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Social Security Number _____
Political Science 520
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Professor Caldeira
2022 Derby Hall

AMERICAN CONSTITUTIONAL LAW AND POLITICS

Second 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. You have until 11.20 to complete the examination. Good luck.

1. In *Clinton v. Jones* the Court held that:
 - a. the President cannot be held civilly liable for official actions prior to his term of office.
 - b. the President cannot be held civilly liable for private actions, if at the outer perimeter of his authority, prior to his term of office.
 - c. the President is, during his term of office, immune from all civil lawsuits because otherwise he would be engulfed with lawsuits and the business of the executive branch would come to a halt.
 - d. the President can be the subject of a civil lawsuit, for actions taken prior to his term of office, during his term of office, if the trial court takes care not to interfere with the business of the executive branch.
2. Of the following powers, which is NOT one delegated to Congress in Article I, Section 8 of the Constitution:
 - a. to lay and collect taxes
 - b. provide for the common defense
 - c. borrow money on credit of United States
 - d. to protect health, safety, and welfare
 - e. to control the issuance of patents and copyrights
3. The Constitution:
 - a. summarizes all of the powers of Congress in Article I, Section 8
 - b. summarizes all of the powers of Congress in Articles I and III
 - c. grants powers to Congress in Articles I, III, and other articles
 - d. limits Congress to the powers explicitly mentioned in the Constitution
4. Executive agreements differ from treaties because:
 - a. executive agreements do not need senatorial approval
 - b. treaties take precedence over national law, executive agreements do not
 - c. treaties legally transcend administration changes; executive agreements do not unless subsequent presidents wish to adhere to them.
 - d. a & c
 - e. a & b

5. According to political leaders such as Theodore Roosevelt and Alexander Hamilton, the President's powers:
 - a. are limited to those expressly granted by the Constitution
 - b. are limited only by explicit prohibitions in the Constitution
 - c. are limited to those expressly granted in the Constitution or by Congress
 - d. are limited primarily to the conduct of foreign policy
6. In the area of presidential power, the Supreme Court has:
 - a. granted broader authority in domestic affairs than in foreign affairs
 - b. granted broader authority in foreign affairs than in domestic affairs
 - c. granted equally broad authority in domestic and foreign affairs
 - d. granted equally narrow authority in domestic and foreign affairs
7. The Court is less likely to interfere with the decisions of the other branches when the case involves:
 - a. domestic affairs;
 - b. civil liberties;
 - c. foreign affairs;
 - d. wildlife management.
8. The "intelligible principle" doctrine enunciated by Chief Justice Taft in *Hampton & Co. v. United States* (1928) applies to:
 - a. delegation of state power;
 - b. assumption of state power;
 - c. delegation of congressional power;
 - d. assumption of international power.
9. *United States v. Curtiss-Wright Export* involved a congressional delegation of power to the chief executive. The Court held that:
 - a. The same rule of delegation applies in foreign affairs as in domestic affairs.
 - b. The rule of delegation is much broader for foreign than for domestic affairs, particularly since President has inherent powers in the sphere of foreign affairs.
 - c. Congress, in its resolution, had gone beyond its powers under the Interstate Commerce Clause
 - d. The President could do what he did in Curtiss-Wright even if Congress had taken no action. He can act on his inherent powers.
10. The War Powers Act of 1973 requires:
 - a. prior congressional approval of any military action
 - b. prior judicial review of any military action
 - c. official notification of action within 48 hours
 - d. foreign military missions to be limited to 20 days unless sanctioned by the United Nations.
11. The Court in *U.S. v. Curtiss-Wright Export Corporation* (1936) held that:
 - a. the joint resolution passed by Congress was an improper delegation of legislative powers due to the breadth of the authority granted to the executive.
 - b. the joint resolution passed by Congress revoking passports due to

national security concerns is not an unconstitutional act.
 c. the executive need not wait for Congress to declare war to act if the aggressors are insurgents and not a recognized foreign power.
 d. a broad delegation of power by Congress to the executive is constitutional in the realm of foreign policy

