Introduction to Law 6th edition Hames Solutions Manual

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Chapter 2
The U.S. Legal System

CHAPTER OVERVIEW

Chapter 2 provides an overview of the U.S. legal system. Included is a discussion of the concept of federalism. The different branches of federal and state governments are discussed. The three major sources of laws, constitutions, case law and statutory law, are defined and explained.

OBJECTIVES

1. Explain the concept of federalism.
2. Describe the power of the federal government to make laws and identify the source of that power.
3. Discuss the limits on the right of the states to make laws.
4. Explain the difference between exclusive and concurrent jurisdiction as related to the law-making process.
5. Explain how the Supremacy Clause relates to the law-making power of the states.
6. Identify and describe the function of each branch of the federal government.
7. Describe role of the U.S. Constitution and state constitutions.
8. Explain how the concept of precedent or stare decisis operates today.
9. Compare and contrast case law and statutory law.
10. Outline the legislative process for the enactment of laws.

LECTURE OUTLINE

1. Case File – The Richfield Matters
2. Introduction
3. Federalism – the Relationship Between Federal and State Government
4. The Federal Government and the Legal System
5. State Governments and the Legal System
6. Sources of U.S. Law
7. Chapter Cases
8. Case Summaries

LIST OF CHANGES/TRANSITION GUIDE

Feedback from instructors and students who use this text confirmed that the basic organization and features of this textbook are successful. Students especially appreciate the extensive key term definitions in the margin, the interesting cases, and the wide use of common hypothetical cases to explain the application of legal principles. These features remain in the text. However, the law is not, nor will it ever be, a static entity. Any useful textbook dealing with the law must reflect these changes. As a result, our goal in this edition is to also provide students with the following.

- Updates to the law and exhibits containing current legal forms and court documents
- A broader view of some of the substantive and procedural areas of law
- Updated information on the use of technology in law practice
- Discussion of new court cases illustrating current trends in the development of our laws
- More practice in building critical thinking skills with additional case questions and end-of-chapter exercises.

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All chapters have been reviewed, edited, and updated so as to contain current law and legal forms.

QUESTIONS FOR REVIEW

Suggested answers:

1. Federalism is a system of government in which the people are regulated by both federal and state governments.
2. The power of the federal government to regulate and make laws is limited by the U.S. Constitution, which grants express and implied powers to regulate. Express powers are granted to the U.S. Congress in Article I, Section 8 of the Constitution, which gives Congress the right to regulate such matters as the coining of money, the post office, and the military. (See Figure 2–1 entitled "Powers Granted to the U.S. Congress" for a more complete list of these powers.) Along with the express powers, the federal government also has the power to make all laws that are necessary and proper for executing any of the stated powers. When Congress makes laws under this provision, it is using its implied powers. Implied powers must be related to one of the express powers. Matters that are not within the express or implied powers of the federal government are generally left to the states to regulate. The Tenth Amendment to the U.S. Constitution provides, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." As a practical matter, however, the power of the federal government to pass laws and to regulate is extensive. One reason for this is that the Supreme Court has given a broad interpretation to the Commerce Clause. This clause gives the federal government the right to regulate interstate commerce. In the past, the Court has liberally interpreted this power. For example, Congress used this section to justify numerous laws, including civil rights legislation.
3. Because there are areas of concurrent jurisdiction, conflicts sometimes exist between laws made by the federal government and laws made by states. Where a conflict exists, federal law controls. This is because of the Supremacy Clause of the Constitution (Article VI): "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof… shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." When a state passes a law that conflicts with the Constitution, the U.S. Supreme Court has the power to declare that state law unconstitutional and unenforceable.
4. Concurrent jurisdiction is where more than one entity has the power to regulate or act. Exclusive jurisdiction is **t**he sole power or authority to act in a certain situation.
5. Because there are areas of concurrent jurisdiction, conflicts sometimes exist between laws made by the federal government and laws made by states. Where a conflict exists, federal law controls. This is because of the **Supremacy Clause** of the Constitution (Article VI): "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof… shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." When a state passes a law that conflicts with the Constitution, the U.S. Supreme Court has the power to declare that state law unconstitutional and unenforceable.
6. Executive, legislative and judicial.

