

Name _____
Social Security Number _____
Political Science 520, Winter 2003

Professor Caldeira

American Constitutional Law and Politics
Midterm Examination

Multiple Choice: Please write your name and social security number at the top of the page. Choose the best answer. Read questions and answers carefully; often your options vary subtly

1. In *Eakin v. Raub*, Justice Gibson of the Pennsylvania Supreme Court:
 a. declared that each branch of government should be the authoritative interpreter of its own part of the constitution
b. prohibited slavery in the state
c. argued that the state supreme courts should be able to interpret how the Federal Constitution applies to the states
d. upheld a carriage tax, implying the right of courts to review statutes
2. The Ashwander rules are:
a. the formal rules established for structuring an opinion
b. the internal rules governing the Conference as written by Chief Justice Ashwander
c. rules of decorum established by the Court in the 1800s
 d. informal rules set by Justice Brandeis for when and how far to go in deciding cases.
3. The major difference between "originalism" and "literalism" is:
 a. the first looks to the intent of the Framers and the second looks to words of the Constitution.
b. nothing, they are different names for the same general approach to deciding cases
c. the first allows for contemporary interpretation and the other doesn't allow for any interpretation
d. the second has been ruled as an inappropriate decision rule
4. Which of the following cases gives an example of the balancing approach?
a. *Marbury v. Madison*
 b. *Barenblatt v. United States*
c. *Baker v. Carr*
d. *South Carolina v. Katzenbach*
5. The case of *Luther v. Borden* decided that:
a. The Court can overrule Congress's declaration of war
b. Congress can amend the Court's appellate jurisdiction
c. The President can dismiss a first class postmaster
 d. The Court cannot review a President's decision in recognizing a state government as legitimate
6. Which case firmly established the ability of the Court to hear

appeals from state courts when a federal question is involved:

- a. Ex Parte McCardle
 - b. Hylton v. U.S.
 - c. Cohens v. Virginia
 - d. Martin v. Hunter's Lessee
7. In 1962 the Court decided Baker v. Carr. It:
- a. dismissed the case because it was moot and clarified what mootness means
 - b. redefined the political question doctrine in regard to justiciability
 - c. determined that a case must be ripe before it can be decided
 - d. dismissed the case for lack of standing
8. In Ex Parte McCardle, the Supreme Court held that:
- a. Congress could repeal an act providing for the writ of habeas corpus because the writ was part of due process of law.
 - b. Congress could repeal an act providing for the writ of habeas corpus, but could not make the repeal retroactive and affect cases in progress without violating the ex post facto clause of the Constitution.
 - c. Congress could not repeal an act providing for the writ of habeas corpus.
 - d. Congress could repeal an act providing for the writ of habeas corpus, and it could remove a case from the Court's appellate jurisdiction even after it had begun.
9. In Marbury v. Madison, the Court held that:
- a. a writ of mandamus could not be issued by the Supreme Court because in this case it would be an exercise of original jurisdiction not granted by the Constitution.
 - b. federal courts could grant only those writs listed in the Constitution and Congress could not authorize the federal courts to grant any other writs.
 - c. The Supreme Court could not grant the writ of mandamus, because such a writ had not been specifically granted by Congress.
 - d. a writ of mandamus could not be issued by the Supreme Court because it would be an exercise of appellate jurisdiction not granted by the Constitution.
10. How many justices are there on the current Supreme Court?
- a. 7.
 - b. 5.
 - c. 9.
 - d. 11.
11. In Flast v. Cohen, Chief Justice Warren held that:
- a. a federal taxpayer's lawsuit could now be entertained (federal taxpayers would have standing) if the litigant could show that s/he was a federal taxpayer and that the legislation in question was passed pursuant to Congress's Article I power to tax and spend.
 - b. Frothingham v. Mellon was decided wrongly, and hence should

- be overruled.
- c. federal taxpayers must show how the legislation in question violates some clear and specific constitutional prohibition before they will be granted standing to sue.
- d. a and c.
12. The main function of the U.S. Court of Appeals for the Federal Circuit is to:
- a. hear appeals from the Federal District Courts
- b. find facts for cases that come to the Supreme Court under its original jurisdiction
- c. hear cases appealed from state supreme courts
- d. hear appeals from specialized courts
13. Which of the following is no longer a viable way to reach the Supreme Court:
- a. writ of error
- b. writ of appeal
- c. writ of certiorari
- d. none of the above; all are still legitimate and in use.
14. All of the following but one has been noted as a reason for granting a writ of certiorari:
- a. U.S. as a petitioning party
- b. conflict in the courts below
- c. In forma pauperis brief filed
- d. Novelty or importance of the issue raised.
15. In *Marbury v. Madison* (1803), the parts of Chief Justice Marshall's opinion for the Court that examined whether Marbury had a right to the commission for the office of justice of the peace are:
- a. the foundation of the power of judicial review.
- b. obiter dicta (i.e., not required for the decision)
- c. examples of judicial restraint.
- d. the source of the reasoning for the later case of *McCulloch v. Maryland*
16. The decision in *Baker v. Carr* (1962) found that reapportionment cases were justiciable under the _____ of the Fourteenth Amendment. This was a change from the rulings in *Luther v. Borden* (1849) and *Colegrove v. Green* (1948), which had found reapportionment cases brought under the _____ of Article IV to be nonjusticiable as political questions.
- a. Equal Protection Clause; Guarantee Clause.
- b. Equal Protection Clause; Full Faith and Credit Clause.
- c. Due Process Clause; Full Faith and Credit Clause.
- d. Due Process Clause; Guarantee Clause.
17. These days, most cases come to the Supreme Court via a petition for a:
- a. writ of certiorari.
- b. writ of appeal.

- c. grant of original jurisdiction.
 - d. writ of error.
18. The concurrence of Justice Brandeis in *Ashwander v. Tennessee Valley Authority* (1936) set out guidelines (the Ashwander "Rules") to describe the appropriate contours of:
- a. recusal.
 - b. justiciability.
 - ~~c.~~ judicial self-restraint.
 - d. decorum.