12. In *Morrison v. Olson* Justice Scalia in his dissent states:
 - a. That the Independent Counsel provisions are unconstitutional under Article III of the Constitution
 - b. That the Independent Counsel provisions violate the Separation of Powers
 - c. That the Independent Counsel provisions improperly put the executive branch in control of functions reserved to the legislative branch.
 - d. That the Independent Counsel provisions, since they allow the Executive Branch to investigate itself without Congressional supervision, violate the Appointments Clause

13. Early in the New Deal, FDR removed Humphrey, a commissioner on the FTC. The Court said in *Humphrey's Executor v. United States*:
 - a. The President has the executive power to remove members of the regulatory commissions; he needs to be able to choose who works for him so that he can "take care that the laws be faithfully executed"
 - b. The President has no power to remove anyone in the federal executive branch whom Congress has confirmed
 - c. The President does not have the power to remove a member of an independent regulatory commission if Congress has provided criteria for removal; but in this case Congress had not, so FDR's action was consistent with the Constitution
 - d. The President does not have the power to remove a member of an independent regulatory commission, if Congress has provided criteria for removal; and in this case Congress had indeed set forth criteria for removal so FDR's action was inconsistent with the Constitution

14. Chief Justice Taft and the majority in *Myers v. United States* held:
 - a. The President has unlimited power to remove federal officers, except federal judges, in whose appointment he participates.
 - b. The President, because of the Pendleton Act, may not remove inferior federal officers without the consent of Congress
 - c. The President has the power to remove inferior federal officers only for causes set out in statute by Congress
 - d. The President has the power to remove any federal officers, whether one who makes policy or an inferior officer, including federal judges.

15. In *South Carolina v. Katzenbach* (1966), Chief Justice Warren's opinion for the Court established that Congress could use "_____ to effectuate the constitutional prohibition of racial discrimination in voting" as a function of its _____ powers.
 - a. any narrowly tailored remedy; inherent.
 - b. any rational means; amendment enforcing.
 - c. any narrowly tailored remedy; amendment enforcing.
 - d. any rational means; inherent.

16. In *Mississippi v. Johnson* the Court held that:

- a. executive privilege is not unlimited
 - b. the president cannot remove a high ranking official without cause
 - c. the president cannot be restrained from enforcing a congressional statute
 - d. the president has implied powers that encompass the granting of protection to federal judges
17. *Mississippi v. Johnson* dealt with which of the following statutes:
- a. the Civil Rights Act of 1866
 - b. two of the Reconstruction Acts
 - c. the Tenure of Office Act of 1866
 - d. none of the above.
18. In *McGrain v. Daugherty* (1927) the Court ruled that Congress's power to inquire and to enforce that power with the ability to punish is:
- a. an implied or inherent power;
 - b. an delegated power;
 - c. an enumerated power;
 - d. an amendment-enforcing power.
19. The Court's ruling in *In re Neagle* (1890) endorsed:
- a. a reduction of presidential powers of enforcement authority;
 - b. a broad view of presidential law enforcement authority;
 - c. an expansion of congressional powers of enforcement authority;
 - d. a reduction of congressional powers of enforcement authority.
20. The doctrine of presidential immunity extends:
- a. only to the president in official functions;
 - b. only to the president in executive and personal functions;
 - c. to the president and to department heads;
 - d. to the president and those over whom the president has removal power.
21. In *United States v. Nixon* (1974) the Court found that executive privilege:
- a. is self-defined;
 - b. extends to all written, but not electronically gathered and stored materials;
 - c. is limited;
 - d. is never acknowledged by the judiciary.
22. Which of the following is an argument made by Jefferson about what became the underlying issue of *McCulloch v. Maryland*?
- a. The Constitution allows for "convenient or reasonable" laws to carry out congressional powers
 - b. The Constitution allows "necessary" but not "convenient or reasonable" laws to carry out congressional powers.
 - c. The Constitution allows for laying taxes for the purpose of providing for the general welfare
 - d. The Constitution does not allow for laying taxes for the purpose of providing for the general welfare.
23. In *Watkins v. U.S.*, the Supreme Court held that Mr. Watkins' conviction was:
- a. invalid under the Due Process clause of the 5th Amendment
 - b. invalid under the First Amendment's Freedom of Speech

