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Name:_____ Class:_____ Date:_____

Chapter 01: Legal and Constitutional Foundations of Business

1. All laws establish rights, duties, and privileges that are consistent with the values and beliefs of a society (or its ruling group).
   a. True
   b. False

ANSWER: True

2. Because laws may change, the ability to analyze and evaluate the legal ramifications of situations as they arise is *not* a lasting skill.
   a. True
   b. False

ANSWER: False

3. The study of business law does *not* involve an ethical dimension.
   a. True
   b. False

ANSWER: False

4. Compartmentalizing the law into discrete topics indicates that each business transaction is subject to only one specific area of the law.
   a. True
   b. False

ANSWER: False

5. A constitution is a primary source of law.
   a. True
   b. False

ANSWER: True

6. A secondary source of law establishes the law on a particular issue.
   a. True
   b. False

ANSWER: False

7. Courts often refer to secondary sources of law for guidance in interpreting and applying a primary source of law.
   a. True
   b. False

ANSWER: True

8. Legal encyclopedias, law review articles, and treatises are sources of primary law.
   a. True
   b. False

ANSWER: False

9. Even if it conflicts with the U.S. Constitution, a state constitution is supreme within that states' borders.
   a. True

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b. False

ANSWER: False

10. A local ordinance commonly has to do with a matter concerning only a local governing unit.
    a. True
    b. False

ANSWER: True

11. A federal statute applies only to those states that agree to apply it within their borders.
    a. True
    b. False

ANSWER: False

12. The UCC is a uniform law that most states have adopted to govern commercial transactions.
    a. True
    b. False

ANSWER: False

13. Congress or a state legislature establishes an administrative agency to perform a specific function.
    a. True
    b. False

ANSWER: True

14. Independent regulatory agencies are *not* subject to the authority of the president.
    a. True
    b. False

ANSWER: False

15. Federal agency regulations do *not* take precedence over conflicting state regulations.
    a. True
    b. False

ANSWER: False

16. An administrative legislative rule is *not* legally binding on businesses.
    a. True
    b. False

ANSWER: False

17. The Administrative Procedure Act (APA) imposes strict procedural requirements that agencies must follow in legislative rulemaking and other functions.
    a. True
    b. False

ANSWER: True

18. Courts give significant weight—deference—to an agency's judgment, and interpretation of its rules.

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a. True
b. False

ANSWER: True

19. The common law is a body of law developed from judicial decisions.
a. True
b. False

ANSWER: True

20. Case law governs all areas of business not covered by statutory or administrative law.
a. True
b. False

ANSWER: True

21. Under the doctrine of *stare decisis*, judges are encouraged to follow the precedents established within their jurisdictions.
a. True
b. False

ANSWER: False

22. A court might look at fairness, social values and customs, and public policy in deciding a case if there is no precedent.
a. True
b. False

ANSWER: True

23. A controlling precedent is any legal authority or source of law that a court may look to for guidance but need not follow when making its decision.
a. True
b. False

ANSWER: False

24. Because courts of law and equity have merged, the principles of equity are no longer applied.
a. True
b. False

ANSWER: False

25. Rescission is an equitable remedy.
a. True
b. False

ANSWER: True

26. Typically, in a civil case, a private party sues another private party who has failed to comply with a duty.
a. True
b. False

ANSWER: True

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27. In a criminal case, the object is to obtain a remedy.
    a. True
    b. False
ANSWER: False

28. The basis of a civil law system is a written code of laws.
    a. True
    b. False
ANSWER: True

29. International law derives from a variety of sources, including the laws of individual nations.
    a. True
    b. False
ANSWER: True

30. The system of checks and balances in the U.S. Constitution allows each branch of government to limit the actions of the other branches.
    a. True
    b. False
ANSWER: True

31. The commerce clause has had *no* greater impact on business than any other provision in the Constitution.
    a. True
    b. False
ANSWER: False

32. When there is a direct conflict between a federal law and a state law, both laws are rendered invalid.
    a. True
    b. False
ANSWER: False

