. She said that the display of this placard would be offensive to the circus, which had paid a substantial sum to place its placards on the buses, and that she had been told by a circus employee that none of the photographs on the organization's placard depicted an animal belonging to this particular circus. Under the relevant city ordinance, the administrator's decision was final.

The organization sued the administrator in an appropriate court for a declaration that she could not, consistent with the First Amendment as made applicable to the states by the Fourteenth Amendment, refuse to sell the organization space for its placard for the reasons she gave.

Will the organization prevail?

A. No, because the administrator's denial of space to the organization was a reasonable time, manner, and place restriction of speech.

B. No, because a public official may not allow the use of public facilities for the propagation of a message that he or she believes may create a false or misleading impression.

C. Yes, because a public official may not refuse to permit the dissemination of a message in a public forum wholly on the basis of its content unless that denial is necessary to serve a compelling government interest.

D. Yes, because a public official may not refuse to allow the use of any public facility to publish a message dealing with an issue of public concern.

1. X--With the advice and consent of the Senate, the President entered into a self-executing treaty with a foreign country. The treaty provided that citizens of both nations were required to pay whatever torts damages were awarded against them by a court of either nation. A man and a woman who were U.S. citizens and residents of the same state were traveling separately in the foreign country when their cars collided. The foreign court awarded the woman a judgment for $500,000 in damages for her injuries from the accident.

In federal district court in their home state, the woman filed suit against the man to enforce the judgment. The man filed a motion to dismiss for lack of jurisdiction.

Should the court grant the motion to dismiss?

A. Yes, because the citizenship of the parties is not diverse.

B. Yes, because the traffic accident was a noncommercial transaction outside interstate commerce.

C. No, because the case falls within the federal question jurisdiction of the court.

D. No, because the treaty power is plenary and not subject to judicial review.

1. A state legislature received complaints from accident victims who, in the days immediately following their accidents, had received unwelcome and occasionally misleading telephone calls on behalf of medical care providers. The callers warned of the risks of not obtaining prompt medical evaluation to detect injuries resulting from accidents and offered free examinations to determine whether the victims had suffered any injuries.

In response to these complaints, the legislature enacted a law prohibiting medical care providers from soliciting any accident victim by telephone within 30 days of his or her accident.

Which of the following is the most useful argument for the state to use in defending the constitutionality of the law?

A. Because the commercial speech that is the subject of this law includes some speech that is misleading, the First Amendment does not limit the power of the state to regulate that speech.

B. Because the law regulates only commercial speech, the state need only demonstrate that the restriction is rationally related to achieving the state's legitimate interests in protecting the privacy of accident victims and in regulating the medical profession.

C. The state has substantial interests in protecting the privacy of accident victims and in regulating the practice of medical care providers, and the law is narrowly tailored to achieve the state's objectives.

D. The law is a reasonable time, place, and manner regulation.

1. A report released by a Senate investigating committee named three U.S. citizens as helping to organize support for terrorist activities. All three were employed by the U.S. government as park rangers.

Congress enacted a statute naming the three individuals identified in the report and providing that they could not hold any position of employment with the federal government.

Which of the following constitutional provisions provides the best means for challenging the constitutionality of the statute?

A. The bill of attainder clause.

B. The due process clause.

C. The ex post facto clause.

D. The takings clause.

1. X--Several sites on a mountain within federal public lands are regarded as sacred to a group that for years has gathered there to perform religious ceremonies. The United States Forest Service recently issued a permit to a private developer to construct a ski facility in an area that includes the sites that are sacred to the group. The group filed suit in federal district court against the Forest Service to force cancellation of the permit. The group claimed solely that the permit violated its First Amendment right to the free exercise of religion. The Forest Service conceded that the group's religious beliefs were sincere and that the ski facility would adversely affect the group's religious practices. In order to prevail in its First Amendment claim, what must the group show?

A. Construction of the ski facility will have a discriminatory impact on the group's religious practices in relation to the practices of other religious groups.

B. The burden on the group's religious practices imposed by construction of the ski facility outweighs the government's interest in allowing the facility.

C. The Forest Service can achieve its legitimate interest in allowing the ski facility by issuing a permit that is less burdensome on the group's religious practices.

D. The permit issued by the Forest Service is aimed at suppressing the religious practices of the group.

1. X--A federal statute required that any individual or entity owning more than 100 cars had to ensure that at least 10 percent of those cars were electric-powered. A city filed suit in federal district court against the federal official who enforced this requirement. The city sought an injunction prohibiting enforcement of the statute on the ground that it was unconstitutional. Should the court grant the injunction?

A. No, because the statute is valid under the commerce clause and does not violate the Tenth Amendment.

B. No, because the federal government has sovereign immunity and cannot be sued without its explicit consent.

C. Yes, because the statute violates the reserved rights of the states under the Tenth Amendment.

D. Yes, because as applied to state and local governments, the statute exceeds Congress's power under the commerce clause.