- c. valid because of the legislative objective of inquiring about communism
 - d. invalid because communist activities are not a proper legislative topic
24. In *Barenblatt v. United States*, on congressional power to conduct investigations, the Supreme Court held that:
- a. Mr. Barenblatt's conviction for contempt should stand, since HUAC's charter was clearly drawn and he should have known whether questions were pertinent.
 - b. Mr. Barenblatt's conviction should fall, on grounds of the First Amendment.
 - c. Mr. Barenblatt's conviction should fall, because HUAC's charter was so vague that it precluded his knowing whether or not questions were pertinent.
 - d. Congressional committees do not have the power to investigate private citizens.
25. *Nixon v. Fitzgerald* involved a "whistleblower's" civil lawsuit against President Nixon. The Court decided that:
- a. The President, during time of office, can be held civilly liable for his actions at the outer perimeter of his authority.
 - b. The President, once he has left office, can be held civilly liable for his official actions.
 - c. The President, once he has left office, cannot be held civilly liable for any official actions during his term of office, even at the outer perimeter of his authority.
 - d. The President is immune to civil lawsuit, during and after his term of office.
26. The U.S. Court of Appeals for the Eighth Circuit, in *Jones v. Clinton*, held that:
- a. The President cannot be held civilly liable for official actions prior to his term of office.
 - b. The President cannot be held civilly liable for private actions, if at the outer perimeter of his authority, prior to his term of office.
 - c. The President is, during his term of office, immune from all civil lawsuits because otherwise he would be ungunned with lawsuits and the business of the executive branch would come to a halt.
 - d. The President can be the subject of a civil lawsuit, for actions taken prior to his term of office, during his term of office, if the trial court takes care not to interfere with the business of the executive branch.
27. David Terry killed:
- a. David Neagle
 - b. William Sharon
 - c. David Broderick
 - d. Judge Lorenzo Sawyer
28. David Neagle killed:
- a. William Sharon
 - b. David Broderick
 - c. David Terry
 - d. Sara Terry

29. In the early 1790s, Congress passed a bill to establish the First Bank of the United States. President Washington paused to consider its constitutionality and solicit the advice of two members of his cabinet. Of the following options, which best describes the positions of his advisers, Hamilton and Jefferson?
- Both opposed on constitutional grounds.
 - Both said it was constitutional.
 - Hamilton said it was constitutional but not good policy; Jefferson, that it was unconstitutional and unwise.
 - Hamilton endorsed it; Jefferson opposed it.
30. In *In re Neagle*, the Supreme Court held that the President could issue an order to protect a justice on his circuit-riding duties because of:
- the inherent powers of the federal judiciary
 - the "Take Care" clause
 - a statute creating the Secret Service permitted it.
 - the inherent powers of the president under Article II.
31. Once again, in *In re Neagle*, which of the following options best describes the factual situation:
- David Neagle killed Stephen Field.
 - David Terry killed David Neagle.
 - David Neagle killed David Terry.
 - Stephen Field killed Sara Althea Terry.
32. Chief Judge Fox, in *Murphy v. Ford*, held that:
- presidential pardoning power reaches all penalties including impeachment.
 - presidential pardoning power covers all criminal offenses for which an individual has been charged during a specified period.
 - Presidential pardoning power covers all criminal offenses, charged and uncharged, in the period specified in the pardon.
 - the president may not pardon a federal official during the pendency of an impeachment proceeding in the House and Senate.
33. In *Humphrey's Executor v. United States* the precedent from *Myers v. United States* was deemed "not controlling" because:
- the justices overturned that decision in *Humphrey's*
 - Myers* was a plurality decision
 - Humphrey was an Article III judge.
 - the facts were sufficiently different or the Court distinguished the earlier case.
34. According to Chief Justice Rehnquist's opinion for the Court in *Morrison v. Olson*, the appointment of an Independent Counsel is a:
- major appointment because of the IC's power to investigate high ranking officials and is therefore unconstitutional because the president is not making the appointment
 - violation of separation of powers because Congress delegates the appointing authority to the judiciary branch
 - violation of separation of powers because the office executes Article III powers