33. The Fifth Amendment allows persons to be deprived of property without due process of law.
    a. True
    b. False
ANSWER: False

34. A law that limits a fundamental right that may be held to violate substantive due process.
    a. True
    b. False
ANSWER: True

35. A law based on a suspect trait will *not* stand under the equal protection clause, even if it is necessary to promote a compelling government interest.
    a. True

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b. False

ANSWER: False

36. Power, Inc., is a corporation engaged in the business of producing, refining, and distributing energy resources. With respect to the firm's managers, legal concepts can be useful for Power's (choose all applicable answers)

a. accounting and finance manager.
b. human resources manager.
c. marketing manager.
d. customers.

ANSWER: a, b, c

37. A constitution sets forth a government's

a. limits, but not powers.
b. limits and powers.
c. neither limits nor powers.
d. powers, but not limits.

ANSWER: b

38. The basis of all law in the United States is

a. the U.S. Constitution.
b. laws passed by Congress.
c. case law.
d. regulations created by administrative agencies.

ANSWER: a

39. The Montana legislature enacts a state law that violates the U.S. Constitution. This law can be enforced by

a. no one.
b. the federal government only.
c. the state of Montana only.
d. the United States Supreme Court only.

ANSWER: a

40. The Uniform Commercial Code facilitates commerce

a. among the states.
b. between the states and the federal government.
c. in countries that were once colonies of Great Britain.
d. in international markets.

ANSWER: a

41. The _____, for example, is an agency within the U.S. Department of Health and Human Services.

a. Uniform Commercial Code
b. Internal Revenue Service
c. Securities and Exchange Commission

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d. Food and Drug Administration

ANSWER: d

42. Legislative rulemaking under the Administrative Procedure Act (APA) typically involves all, but which one of the following three steps:

a. a comment period.

b. notice of proposed rulemaking.

c. public hearing.

d. final rule.

ANSWER: c

43. Common law rules develop from

a. principles underlying judges' decisions in actual controversies.

b. regulations issued by administrative agencies.

c. statutes enacted by Congress and the state legislatures.

d. uniform laws drafted by legal scholars.

ANSWER: a

44. *Stare decisis* is best defined as

a. a doctrine under which judges follow established precedents.

b. the authority to decide a specific dispute.

c. a judicial proceeding to redress a wrong.

d. a situation giving a person a right to initiate a judicial proceeding.

ANSWER: a

45. Each court has a jurisdiction. *Jurisdiction* is best defined as

a. a doctrine that follows established precedents.

b. the geographic area in which a court has the power to apply the law.

c. a judicial proceeding to redress a wrong.

d. a situation giving a person a right to initiate a judicial proceeding.

ANSWER: b

46. There are no precedents on which the court deciding the case *Algorithm Corp. v. Beta Bytes, Inc.,* can base its decision. The court can consider, among other things,

a. the opinions of the friends and relatives of the judge.

b. the results of a poll of those in the courtroom

c. government policy based on widely held social values.

d. a petition.

ANSWER: c

47. A _____ is a legal authority that a court may consult for guidance, but that is not binding on the court.

a. legal authority

b. applicable statute

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c. persuasive authority
d. reference authority

ANSWER: c

48. Jaime and Kay enter into a contract for the sale of a bicycle, but Kay later refuses to deliver the goods. Jaime asks a court to order Kay to perform as promised. Ordering a party to perform what was promised is
a. an equitable remedy.
b. an unenforceable demand.
c. an action.
d. beyond the court's authority.

ANSWER: a

49. In a suit against Karen, Luke obtains an *injunction.* This is
a. an order to do or to refrain from doing a certain act.
b. a departure from precedent.
c. a payment of money.
d. the cancellation of a contract.

ANSWER: a

50. _____ is law that has to do with wrongs committed against society for which society demands redress.
a. Civil law
b. Statutory law
c. Bill of rights
d. Civil law

ANSWER: d

51. Under the U.S. Constitution, Congress has the power to regulate
a. every commercial enterprise in the United States.
b. only *intrastate* commercial enterprises.
c. only *local* commercial enterprises.
d. only *non*-commercial activities.