1. The United States government demonstrated that terrorist attacks involving commercial airliners were perpetrated exclusively by individuals of one particular race. In response, Congress enacted a statute imposing stringent new airport and airline security measures only on individuals of that race seeking to board airplanes in the United States. Which of the following provides the best ground for challenging the constitutionality of this statute?

A. The commerce clause of Article I, Section 8.

B. The due process clause of the Fifth Amendment.

C. The privileges and immunities clause of Article IV.

D. The privileges or immunities clause of the Fourteenth Amendment.

1. Congressional committees heard testimony from present and former holders of licenses issued by state vocational licensing boards. According to the testimony, the boards had unfairly manipulated their disciplinary proceedings in order to revoke the licenses of some license holders as a means of protecting favored licensees from competition.In response, Congress enacted a statute prescribing detailed procedural requirements for the disciplinary proceedings of all state vocational licensing boards. For example, the statute required the state boards to provide licensees with adequate notice and opportunity for an adjudicatory hearing in all disciplinary proceedings. The statute also prescribed criteria for the membership of all state vocational licensing boards that were designed to ensure that the boards were likely to be neutral.

Which of the following provides the best source of authority for this federal statute?

A. Section 5 of the Fourteenth Amendment.

B. The general welfare clause of Article I, Section 8.

C. The privileges and immunities clause of Article IV, Section 2.

D. The takings clause of the Fifth Amendment.

1. A state legislature conducted an investigation into a series of fatal accidents in the state involving commercial trucks with trailer exteriors made of polished aluminum. The investigation revealed that the sun's glare off of these trucks blinded the drivers of other vehicles. The state's legislature then enacted a law prohibiting commercial trucks with polished aluminum trailer exteriors from traveling on the state's highways. Litigation over the state law resulted in a final decision by the United States Supreme Court that the law impermissibly burdened interstate commerce and, therefore, was unconstitutional. Congress later enacted a statute permitting any state to enact a law regulating the degree of light reflectiveness of the exteriors of commercial trucks using the state's highways. Is this federal statute constitutional?

A. No, because the U.S. Supreme Court has already determined that state laws of this type impermissibly burden interstate commerce.

B. No, because Article III vests the judicial power in the federal courts, the essence of judicial power is the ability to render a final judgment, and this statute overrules a final judgment of the federal Supreme Court.

C. Yes, because Article I, Section 8 grants Congress authority to enact statutes authorizing states to impose burdens on interstate commerce that would otherwise be prohibited.

D. Yes, because Article I, Section 8 grants Congress authority to enact statutes for the general welfare, and Congress could reasonably believe that state laws regulating the light reflectiveness of the exteriors of trucks promote the general welfare.

1. A city passed an ordinance requiring individuals to obtain a license in order to care for children under the age of 12 for pay. To receive such a license, the ordinance required the individuals to complete 10 hours of instruction in child care, undergo a background check, and pay a $100 fee. The ordinance affected women disproportionately to men, because female babysitters far outnumbered male babysitters in the city. City officials who promoted the measure said that the certification process would ensure that babysitters were adequately regulated for the health and safety of the city's children.

Is the ordinance constitutional?

A. No, because it has a disparate impact on women without a showing that the ordinance is necessary to advance a compelling government interest.

B. No, because it infringes on the freedom of contract without a compelling government interest.

C. Yes, because any burden it imposes is clearly outweighed by an important government objective.

D. Yes, because it is rationally related to a legitimate government objective.

1. Residents of a city complained that brightly colored signs detracted from the character of the city's historic district and distracted motorists trying to navigate its narrow streets. In response, the city council enacted an ordinance requiring any "sign or visual display" visible on the streets of the historic district to be black and white and to be no more than four feet long or wide. A political party wanted to hang a six-foot-long red, white, and blue political banner in front of a building in the historic district. The party filed suit to challenge the constitutionality of the sign ordinance as applied to the display of its banner.

Which of the following would be the most useful argument for the political party?

A. The ordinance is not the least restrictive means of promoting a compelling government interest.

B. The ordinance is not narrowly tailored to an important government interest, nor does it leave open alternative channels of communication.

C. The ordinance imposes a prior restraint on political expression.

D. The ordinance effectively favors some categories of speech over others.

1. In one state, certain kinds of advanced diagnostic medical technology were located only in hospitals, where they provided a major source of revenue. In many other states, such technology was also available at "diagnostic centers" that were not affiliated with hospitals. A group of physicians announced its plan to immediately open in the state a diagnostic center that would not be affiliated with a hospital. The state hospital association argued to the state legislature that only hospitals could reliably handle advanced medical technologies. The legislature then enacted a law prohibiting the operation in the state of diagnostic centers that were not affiliated with hospitals. The group of physicians filed suit challenging the constitutionality of the state law. What action should the court take?