d. none of the above

35. Which of the following is NOT an issue raised in *McCulloch v. Maryland*?
- the supremacy clause of the U.S. Constitution.
 - broad v. narrow construction of the Constitution.
 - the Tenth Amendment.
 - interpretation of the necessary and proper clause.
 - all of the above were issues raised in the case.
36. Which of the following options is NOT available to a President who has just received a bill passed by Congress?
- sign the bill within 10 days
 - sign the bill after 15 days
 - veto the bill
 - use a pocket veto
37. If a president vetoes a piece of legislation, how, if at all, may Congress overcome his decision?
- pass a joint resolution, in both houses, on majority votes.
 - pass separate resolutions, in both houses, on majority votes.
 - pass the vetoed legislation in both houses on a two-thirds vote in each.
 - pass the vetoed legislation in both houses on a three-fourths vote in each.
38. In the case of *Bush v. Gore*, Chief Justice Rehnquist (writing for justices Scalia and Thomas):
- dissented on the grounds that the Court should have reversed the Florida Supreme Court based on Article I, ss1, cl. 2 of the Constitution.
 - concurred on the grounds that the Court should have reversed the Florida Supreme Court based on Article I, ss1, cl. 2 of the Constitution.
 - concurred with the opinion of the Court but argued that there are additional grounds for reversing the Florida Supreme Court.
 - dissented on the grounds that the Equal Protection Clause does not cover the situation posed in the 2000 presidential election in Florida.
39. The Court in *McCulloch v. Maryland*:
- upheld the federal tax on Maryland's bank notes based on the supremacy clause.
 - struck down the federal tax on Maryland's bank notes based on the supremacy clause.
 - struck down the State of Maryland's tax on federal bank notes based on the supremacy clause.
 - upheld the State of Maryland's tax on federal bank notes based on the 10th Amendment to the Constitution, which reserves powers not delegated to Congress to the states and people.
40. In *Kilbourn v. Thompson* (1881) the Court said:
- both houses of Congress possess not only expressly granted powers but also those auxiliary powers required to make the express powers effective,

and neither house has general power to inquire into personal affairs or expose private individuals, except as part of legislative function.

b. both houses of Congress possess only expressly granted powers, and neither house has general power to inquire into personal affairs or expose private individuals, except as part of legislative function.

c. both houses of Congress possess not only expressly granted powers but also those auxiliary powers required to make the powers effective, and both houses have general power to inquire into personal affairs or expose private individuals.

d. none of the above.

41. In *Barenblatt v. United States*, Justice Black took which of the following views:
- Rule XI is clear enough to permit Barenblatt decide whether to answer and it does not violate the due process clause of the 5th Amendment.
 - whether Barenblatt is constitutionally required to answer depends on a delicate balancing the Court, and Court alone, must strike between legislative power and the First Amendment.
 - normally, the First Amendment is an absolute (no law means no law) and would protect an individual against such questions; but national security during the Cold War outweighed Barenblatt's rights in this case.
 - Rule XI is too broad to permit Barenblatt to decide whether to answer. It therefore violates due process of law under the 5th Amendment; and, in any event, the Court should not balance the First Amendment against congressional power.
42. In May of 1895, railroad workers in Chicago went out on strike, in what has become known as the "Pullman Strike." President Cleveland's Attorney General sought and obtained an injunction to stop the strikers from obstructing the movement of the US mail; but the works defied the order and violence ensued. President Cleveland then sent in federal troops to maintain order. The Supreme Court in the case of *In re Debs*:
- invalidated the president's order because it was not authorized by a federal statute.
 - invalidated the president's order because it violated federal labor law protecting the rights of railroad workers to strike.
 - upheld the president's order based on the right of the courts in enforcing their orders to have the help of the president.
 - upheld the president's order based on the "commander and chief" clause of the Constitution.
43. Chief Justice Marshall in *McCulloch v. Maryland* enunciated the following test for the validity of legislation under Article I, Section:
- let end be legitimate and within scope of the Constitution and any means which is clearly required, is plainly adapted to that end, and which is not prohibited by the Constitution, but is consistent with its spirit, is constitutional.
 - let end be legitimate and within scope of the Constitution and any means which are appropriate, are plainly adapted to that end, and which are not prohibited by the Constitution, but are consistent with its spirit, are

constitutional. Bank of US is useful, convenient means. Thus, Congress can charter a Bank of the US.

