

## PRACTICE MULTIPLE CHOICE QUESTIONS

for

### ADMINISTRATIVE LAW

In *Schechter Poultry Corp. v. United States* (1935), the Supreme Court overturned the conviction of a poultry dealer who had allegedly engaged in illegal sales practices. Suppose a legislator today wants to pass a statute giving rulemaking power to an administrative agency, but wants to avoid any problems under *Schechter*. What would you say was the most important problem with the statute or prosecution in *Schechter*?

- A) There was insufficient evidence that Schechter had selected particular chickens to suit particular customers.
- B) The statute did not create an "intelligible principle" to guide the agency in its definition of the statutory phrase "fair competition."
- C) Congress attempted in that statute to delegate to an administrative agency the power to define criminal conduct.
- D) The statute gave to trade associations and other unaccountable private groups the power to draft "codes" of fair competition that the government could adopt and enforce.
- E) The statute violated due process because it attempted to prohibit harmless transactions between a willing buyer and a willing seller.

The correct answer is D.

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The Supreme Court invalidated a "legislative veto" in *INS v. Chadha* (1983). Has this decision significantly hampered efforts in Congress to control the work of federal administrative agencies?

- A) No, because the *Chadha* opinion spoke only about a rarely-used "committee veto" and left in place any one-house or two-house vetoes.
- B) Yes, because there are too many agencies for Congress to effectively monitor their budgets.
- C) No, because *Chadha* only applied to legislative meddling in what was essentially an adjudication about an individual's immigration status.
- D) Yes, because Congress has not proven its willingness to use alternative devices such as Corrections Day.
- E) No, because Congress still passes legislation restricting agency spending and limiting their authority to make rules on certain subjects.

The correct answer is E.

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Does federal law prohibit ex parte communications from private parties to administrative agency employees who are deciding whether to adopt a rule during notice-and-comment rulemaking proceedings?

- A) Yes, because a reviewing court must have an adequate record before deciding whether an agency had adequate support for its rule.
- B) No, because § 553 is silent on the question of ex parte contacts.
- C) Yes, but only when the rulemaking resolves competing claims among a small group of claimants to a valuable governmental benefit.
- D) No, so long as the agency can demonstrate that the comment dealt only with policy questions and did not introduce new data.
- E) Yes, because the APA contemplates that agency rulemaking will be less vulnerable to interest group politics than the legislative process is.

The correct answer is B.

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The Civil Service Act prevents the President or other executive branch officials from removing a “protected” employee unless there is just cause for the removal and the government follows an elaborate set of procedures to establish proper grounds for the removal. Does *Morrison v. Olson* cast constitutional doubt on this statute?

- A) Yes, because some of the protected employees carry out purely executive functions.
- B) No, because *Morrison* does not address the proper procedure for removal, only the grounds for removal.
- C) No, because Congress does not participate in the removal process.
- D) No, because removal of protected employees would not interfere with the ability of the president to perform his (or her) duties.

The correct answer is . . .

D.