A. Uphold the law, because the provision of medical services is traditionally a matter of legitimate local concern that states have unreviewable authority to regulate.

B. Uphold the law, because the legislature could rationally believe that diagnostic centers not affiliated with hospitals would be less reliable than hospitals.

C. Invalidate the law, because it imposes an undue burden on access to medical services in the state.

D. Dismiss the suit without reaching the merits, because the suit is not ripe.

1. In order to reduce the federal deficit, Congress enacted a statute imposing a five percent national retail sales tax. The tax was levied upon all retail sales in the United States and applied equally to the sales of all kinds of goods. Is this tax constitutional as applied to retail sales of newspapers?

A. Yes, because it is within Congress's power to tax.

B. Yes, because the tax is necessary to serve the compelling interest of balancing the federal budget.

C. No, because retail sales taxes are within the taxing power of the states.

D. No, because the imposition of a tax on the sale of newspapers violates the freedom of the press.

1. X-- In response to the need for additional toxic waste landfills in a state, the state's legislature enacted a law authorizing a state agency to establish five new state-owned and state-operated toxic waste landfills. The law provided that the agency would decide the locations and sizes of the landfills after an investigation of all potential sites and a determination that the particular sites chosen would not endanger public health and would be consistent with the public welfare. A community in the state was scheduled for inspection by the agency as a potential toxic waste landfill site. Because the community's residents obtained most of their drinking water from an aquifer that ran under the entire community, a citizens' group, made up of residents of that community, sued the appropriate officials of the agency in federal court. The group sought a declaratory judgment that the selection of the community as the site of a toxic waste landfill would be unconstitutional and an injunction preventing the agency from selecting the community as a site for such a landfill. The agency officials moved to dismiss.

Which of the following is the most appropriate basis for the court to dismiss this suit?

A. The case presents a nonjusticiable political question.

B. The interest of the state in obtaining suitable sites for toxic waste landfills is sufficiently compelling to justify the selection of the community as a location for such a facility.

C. The Eleventh Amendment bars suits of this kind in the federal courts.

D. The case is not ripe for a decision on the merits.

1. National statistics revealed a dramatic increase in the number of elementary and secondary school students bringing controlled substances to school for sale. In response, Congress enacted a statute requiring each state legislature to enact a state law making it a crime for any person to sell, within 1,000 feet of any elementary or secondary school, any controlled substance that had previously been transported in interstate commerce. Is the federal statute constitutional?

A. No, because Congress has no authority to require a state legislature to enact any specified legislation.

B. No, because the sale of a controlled substance in close proximity to a school does not have a sufficiently close nexus to interstate commerce to justify its regulation by Congress.

C. Yes, because it contains a jurisdictional provision that will ensure, on a case-by-case basis, that any particular controlled substance subject to the terms of this statute will, in fact, affect interstate commerce.

D. Yes, because Congress possesses broad authority under both the general welfare clause and the commerce clause to regulate any activities affecting education that also have, in inseverable aggregates, a substantial effect on interstate commerce.

1. X--In order to combat terrorism, Congress enacted a statute authorizing the President to construct surveillance facilities on privately owned property if the President determined that the construction of such facilities was "necessary to safeguard the security of the United States." The statute provided no compensation for the owner of the land on which such facilities were constructed and provided that the surveillance facilities were to be owned and operated by the United States government. Pursuant to this statute, the President has determined that the construction of a surveillance facility on a very small, unused portion of an owner's large tract of land is necessary to safeguard the security of the United States. The construction and operation of the facility will not affect any of the uses that the owner is currently making of the entire tract of land.

The owner has filed suit to challenge the constitutionality of the construction of a surveillance facility on the parcel of land at issue without compensation. How should the court rule?

A. It would be a taking of the owner's property for which the owner must be compensated.

B. It would single out the owner for adverse treatment in violation of the equal protection component of the Fifth Amendment.

C. It would not interfere with any use the owner is currently making of the entire tract of land and, therefore, would not entitle the owner to any compensation.

D. It would be valid without any compensation, because it has been determined to be necessary to protect a compelling government interest in national security.

1. X-- A state law provides that a person who has been divorced may not marry again unless he or she is current on all child-support payments. A woman who was refused a marriage license pursuant to this law sued the appropriate state officials.

What standard should the court apply in reviewing the constitutionality of this law?

A. The state must show that the law is necessary to serve a compelling government interest.

B. The state must show that the law is substantially related to an important government interest.

C. The woman must show that the law serves no important public purpose.

D. The woman must show that the legislature did not have a rational basis for enacting the law.

1. Congress enacted a statute prohibiting discrimination in the rental of residential property anywhere in the United States on the basis of sexual orientation or preference by any person or entity, public or private. Which of the following provisions provides the strongest basis for Congress's authority to enact this statute?