- c. the necessary and proper clause permits Congress to enact legislation in the “general welfare” so long as it is rationally related to a legitimate purpose.
 - d. Since the Constitution is one of delegated powers, the means in congressional legislation must be narrowly tailored to a legitimate purpose directed set out in the some provision of the Constitution.
44. In the case of *Clinton v. Jones*, in the Supreme Court, Justice Stevens, writing for the Court, held that:
- a. President Clinton could not be subjected to civil lawsuit during his term of office.
 - b. President Clinton could be subjected to civil lawsuit for actions taken before his term of office but the Federal District Court should delay the lawsuit until he left office.
 - c. President Clinton could be subjected to civil lawsuit, during this term as President, for actions taken before his term.
 - d. Jones’ lawsuit was without merit and ordered the Federal District Court to dismiss the case.
45. In *Humphrey’s Executor v. United States*, the Supreme Court held that:
- a. President Roosevelt had the power to remove Commissioner Humphrey for reasons other than those mentioned in the FTC statute because, under the Constitution, the President must be able to control the personnel of the executive branch.
 - b. President Roosevelt did not have the power to remove Humphrey for reasons other than those mentioned in the FTC statute because the FTC is independent agency and because Congress had spelled out the causes for dismissal.
 - c. Commissioner Humphrey’s lawsuit was moot because he had died soon after FDR removed him and the matter was therefore no longer a case or controversy.
 - d. President Roosevelt had the power to remove Commissioner Humphrey from the FTC because he, Roosevelt, had given as reason for dismissal one of the reasons set out by Congress.
46. In *McCulloch v. Maryland*, which, of the following justices, wrote a concurring opinion or concurring opinions?
- a. Story.
 - b. Johnson.
 - c. Washington
 - d. all of the above
 - e. none of the above.
47. The Court in *McCulloch v. Maryland* dealt with the validity of:
- a. the First National Bank.
 - b. the Grand National Lottery
 - c. the Second National Bank.
 - d. Maryland’s Bank Charter.

48. Senator Mike Gravel and his staffer entered the Pentagon Papers into his subcommittee's records and facilitated their publication. In *Gravel v. United States*, the Court held that:
- Only senators could claim legislative immunity for speech and debate
 - Neither senators nor staffers could claim legislative immunity for speech and debate of the sort involved in entering Papers into the subcommittee's records.
 - Senators and those who act on behalf of them can claim legislative immunity, consistent with the speech and debate clause, for actions in the legislative sphere as, for example, reading the Papers into the subcommittee's records.
 - MIT's Editor could not be questioned about his activities in facilitating the publication of the Pentagon Papers.
49. The protection afforded members of Congress by the Speech or Debate Clause:
- covers all their activities
 - is subject to statutory alteration
 - is not applicable to 20th-Century situations
 - is limited to legislative functions.
50. Mr. Grossman, of *Ex Parte Grossman*, was a gangster of some sort, someone who ran speak-easys and in general flouted the Volstead Act. For some reason, President Coolidge pardoned him. The Supreme Court:
- held that President Coolidge, by pardoning a criminal contempt issued by the federal district court, have violated the separated of powers.
 - held that the President College, in pardoning a criminal contempt against a federal district court, had pardoned an "offense against the United States" and was therefore within his powers.
 - held that President Coolidge could pardon the civil portion of the contempt citation but could not do so with regard to criminal portion, due to the separation of powers.
 - held that President Coolidge, although at the very edge of his powers in pardoning Grossman, could rely on his inherent powers as chief executive and therefore Mr. Grossman was free and clear.
51. *Clinton v. the City of New York* involves the "Item Veto" statute much discussed and debated in Congress over the years and much desired by all of our presidents. The Court:
- held that the statute violated the presentment clause.
 - dismissed the matter as a "political question."
 - dismissed the matter on grounds of lack of "standing to sue".
 - upheld the statute, on the ground of the president's inherent power to participate in the legislative process and thus Clinton and the executive carried the day.
52. In *United States v. Nixon* (1973), the Watergate Tapes Case, the Supreme Court held that:

- a. Executive Privilege protected the president's private deliberations with his staff and advisers and that the federal courts could not gain access to them.
- b. Executive Privilege has no constitutional standing and that Nixon's documents, like any other citizens' are, a subject to subpoena in criminal trial.
- c. The President may claim the doctrine of executive privilege, especially where national security is involved, but it must yield to the needs of the federal criminal process.
- d. The matter was an intra-branch dispute, between the Independent Counsel and the President, and therefore a "political question."

THE END