ANSWER: a

52. The term *checks and balances* refers to the system under which
a. a state must refrain from imposing unreasonable burdens on citizens of another state.
b. the powers of government are divided among its branches, each of which exercises a check on the actions of the others.
c. any judicial decision with respect to property rights in one state, will be honored and enforced in all states.
d. the national government regulates interstate commerce.

ANSWER: b

53. Leah, a citizen of Maine, obtains a federal license to operate a commercial fishing boat in a certain area off the Maine coast. The Maine state legislature enacts a law that bans all commercial fishing in that area. Most likely, the state law violates

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a. no provision in the U.S. Constitution.
b. the commerce clause.
c. the due process clause.
d. the supremacy clause.

ANSWER: d

54. The state of Ohio can regulate building contractors, and building codes in the state under its
a. police powers.
b. system of checks and balances.
c. entitlement to full faith and credit.
d. commerce power.

ANSWER: a

55. Under the U.S. Constitution, the federal government has the power to regulate commercial activities among the states. This grant implies that the regulation of such activities is *not* within the authority of
a. Congress.
b. the states.
c. the President.
d. the courts.

ANSWER: b

56. The Bill of Rights embodies
a. a series of protections for the individual against government action.
b. payment in the form of taxes by business entities to obtain certain rights.
c. the privileges and immunities of the citizens in the several states.
d. rights established under deeds, wills, contracts, and similar instruments.

ANSWER: a

57. Nick, the chief executive officer of On/Off, Inc., a website for short rants, claims that certain government actions infringe on rights guaranteed by the Bill of Rights. Most of these guarantees have been held to limit
a. only federal power.
b. federal and state actions.
c. only individual liberty.
d. only state conduct.

ANSWER: b

58. These are protected by the First Amendment (choose all applicable answers)
a. an offensive political T-shirt.
b. a political bumper sticker.
c. a direct threat to a co-worker.
d. a restriction on someone's religious beliefs by the government.

ANSWER: a, b, d

59. Mary creates a t-shirt design that expresses support for Nash, a presidential candidate, and distributes t-shirts to all of

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her friends. The t-shirts are an example of

a. unprotected speech.

b. commercial speech

c. symbolic speech.

d. illegal speech.

ANSWER: c

60. Pros in Politics, a bookstore in Capitol City, sells publications that criticize government actions and policies. The city enacts an ordinance prohibiting the sale of such materials in the interest of preserving public tranquility. This ordinance is most likely

a. an invalid invasion of individuals' privacy.

b. an unconstitutional restriction of speech.

c. a violation of corporations' rights to certain privileges.

d. constitutional under the First Amendment.

ANSWER: b

61. Georgia enacts a law requiring all businesses in the state to donate 10 percent of their profits to Protestant churches that provide certain services to persons whose income is below the poverty level. Price-Lo Stores files a suit to block the law's enforcement. The court would likely hold that this law violates

a. no clause in the U.S. Constitution.

b. the establishment clause.

c. the free exercise clause.

d. the supremacy clause.

ANSWER: b

62. Serene City enacts an ordinance that bans the use of "sound amplifying systems" on public streets. Tyler wants to campaign for a seat on the city council by broadcasting his message through speakers mounted on a truck. In Tyler's suit against the city, a court would likely hold the ordinance to be

a. an unconstitutional restriction of speech.

b. constitutional under the First Amendment.

c. justified by the need to protect individual rights.

d. necessary to protect national interests.

ANSWER: b

63. Barry and Marie's child Macy is very ill. The hospital determines that she needs a blood transfusion in order to survive. Barry and Marie argue that a blood transfusion is against their religion, and to force them to allow it would be a Constitution infringement on their religious rights. The government could step in and allow it under

a. medical exception.

b. necessity exception.

c. public policy exception.

d. parental exception.