A. The enforcement clause of the Fourteenth Amendment.

B. The privileges and immunities clause of Article IV.

C. The commerce clause of Article I, Section 8.

D. The general welfare clause of Article I, Section 8.

1. A state law made it a criminal offense for any state employee to "knowingly provide educational services or extend welfare benefits" to a foreign national who was in the United States in violation of U.S. immigration laws. The principal of a public elementary school was prosecuted under the law for enrolling and providing education to several foreign nationals he knew to be in the country illegally. All of these actions took place before the new law was adopted. No federal statute applied to the principal's actions. What constitutional provision would be most helpful to the principal's defense?

A. The due process clause of the Fourteenth Amendment.

B. The equal protection clause of the Fourteenth Amendment

C. The ex post facto clause of Article I, Section 10.

D. The privileges or immunities clause of the Fourteenth Amendment.

1. An unconstrued state law prohibited the distribution within the state of "seditious propaganda." The state prosecuted United States Post Office letter carriers under this law for delivering propaganda from a foreign country to state residents.

Which of the following statements is an INACCURATE description of the state's law as applied to the letter carriers?

A. It is an unconstitutional bill of attainder.

B. It is void for vagueness.

C. It may not be applied to the letter carriers, because they are employees of a federal instrumentality carrying out an authorized function.

D. It unconstitutionally abridges rights protected by the First and Fourteenth Amendments.

1. A protester entered an IRS office during business hours. He denounced the income tax and set fire to pages from his copy of the Internal Revenue Code. The fire was extinguished before it caused any other damage. The protester was arrested and charged with violating a state law that prohibited igniting a fire in a public building. He claimed that his prosecution was unconstitutional under the First Amendment. May the protester constitutionally be convicted?

A. No, because he was exercising his right to freedom of speech by burning a copy of the code.

B. No, because the copy of the code belonged to him, and thus burning it did not infringe upon a legitimate government interest.

C. Yes, because the burning of the code was conduct rather than speech.

D. Yes, because the state law is narrowly drawn to further a substantial government interest in prohibiting the noncommunicative aspects of the act in question.

1. A private university is owned and operated by a religious organization. The university is accredited by the department of education of the state in which it is located. This accreditation certifies that the university meets prescribed educational standards. Because it is accredited, the university qualifies for state funding for certain of its operating expenses. Under this funding program, 25 percent of the university's total operating budget comes from state funds. A professor at the university was a part-time columnist for the local newspaper. In one of her published columns, the professor argued that "religion has become a negative force in society." The university subsequently discharged the professor, giving as its sole reason for the dismissal her authorship and publication of this column. The professor sued the university, claiming only that her discharge violated her constitutional right to freedom of speech. The university moved to dismiss the professor's lawsuit on the ground that the U.S. Constitution does not provide the professor with a cause of action in this case.

Should the court grant the university's motion to dismiss?

A. Yes, because the First and Fourteenth Amendments protect the right of the university to employ only individuals who share and communicate its views.

B. Yes, because the action of the university in discharging the professor is not attributable to the state for purposes of the Fourteenth Amendment.

C. No, because the accreditation and partial funding of the university by the state are sufficient to justify the conclusion that the state was an active participant in the discharge of the professor.

D. No, because the U.S. Constitution provides a cause of action against any state-accredited institution that restricts freedom of speech as a condition of employment.

1. A state law that restricted abortion was challenged in state court as a violation of the due process clause of the Fourteenth Amendment to the U.S. Constitution and as a violation of a similar due process provision of the state constitution. The case made its way to the state's highest court, which ruled that the law violated the due process provisions of both the U.S. and the state constitutions. If petitioned to do so, may the U.S. Supreme Court exercise jurisdiction to review the state court decision?

A. No, because the state court's decision in this case rests on adequate and independent state law grounds.

B. No, because the U.S. Supreme Court has appellate jurisdiction only over state court decisions that determine the constitutionality of federal laws.

C. Yes, because the U.S. Supreme Court has appellate jurisdiction over any ruling of a state's highest court based on an interpretation of federal law.

D. Yes, because the U.S. Supreme Court has appellate jurisdiction over decisions that find state laws in violation of the federal Constitution.

1. A recently enacted federal statute requires the President to make each appointment of a United States ambassador to a foreign country from a list of three individuals. The list is to be compiled by the Senate Foreign Relations Committee and approved by the full Senate in advance of the appointment. The statute also provides that Senate confirmation of the appointment is deemed to occur automatically 30 days after the time the President names an appointee from the list, unless the full Senate determines otherwise within the 30-day period. Is this statute constitutional?