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7. The primary purpose and function of the U.S. Constitution and the state constitutions is to establish a government and define its powers.
8. All case law originates with a controversy between two or more parties. The parties bring the controversy before a court, asking the court to resolve the dispute. The controversy must be a real, legitimate dispute, not something fabricated for bringing it to court. It is not the function of the court, nor does the court have authority, to render advisory opinions to individuals. Once a court is presented with a real, factual dispute, it then has the power to resolve that dispute by applying appropriate legal principles. The power of the court is, however, limited by the facts actually presented. Because the law in each case is limited by the facts, the development of a thorough body of law through the case method is a slow process. Nevertheless, many important areas of law, both criminal and civil, have developed, and are continuing to develop in this manner. To see exactly how legal principles develop, a review of the history of the right to an attorney in state criminal cases provides a good example. The basic law involved is the Fourteenth Amendment, which provides that no state may deny an individual due process of law. The question for court interpretation involves the obligation of the state to provide lawyers, free of charge, for indigent defendants.
9. Although the concept of *stare decisis* helps to bring consistency to court decisions, it does not apply to every case decided by courts. In the U.S. legal system, the concept is limited in the following ways: (1) *Stare decisis* applies only when a *lower* court is faced with a factual situation that was decided by a *higher* court. Assume that a court system consists of a supreme court, an intermediate appellate court, and a trial court. Cases from the Supreme Court are *stare decisis* for cases heard in the appellate court and the trial courts. Cases from the appellate courts are *stare decisis* for cases heard in the trial courts, but not other appellate courts or the Supreme Court. Cases from the trial court are not *stare decisis* because there is no lower court. (2) Decisions of state courts are *stare decisis* only within the state where they are decided. (3) *Stare decisis* applies only when the court orders that the opinion be published. All cases decided by the U.S. Supreme Court are published. However, the various courts of appeals in all jurisdictions decide many cases that never become binding case law (case law that must be followed by lower courts). Appellate court cases are generally published only if they contain a new interpretation or clarification of law.
10. The enactment of statutory law is usually a lengthy process consisting of the following steps: (1) legislation proposed (2) bill introduced (3) bill referred to committee (4) bill voted on by legislators (5) action passed by other house (6) executive options

APPLICATION AND ANALYSIS PROBLEMS

Suggested answers:

1. In Riegel, the Supreme Court held that the MDA's (federal law regulating medical devices) pre-emption clause bars common-law claims challenging the safety or effectiveness of a medical device marketed in a form that received premarket approval from the FDA. Therefore, petitioner's common-law claims were pre-empted because they were based upon New York "requirement[s]" with respect to Medtronic's catheter that were "different from, or in addition to" the federal ones, and that relate to safety and effectiveness.
2. Answers will vary.
3. The Supreme Court held it was a violation of the Eighth Amendment.

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4. Answers will vary.
5. The case illustrates the power of judicial review. The Telecommunications Act of 1996 was challenged by respondents. The Supreme Court agreed with the lower court that the act was unconstitutional and in violation of the First Amendment.

ASSIGNMENTS AND PROJECTS

Suggested answers:

1. (a.) Fourth Amendment. The shooting was part of the arrest, and the Fourth Amendment states that arrests must be reasonable. Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution also apply here. (b.) Tenn. Code Ann. § 40 7 108 (1982). (c.) The Court did not strike down the Tennessee statute in its entirety, only as applied in this type of situation. "It is not, however, unconstitutional on its face. Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape and if, where feasible, some warning has been given. As applied in such circumstances, the Tennessee statute would pass constitutional muster." (d.) The Court discusses the common-law rule that one can use deadly force against a fleeing felon. (e) The common-law rule applied to a time when the killing of a resisting or fleeing felon resulted in no greater consequences than those authorized for punishment of the felony of which the individual was charged or suspected. Courts have also justified the common law rule by emphasizing the relative dangerousness of felons. Neither of these justifications makes sense today. Almost all crimes formerly punishable by death no longer can be. And while in earlier times the gulf between the felonies and the minor offenses was broad and deep, today the distinction is minor and often arbitrary. Many crimes classified as misdemeanors, or nonexistent, at common law are now felonies. These changes have undermined the concept, which was questionable to begin with, that use of deadly force against a fleeing felon is merely a speedier execution of someone who has already forfeited his life. They have also made untenable the assumption that a "felon" is more dangerous than a misdemeanant. There is an additional reason why the common law rule cannot be directly translated to the present day. The common law rule developed at a time when weapons were rudimentary. Deadly force could be inflicted almost solely in a hand to hand struggle during which, necessarily, the safety of the arresting officer was at risk. Handguns were not carried by police officers until the latter half of the last century. Only then did it become possible to use deadly force from a distance as a means of apprehension. As a practical matter, the use of deadly force under the standard articulation of the common law rule has an altogether different meaning—and harsher consequences – now than in past centuries. (f.) Yes, this case would apply to Rambeaux. "A police officer may arrest a person if he has probable cause to believe that person committed a crime. United States v. Watson, 423 U.S. 411 (1976). Petitioners and appellant argue that if this requirement is satisfied the Fourth Amendment has nothing to say about how that seizure is made. This submission ignores the many cases in which this Court, by balancing the extent of the intrusion against the need for it, has examined the reasonableness of the manner in which a

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search or seizure is conducted. It is plain that reasonableness depends on not only when a seizure is made, but also how it is carried out." Rambeaux is accused of using excessive force in making an arrest. How he made the arrest is an issue. This case would apply.

2. They would have to try to get local authorities to pass a law. Since there is no existing controversy, there can be no court case.
3. They could try to get the city legislative body to repeal the law. Alternatively, they could file a lawsuit, but they would probably have to violate the curfew and be cited for it.
4. Statutory and case law.

SKILLS ASSESSMENT

Suggested answers:

1. Answers will vary.

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Chapter 3
The Courts and Legal Personnel

CHAPTER OVERVIEW
Chapter 3 explores the federal and state court systems and the various personnel found in the U.S. legal system.

OBJECTIVES
1. Describe the structure of the federal court system.
2. Explain the role of the U.S. district courts.
3. Explain the role of the U.S. courts of appeals.
4. Explain the role of the U.S. Supreme Court.
5. Describe the basic structure of state court systems.
6. Explain the circumstances in which the federal courts have jurisdiction.
7. Describe the selection process for federal judges.
8. List and describe the various personnel working in the U.S. legal system.
9. Summarize general standards of ethical conduct for judges and judicial employees.
10. Summarize general standards of ethical conduct for lawyers, paralegals, and criminal justice professionals.

LECTURE OUTLINE
1. The Courts And Their Roles
2. The Judiciary
3. The Legal Community
4. Ethics and Professional Conduct
5. Chapter Cases
6. Case Summaries

LIST OF CHANGES/TRANSITION GUIDE
Chapter 3 contains new discussion of administrative hearing representatives and business ethics.