ANSWER: c

64. VidGames, Inc., markets a variety of shooting, fighting, and hunting video games. A state statute is enacted to require all game makers to label any games with an option to kill something as "excessively violent." A court would likely hold

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this regulation to be

a. an unconstitutional restriction of speech.
b. constitutional under the First Amendment.
c. justified by the need to protect individual rights.
d. necessary to protect national interests.

ANSWER: a

65. Congress enacts the Ad Restriction Act (ARA) to limit advertising in certain circumstances. The ARA will be considered valid if it directly advances a substantial government interest

a. and goes no further than necessary to achieve its objective.
b. without regard to how "far" it goes.
c. and the parties affected by it can elect how "far" to go in applying it.
d. and goes further than necessary to ensure full coverage.

ANSWER: a

66. Under the First Amendment, in comparison with commercial speech, the protection given to obscene speech is

a. equally extensive.
b. not as extensive.
c. more extensive.
d. non-existent.

ANSWER: d

67. Marie claims that a Nebraska state statute infringes on her "procedural due process" rights. This claim focuses on

a. procedures used in making decisions to take life, liberty, or property.
b. the content of the statute.
c. the treatment of similarly situated individuals.
d. the steps to be taken to protect Marie's privacy.

ANSWER: a

68. To reduce traffic, Market Town enacts an ordinance that allows only a few specific street vendors to operate in certain areas. A court would likely review this ordinance under the principles of

a. equal protection.
b. free exercise.
c. interstate commerce.
d. free speech.

ANSWER: a

69. A law that restricts a person's activities based on their gender will receive _____ by the courts

a. reasonableness
b. strict scrutiny
c. intermediate scrutiny
d. compelling scrutiny

ANSWER: c

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70. John, a law enforcement official, monitors Kelsey's Internet activities—e-mail and website visits—to gain access to her personal financial data and student information. This may violate Kelsey's right to

a. privileges and immunities.
b. privacy.
c. free speech.
d. free exercise.

ANSWER: b

71. A city enacts an ordinance that prohibits all advertising on the sides of trucks. A court would likely review this ordinance under the principles of

a. equal protection.
b. free exercise.
c. privacy.
d. due process

ANSWER: d

72. What is the doctrine of *stare decisis*? In the American legal system, how is it applied, and what is its effect?

ANSWER: In a common law legal system, past judicial decisions are binding in current disputes with similar facts. This feature of the common law, which is the basis of the American legal system is unique, because unlike the law in other legal systems, it is judge-made law. Within the common law system, when possible, judges attempt to be consistent and to base their decisions on the principles suggested by earlier cases. The body of principles and doctrines that form the common law emerged over time as judges applied the principles announced in earlier cases to subsequent legal controversies.

The practice of deciding cases with reference to former decisions, or precedents—the cornerstone of the American legal system—is called the doctrine of *stare decisis*. Under this doctrine, judges are obligated to follow the precedents established within their jurisdictions. This helps courts to be more efficient and makes the law more stable and predictable.

73. Joe is a new employee at the city courthouse. It is a government position, and he is required to wear a uniform. Joe is of a faith that requires afternoon prayer time for 15 minutes. He asks if he can use his lunchtime to go to an empty office and pray. His employer refuses. Discuss all of the arguments Joe may use as well as what protections he may have.

ANSWER: The **free exercise clause** guarantees that people can hold any religious beliefs they want, or can have no religious beliefs. The constitutional guarantee of personal religious freedom restricts only the actions of the government, and not those of private businesses. The government must have a compelling state interest for restricting the free exercise of religion, and the restriction must be the only way to further that interest. To comply with the free exercise clause, a government action must not be a substantial burden on religious practices. A burden is substantial if it pressures individuals to modify their behavior and to violate their beliefs. When religious *practices* work against public policy and the public welfare, the government can act. For instance, the government can require that a child receive certain types of vaccinations or receive medical treatment when the child's life is in danger—regardless of the parent's religious beliefs.

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