A. No, because the statute violates the constitutional requirements for appointment of principal officers of the United States.

B. No, because the statute impermissibly restricts the plenary foreign affairs powers of the President.

C. Yes, because the statute is consistent with the constitutional requirement that the presidential appointment of ambassadors be with the advice and consent of the Senate.

D. Yes, because the statute is a necessary and proper measure in furtherance of Congress's power to regulate commerce with foreign states.

1. Under a state law, a drug company that makes a false factual claim about a prescription drug is strictly liable in tort to any user of the drug. In an advertisement promoting sales of a particular drug, a drug company claimed that the drug was safe for children. Suit was filed against the company on behalf of a child who allegedly was harmed as a result of taking the drug. At the time the child took the drug, the available medical studies supported the company's claim that the drug was safe for children, but later research proved that the drug actually was harmful to children. The company has moved to dismiss the suit on First Amendment grounds. Should the court grant the motion?

A. No, because false or misleading commercial speech is not constitutionally protected.

B. No, because the drug business is subject to extensive health and safety regulation.

C. Yes, because liability cannot be imposed for false statements without a showing of actual malice.

D. Yes, because the company's claims about the drug were a matter of public concern.

1. A state owned a large natural gas field and took bids for its exploitation. The highest bid came from an interstate pipeline company that distributed natural gas to providers throughout the country. A local gas company submitted the next highest bid, which included the commitment that it would pass along to local customers any savings if it was awarded the contract. The state awarded the contract to the local company. The interstate company sued to overturn this decision. Should the interstate company prevail?

A. No, because the state has a compelling interest in reducing the cost of gas for state citizens.

B. No, because the state acted as a market participant.

C. Yes, because the state acted irrationally by not choosing the highest bidder and thus denied the interstate company due process of law.

D. Yes, because the state discriminated against interstate commerce.

1. X-- Congress enacted a statute authorizing the denial of all federal funding to public school districts in which a specified percentage of the students enrolled in the public schools fail to pass a national achievement test. According to the terms of the federal statute, the first national achievement test was scheduled for administration five years from the effective date of the statute. After reviewing then-current levels of public school student performance, the officials of a state became concerned that several of its public school districts would lose their federal funding after the administration of the first national achievement test. Then-current levels of private school student performance were substantially higher. In order to improve the chances of those school districts retaining their federal funding, the state recently enacted a law that requires all children of elementary and secondary school age to attend the schools operated by their respective local public school districts. The law is to take effect at the beginning of the next school year. Parents of children enrolled in private schools within the state have filed suit to challenge the constitutionality of this state law.

Should the court uphold the law?

A. Yes, because it is rationally related to a legitimate state interest.

B. Yes, because it is necessary to further a compelling state interest.

C. No, because it is not rationally related to a legitimate state interest.

D. No, because it is not necessary to further a compelling state interest.

1. Congress enacted a statute establishing a program to protect areas in the United States that are rich in biological diversity. The program is consistent with the terms of an environmental treaty that the President objected to and did not sign. The statute creates an executive agency and authorizes it to designate parts of federal lands for inclusion in the program in accordance with criteria taken from the treaty. In an inseverable provision, the statute further provides that the agency must report each designation to a committee of Congress and that the committee may overturn the agency's designation by a majority vote. Why is the statute unconstitutional?

A. It constitutes an invalid delegation of legislative authority to an executive agency.

B. It interferes with the exercise of the President's paramount authority in foreign affairs.

C. It requires an executive agency to report its decisions to Congress.

D. It authorizes a committee of Congress to overturn an executive decision.

1. A city ordinance prohibited individuals from picketing in residential neighborhoods unless the picketing related to the neighborhood zoning requirements. This exception to the ordinance was adopted in response to local citizens' strong views about proposed rezoning of residential neighborhoods. A group that wished to picket in front of a business owner's home because of the business owner's employment practices challenged the ordinance as unconstitutional under the First Amendment. Will the group's challenge likely prevail?

A. No, because the ordinance is a content-neutral regulation of speech.

B. No, because the ordinance regulates conduct rather than speech.

C. Yes, because the ordinance irrationally discriminates between different types of protesters.

D. Yes, because the ordinance is a content-based regulation of speech.

1. A state law prohibits the withdrawal of groundwater from any well within the state for use in another state. The express purpose of the law is to safeguard the supply of water for state citizens. Adoption of this state law followed enactment of a federal statute providing that "the transport of groundwater from one state to another may be restricted or prohibited in accordance with the laws of the state in which the water originates." An association of water users in a neighboring state has filed suit to have the state law declared unconstitutional and enjoined on the ground that it violates the negative implications of the commerce clause. Which of the following is the best argument supporting a motion to dismiss the lawsuit?

