

Continuing Legal Education
Comprehension Quiz
For

“Marbury v. Madison: 200 Years of Judicial Review in America”

1. According to Professor Nelson, *Marbury v. Madison* is:
 - A. By far the most important case for the adoption of judicial review.
 - B. The subject of much recent scholarly inquiry concerning the relationship between John Marshall and Joseph Story.
 - C. Not especially important for the adoption of judicial review, because judicial review was already widely accepted and widely followed in the states and lower federal courts.
 - D. All of the above.

2. Professor Nelson argues that:
 - A. Government in the 18th century was sharply divided between the three branches which were careful not to encroach on each other’s spheres of authority.
 - B. The judiciary was essentially part of the legislature.
 - C. The judiciary was as political as was the executive.
 - D. None of the above.

3. According to Professor Nelson, when John Marshall wrote that “it is emphatically the role and duty of the judicial department to say what the law is:”
 - A. There was a movement mostly in the state courts to take law finding power away from juries and give it to judges.
 - B. Justice Marshall strongly reaffirmed the well-established tradition of strict separation of powers.
 - C. Justice Marshall acknowledged the argument by Joseph Story that a strong judiciary was essential to maintaining a republican form of government.
 - D. A and C.

4. According to Professor Nelson, as late as 1790 Wilson argued that:
 - A. Jury nullification was a serious problem and should be counteracted by giving more power to judges.
 - B. The jury should have ultimate authority to decide the law, and whether to accept the judge’s statement of the law.
 - C. Judge-made law could be oppressive of the people.
 - D. B and C.

5. According to Professor Nelson, *Moore v. Cherry* illustrates:
- A. A shift away from the notion that the people speak through juries, to the idea that after the Revolution the people speak through the legislature.
 - B. The theory of the American Revolution which stressed tolerance and amnesty for loyalists.
 - C. That the Supreme Court believed that juries should have ultimate power to decide the law as well as the facts in order to avoid “tyranny of the judiciary.”
 - D. A and B.
6. Professor Phillips stated that:
- A. The people should never criticize the President of the United States.
 - B. He had been trying to understand why the American people had accepted the Supreme Court as the supreme arbiter of the law of the nation.
 - C. A law student had told him that the people should not criticize the President of the United States.
 - D. B and C.
 - E. All of the above.
7. According to Professor Phillips:
- A. The Supreme Court never reviews questions of fact de novo on appeal.
 - B. The Supreme Court only reviews questions of law.
 - C. The Supreme Court reviews questions of fact on appeal in First Amendment cases, but does so under a “clearly erroneous” standard of review.
 - D. None of the above.
8. According to Professor Reynolds:
- A. *Marbury v. Madison* is not very important, and it is less important today than it has been in the past.
 - B. *Marbury v. Madison* is extremely important, especially today in the context of the Second Amendment.
 - C. *Marbury v. Madison* is likely to grow more important as time goes on.
 - D. None of the above.
9. According to Professor Reynolds, law professors teach *Marbury v. Madison*:
- A. In such a way that the case seems very important.
 - B. In such a way that two messages are sent to students.
 - C. In such a way that the case is both deconstructed, and presented to students as a masterpiece of judicial statesmanship.
 - D. All of the above.

10. Professor Sobieski stated that *Marbury v. Madison* is:
- A. A conflict of laws question.
 - B. A case which had extraordinary importance for the later development of the Federal Rules of Civil Procedure.
 - C. A case which can easily be applied to developing questions of international law.
 - D. A case which demonstrates the remarkable character and statesmanship of John Marshall.
11. According to Mark Tushnet, *Marbury* is:
- A. A reaffirmation of the tradition of judicial review.
 - B. A starting point in what Prof. Tushnet calls “strong form” judicial review.
 - C. A starting point in limited judicial review.
 - D. A and C.
12. According to Professor Reynolds:
- A. In older opinions you tend to see many more appeals to reason and logic as opposed to authority.
 - B. The perception that older opinions are weak on authority is false.
 - C. Older and more modern opinions don’t really differ that much on their use of authority; it really has more to do with the judge’s style.
 - D. B and C.

CONGRATULATIONS!!!

You have completed the exercise.

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