PRACTICE MULTIPLE CHOICE QUESTIONS
for
ADMINISTRATIVE LAW

In *Schecter 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 *Schecter*. What would you say was the most important problem with the statute or prosecution in *Schecter*?

A) There was insufficient evidence that Schecter 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.

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.