A. The law promotes a compelling state interest that outweighs any burden on interstate commercial activity that might result from this state regulation of its groundwater.

B. Groundwater located within a state is not itself an article of interstate commerce, and therefore state regulation of the withdrawal of such groundwater does not implicate the commerce clause.

C. The Tenth Amendment reserves to the states plenary authority over the regulation of the natural resources located within their respective borders.

D. The federal statute explicitly consents to a state's regulation of its groundwater in a way that would otherwise violate the negative implications of the commerce clause.

1. A state adopted a rule denying admission to its bar to anyone who was currently or had previously been a member of a subversive group. The state's bar application form was modified to ask applicants whether they were or had previously been members of any subversive organization. An applicant refused to answer the question and was denied bar admission on that basis. The applicant challenged the decision, arguing that the question infringed upon his freedom of association. Is the applicant likely to prevail?

A. No, because membership in a subversive group constitutes endorsement of the group's illegal activities.

B. No, because the Constitution does not apply to the bar.

C. Yes, because denying bar admission based on any association with a subversive organization violates the First Amendment.

D. Yes, because denying bar admission based solely on past membership in a subversive organization violates the First Amendment.

223. The owner of a milk container manufacturing firm sought to focus public attention on the milk packaging law of a certain state in order to have it repealed. On a weekday at 12:00 noon, he delivered an excited, animated, and loud harangue on the steps of the State Capitol in front of the main entryway. An audience of 200 onlookers, who gathered on the steps, heckled him and laughed as he delivered his tirade. The owner of the manufacturing firm repeatedly stated, gesturing expressively and making faces, that "the g-ddamned milk packaging law is stupid," and that "I will strangle every one of those g-ddamned legislators I can get hold of because this law they created proves they are all too dumb to live." After about fifteen minutes the owner of the milk container manufacturing firm stopped speaking, and the amused crowd dispersed.

There is one relevant statute of the state which prohibits "all speech making, picketing, and public gatherings of every sort on the Capitol steps in front of the main entryway between 7:45 a.m.-8:15 a.m., 11:45 a.m.-12:15 p.m., 12:45 p.m.-1:15 p.m., and 4:45 p.m.-5:15 p.m. on Capitol working days."

Which of the following possible plaintiffs other than the owner of the milk container manufacturing firm would be most likely to obtain an adjudication in a federal court on the validity of the "Capitol Steps" statute?

A. A state taxpayer in the highest tax bracket

B. A politician intending to make a campaign speech on the Capitol steps during a prohibited time

C. A legislator who voted against the statute because he thought it unconstitutional

D. An organization whose purpose was "to seek judicial invalidation of unconstitutional laws"

224. A state provides by statute, "No person may be awarded any state construction contract without agreeing to employ only citizens of the state and of the United States in performance of the contract."In evaluating the constitutionality of this state statute under the supremacy clause, which of the following would be most directly relevant?

A. The general unemployment rate in the nation.

B. The treaties and immigration laws of the United States.

C. The need of the state for this particular statute.

D. The number of aliens currently residing in the state.

225. The President of the United States recognizes the country of Ruritania and undertakes diplomatic relations with its government through the Secretary of State. Ruritania is governed by a repressive totalitarian government.In an appropriate federal court, a citizen brings a suit against the President and Secretary of State to set aside this action on the ground that it is inconsistent with the principles of our constitutional form of government. The citizen has a lucrative contract with the United States Department of Commerce to provide commercial information about Ruritania. The contract expressly terminates, however, "when the President recognizes the country of Ruritania and undertakes diplomatic relations with its government."

Which of the following is the most proper disposition of the citizen's suit by the federal court?

A. Suit dismissed, because the citizen does not have standing to bring this action.

B. Suit dismissed, because there is not diversity between the citizen and the defendants.

C. Suit dismissed, because it presents a nonjusticiable political question.

D. Suit decided on the merits.

226. Congress passed a statute providing that parties could no longer seek review in the U.S. Supreme Court of final judgments in criminal matters made by the highest court in each state. What is the best argument supporting the constitutionality of the statute?

A. Congress has the power to make exceptions to the appellate jurisdiction of the Supreme Court.

B. Criminal matters are traditionally governed by state law.

C. The proper means of federal judicial review of state criminal matters is by habeas corpus.

D. The review of state court judgments is not within the original jurisdiction of the Supreme Court.

227.X-- As part of a comprehensive federal aid-to-education program, Congress included the following provisions as conditions for state receipt of federal funds: (1) Whenever textbooks are provided to students without charge, they must include no religious instruction and must be made available on the same terms to students in all public and private schools accredited by the state educational authority. (2) Salary supplements can be paid to teachers in public and private schools, up to ten percent of existing salary schedules, where present compensation is less than the average salary for persons of comparable training and experience, provided that no such supplement is paid to any teacher who instructs in religious subjects. (3) Construction grants can be made toward the cost of physical plant at private colleges and universities, provided that no part of the grant is used for buildings in which instruction in religious subject matters is offered.