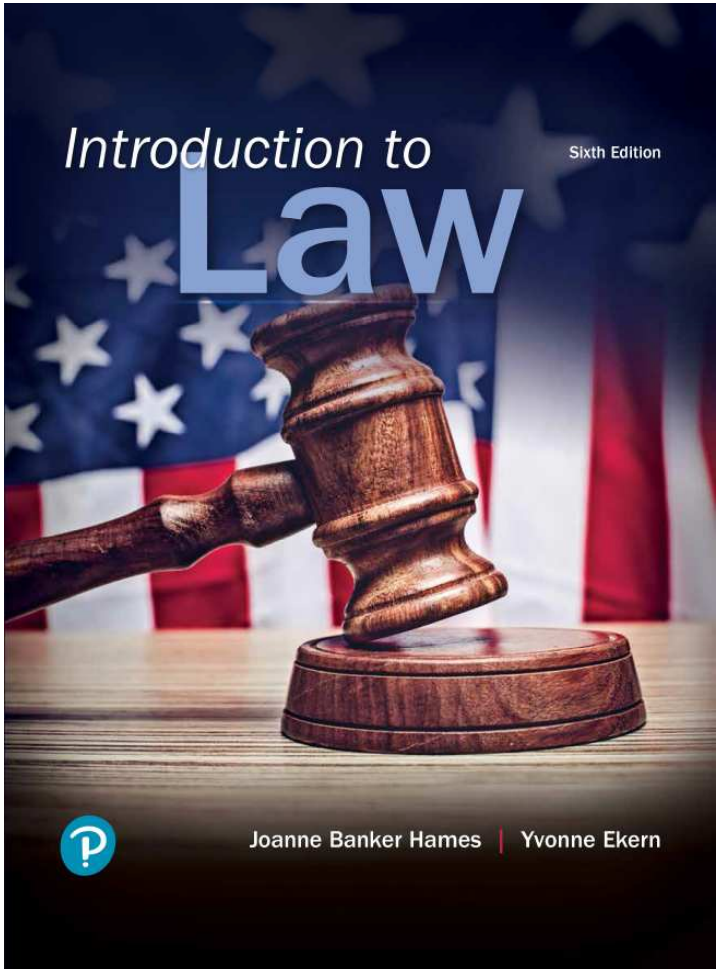
QUESTIONS FOR REVIEW
Suggested answers:
1. The U.S. Constitution provides for the establishment of a Supreme Court and such inferior courts as Congress may establish. As a result of laws enacted by Congress, the federal court structure now consists of trial courts (primarily the U.S. district courts, but also various specialized courts), appellate courts (U.S. courts of appeals), and one Supreme Court. The courts are arranged much like a pyramid, with the Supreme Court at the top, the courts of appeals in the middle, and the district courts at the bottom.
2. District courts are courts of original jurisdiction, or more simply, trial courts.
3. As the name suggests, a U.S. court of appeals is primarily a court of appellate jurisdiction; that is, a court of review. In our legal system, parties in most cases have the right to have an appellate court review of what happened at the trial court.
4. The Supreme Court is primarily a court of review (i.e., it exercises appellate jurisdiction). It hears cases from the lower federal courts. It can also hear cases that originated in the state courts if the case involves a constitutional issue or a question of

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Introduction to Law

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Chapter 2

The U.S. Legal System

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Federalism

- A system of government in which the people are regulated by both federal and state governments

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Powers of the Federal Government

- Express powers in Article I, Sec. 8 of the U.S. Constitution
- Implied Powers
- Commerce Clause

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Powers of the State Government

- General police powers for general health, welfare, and safety
- Cannot make laws that conflict with federal laws or preempted by the federal government

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Exclusive and Concurrent Powers

- Exclusive jurisdiction
  - Sole power or authority to act in a certain situation
- Concurrent jurisdiction
  - Situations where more than one entity has the power to regulate or act

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Conflicts Between Federal and State Laws

- Supremacy Clause
  - The clause in Article V of the U.S. Constitution making the Constitution and the laws of the United States the supreme law of the land

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Supremacy Clause and the Bill of Rights

- Bill of Rights
  - First 10 amendments to U.S. Constitution
  - Sets forth minimum standards

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The Federal Government and the Legal System (1 of 2)

- Separation of powers – constitutional doctrine that each of the three branches of government has separate and distinct powers
- Checks and balances – constitutional doctrine that each of the three branches of government operates as a check on the powers of the other branches

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The Federal Government and the Legal System (2 of 2)

- Executive Branch
- Legislative Branch
- Judicial Branch

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State Governments and the Legal System

- Parallels the federal government
- Bicameral

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Sources of U.S. Law

- Constitutional law
- Case law
- Statutory law

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Constitutional Law

- U.S. Constitution
  - Ratified in 1790
  - 27 Amendments
- State Constitutions

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Case Law

- The Factual Controversy
- Interpretation of Constitutional and Statutory Law
- The Power to Invalidate Statutory Law
- Stare Decisis Today

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Statutory Law

- The Legislative Process
  - The Federal Government
- The Legislative Process
  - State Governments
- Publication of Statutory Law
- Administrative Regulations

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