A federal taxpayer challenges the provision that allows the distribution of free textbooks to students in a private school where religious instruction is included in the curriculum. On the question of the adequacy of the taxpayer's standing to raise the constitutional question, the most likely result is that standing will be

A. sustained, because any congressional spending authorization can be challenged by any taxpayer.

B. sustained, because the challenge to the exercise of congressional spending power is based on a claimed violation of specific constitutional limitations on the exercise of such power.

C. denied, because there is insufficient nexus between the taxpayer and the challenged expenditures.

D. denied, because, in the case of private schools, no state action is involved.

228. A federal criminal law makes it a crime for any citizen of the United States not specially authorized by the President to negotiate with a foreign government for the purpose of influencing the foreign government in relation to a dispute with the United States. The strongest constitutional ground for the validity of this law is that

A. under several of its enumerated powers, Congress may legislate to preserve the monopoly of the national government over the conduct of United States foreign affairs.

B. the President's inherent power to negotiate for the United States with foreign countries authorizes the President, even in the absence of statutory authorization, to punish citizens who engage in such negotiations without permission.

C. the law deals with foreign relations and therefore is not governed by the First Amendment.

D. federal criminal laws dealing with international affairs need not be as specific as those dealing with domestic affairs.

229 .Congress enacts a law providing that all disagreements between the United States and a state over federal grant-in-aid funds shall be settled by the filing of a suit in the federal district court in the affected state. "The judgment of that federal court shall be transmitted to the head of the federal agency dispensing such funds who, if satisfied that the judgment is fair and lawful, shall execute the judgment according to its terms." This law is

A. constitutional, because disagreements over federal grant-in-aid funds necessarily involve federal questions within the judicial power of the United States.

B. constitutional, because the spending of federal monies necessarily includes the authority to provide for the effective settlement of disputes involving them.

C. unconstitutional, because it vests authority in the federal court to determine a matter prohibited to it by the Eleventh Amendment.

D. unconstitutional, because it vests authority in a federal court to render an advisory opinion.

230. A state statute makes fraud for personal financial gain a crime. The defendant was convicted of violating this statute on three separate occasions. Following his most recent conviction, he professed to have undergone a religious conversion and proclaimed himself to be the divine minister of "St. Rockport," an alleged messiah who would shortly be making his appearance on earth. The defendant solicited cash donations from the public to support his efforts to spread the word of St. Rockport and his coming appearance on earth.

Following complaints by several contributors who claimed he defrauded them, the defendant was again charged with fraud under this state statute. The charge was that the defendant "should have known that his representations about St. Rockport were false and, therefore, that he made them solely to collect cash donations for his personal gain." A witness for the prosecution in the defendant's trial stated that the defendant had admitted that, at times, he had doubts about the existence of St. Rockport. The defendant was the only religious minister prosecuted for fraud under this state statute.

The strongest constitutional defense that the defendant could assert would be that this prosecution

A. deprived him of the equal protection of the laws because other religious ministers have not been charged under this statute.

B. denied him procedural due process because it placed upon the defendant the burden of rebutting evidence, submitted by the state of his bad faith in raising this money.

C. denied him rights conferred by the obligation of contracts clause by preventing him from taking money from persons who wished to contract with him to spread the word of St. Rockport.

D. denied him the free exercise of religion in violation of the First and Fourteenth Amendments because it required the state to determine the truth or falsity of the content of his religious beliefs.

231. An ordinance of a particular city requires that its mayor have continuously been a resident of the city for at least five years at the time he or she takes office. A candidate, who is thinking about running for mayor in an election that will take place next year, will have been a resident of the city for only four and one-half years at the time the mayor elected then takes office. Before he decides whether to run for the position of mayor, the candidate wants to know whether he could lawfully assume that position if he were elected. As a result, the candidate files suit in the local federal district court for a declaratory judgment that the city's five-year-residence requirement is unconstitutional and that he is entitled to a place on his political party's primary election ballot for mayor. He names the chairman of his political party as the sole defendant but does not join any election official. The chairman responds by joining the candidate in requesting the court to declare the city's residence requirement invalid. In this case, the court should

A. refuse to determine the merits of this suit, because there is no case or controversy.

B. refuse to issue such a declaratory judgment, because an issue of this kind involving only a local election does not present a substantial federal constitutional question.

C. issue the declaratory judgment, because a residency requirement of this type is a denial of the equal protection of the laws.

D. issue the declaratory judgment, because the candidate will have substantially complied with the residency requirement.

232. Radon is a harmful gas found in the soil of certain regions of the United States. A state statute requires occupants of residences with basements susceptible to the intrusion of radon to have their residences tested for the presence of radon and to take specified remedial steps if the test indicates the presence of radon above specified levels. The statute also provides that the testing for radon may be done only by testers licensed by a state agency. According to the statute, a firm may be licensed to test for radon only if it meets specified rigorous standards relating to the accuracy of its testing. These standards may easily be achieved with current technology; but the technology required to meet them is 50% more expensive than the technology required to measure radon accumulations in a slightly less accurate manner.

The United States Environmental Protection Agency (EPA) does not license radon testers. However, a federal statute authorizes the EPA to advise on the accuracy of various methods of radon testing and to provide to the general public a list of testers that use methods it believes to be reasonably accurate.

A recently established state firm uses a testing method that the EPA has stated is reasonably accurate. The firm is also included by the EPA on a list of testers using methods of testing it believes to be reasonably accurate. The firm applies for a state radon testing license, but its application is denied because the firm cannot demonstrate that the method of testing for radon it uses is sufficiently accurate to meet the rigorous state statutory standards. The firm sues appropriate state officials in federal court claiming that the state may not constitutionally exclude the firm from performing the required radon tests in the state.

In this suit, the court will probably rule in favor of

A. the firm, because the full faith and credit clause of the Constitution requires the state to respect and give effect to the action of the EPA in including the firm on its list of testers that use reasonably accurate methods.

B. the firm, because the supremacy clause of the Constitution requires the state to respect and give effect to the action of the EPA in including the firm on its list of testers that use reasonably accurate methods.

C. The state, because the federal statute and the action of the EPA in including the firm on its list of testers that use reasonably accurate methods are not inconsistent with the more rigorous state licensing requirement, and that requirement is reasonably related to a legitimate public interest.

D. The state, because radon exposure is limited to basement areas, which, by their very nature, cannot move in interstate commerce.

233. According to a state law, state employees may be fired only "for good cause." A woman who was a resident and an employee of the state was summarily fired on the sole ground that she had notified federal officials that the state was not following federal rules governing the administration of certain federally funded state programs on which she worked. The state denied the woman's request for a hearing to allow her to contest the charge. There is no record of any other state employee having been terminated for this reason.

In a suit to enjoin the state from firing her, which of the following claims provides the LEAST support for the woman's suit?\

A. Firing her unconstitutionally abridges her freedom of speech.

B. Firing her unconstitutionally denies her a privilege or immunity of state citizenship protected by Article IV.

C. Firing her violates the supremacy clause of Article VI because it interferes with the enforcement of federal rules.

D. Firing her without affording an opportunity for a hearing is an unconstitutional denial of procedural due process.

234. In response to the need for additional toxic waste landfills in a state, the state's legislature enacted a law authorizing a state agency to establish five new state-owned and state-operated toxic waste landfills. The law provided that the agency would decide the locations and sizes of the landfills after an investigation of all potential sites and a determination that the particular sites chosen would not endanger public health and would be consistent with the public welfare.

A community in the state was scheduled for inspection by the agency as a potential toxic waste landfill site. Because the community's residents obtained most of their drinking water from an aquifer that ran under the entire community, a citizens' group, made up of residents of that community, sued the appropriate officials of the agency in federal court. The group sought a declaratory judgment that the selection of the community as the site of a toxic waste landfill would be unconstitutional and an injunction preventing the agency from selecting the community as a site for such a landfill. The agency officials moved to dismiss.

Which of the following is the most appropriate basis for the court to dismiss this suit?

A. The case presents a nonjusticiable political question.

B. The interest of the state in obtaining suitable sites for toxic waste landfills is sufficiently compelling to justify the selection of the community as a location for such a facility.

C. The Eleventh Amendment bars suits of this kind in the federal courts.

D. The case is not ripe for a decision on the merits.

235. National statistics revealed a dramatic increase in the number of elementary and secondary school students bringing controlled substances to school for sale. In response, Congress enacted a statute requiring each state legislature to enact a state law making it a crime for any person to sell, within 1,000 feet of any elementary or secondary school, any controlled substance that had previously been transported in interstate commerce.

Is the federal statute constitutional?

A. No, because Congress has no authority to require a state legislature to enact any specified legislation.

B. No, because the sale of a controlled substance in close proximity to a school does not have a sufficiently close nexus to interstate commerce to justify its regulation by Congress.

C. Yes, because it contains a jurisdictional provision that will ensure, on a case-by-case basis, that any particular controlled substance subject to the terms of this statute will, in fact, affect interstate commerce.

D. Yes, because Congress possesses broad authority under both the general welfare clause and the commerce clause to regulate any activities affecting education that also have, in inseverable aggregates, a substantial effect on interstate commerce.