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SKU: 9780357985533-TEST-BANK

Name:_____ Class:_____ Date:_____

Chapter 01 Law and Legal Reasoning

True / False

1. Law consists of enforceable rules governing relationships among individuals and between individuals and their society.
   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 a lasting skill.
   a. True
   b. False

ANSWER: True

3. The study of business law involves an ethical dimension.
   a. True
   b. False

ANSWER: True

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 legal encyclopedia is a secondary source of law.
   a. True
   b. False

ANSWER: True

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

ANSWER: False

8. 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

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

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a. True
b. False

ANSWER: False

10. The U.S. Constitution is the basis of all law in the United States.
a. True
b. False

ANSWER: True

11. A state legislature has the option of adopting or rejecting a uniform law.
a. True
b. False

ANSWER: True

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

ANSWER: True

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

ANSWER: False

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

ANSWER: True

15. Independent regulatory agencies are subject to the authority of the president.
a. True
b. False

ANSWER: True

16. Rules issued by administrative agencies affect almost every aspect of a business's operations.
a. True
b. False

ANSWER: True

17. Federal agency regulations take precedence over conflicting state regulations.
a. True
b. False

ANSWER: True

18. Administrative law plays a relatively insignificant role in the regulatory environment of business.

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a. True
b. False

ANSWER: False

19. The doctrines and principles announced in court decisions govern all areas *not* covered by statutory or administrative law.

a. True
b. False

ANSWER: True

20. A court should overturn its precedents only when there is a compelling reason to do so.

a. True
b. False

ANSWER: True

21. Controlling precedents are binding authorities.

a. True
b. False

ANSWER: True

22. A case of first impression 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

23. Often, more than one rule of law will be applicable to a case.

a. True
b. False

ANSWER: True

24. There is one right answer to every legal question.

a. True
b. False

ANSWER: False

25. Because courts of law and equity have merged, the principles of equity are no longer applied.

a. True
b. False

ANSWER: False

26. With respect to the study of jurisprudence, there is essentially one school of legal thought.

a. True
b. False

ANSWER: False

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27. Civil law has to do with wrongs committed against society for which society demands redress.
    a. True
    b. False
ANSWER: False

28. Frequently, people use the term cyberlaw to refer to the emerging body of law that governs transactions conducted via the internet.
    a. True
    b. False
ANSWER: True

29. In a criminal case, the object is to protect an individual.
    a. True
    b. False
ANSWER: False

30. Courts will *not* grant an equitable remedy unless the remedy at law is adequate.
    a. True
    b. False
ANSWER: False

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

32. The remedies granted by the equity courts became known as remedies in equity, or equitable remedies, and these remedies include monetary damages, injunction, and rescission.
    a. True
    b. False
ANSWER: False

33. Under the doctrine of *stare decisis*, judges are obligated to follow the precedents established within all jurisdictions.
    a. True
    b. False
ANSWER: False

34. In the case citation, *Badawi v. Albin*, 311 Neb. 603, 973 N.W.2d 714 (2022), the opinion for this case can be found in Volume 311 of the *Nebraska Reports* on page 603, and the parallel citation is to Volume 973 of the *North Western Reporter*, *Second Series*, on page 714.
    a. True
    b. False
ANSWER: True

35. A trial court case was appealed, and the appellate case was called *Smith v. Williams*, which indicates that Smith was

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the plaintiff in the case at trial and Williams was the defendant.

a. True

b. False

ANSWER: False

Multiple Choice

36. Ramona is the CEO of Artistic Options. Ramona has an employee, Robin, who is arriving at work late and leaving early. Ramona decides to fire Robin. While making this decision, it is beneficial to Ramona to

a. allow Robin to resign instead of being fired.

b. give Robin multiple warnings before the termination notice.

c. not sign the letter of termination as CEO.

d. be familiar with the law including any laws regarding wrongful termination.

ANSWER: d

37. Primary sources of law include

a. legal encyclopedias.

b. official comments to statutes.

c. case law.

d. legal treatises.

ANSWER: c

38. Secondary sources of law include

a. state constitutions.

b. legal scholars' research.

c. laws passed by local governing bodies.

d. regulations created by administrative agencies.

ANSWER: b

39. 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

40. 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

41. Laws enacted by legislative bodies at any level of government make up the body of law generally referred to as

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a. statutory law.
b. the basis of all law in the United States.
c. the supreme law of the land.
d. uniform law.

ANSWER: a

42. On a challenge to a provision in a state constitution that conflicts with a provision in the U.S. Constitution
a. neither provision will be enforced.
b. both provisions will be enforced.
c. the state provision will be enforced only within that state's borders.
d. the state provision will not be enforced.

ANSWER: d

43. The Florida 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 Florida only.
d. the U.S. Supreme Court only.

ANSWER: a

44. 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

45. The Uniform Commercial Code facilitates commerce among the states by providing
a. a uniform, yet flexible, set of rules governing commercial transactions.
b. a process for companies to sue each other in the case of a dispute.
c. an option for commerce to be conducted solely online.
d. that all commercial transactions occur between the states, not solely within one state.

ANSWER: a

46. Administrative law includes
a. all laws that affect business operations.
b. the rules, orders, and decisions of a government agency.
c. model laws developed by the National Conference of Commissioners on Uniform State Laws.
d. laws enacted by a legislative body.

ANSWER: b

47. Regulations issued by a state or local agency may affect all of the following aspects of a business's operations *except*
a. capital structure and financing.
b. product manufacturing and marketing.

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c. relations with employees and unions.
d. compliance with conflicting federal agency regulations.

ANSWER: d

48. The Food and Drug Administration (FDA) is an executive agency. As an executive agency, the FDA is subject to the authority of
a. no government official or entity.
b. the president.
c. state legislatures.
d. the U.S. Attorney General.

ANSWER: b

49. 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

50. *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

51. A precedent is
a. the chief executive officer of the United States.
b. a court decision that furnishes an example for deciding subsequent cases involving similar or identical facts or principles.
c. a lawsuit in which a number of persons join together.
d. the fundamental procedure by which the government exercises its authority.

ANSWER: b

52. 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

53. Once a court has applied a principle to a certain set of facts, that principle must be applied in future cases involving
a. different facts.
b. similar facts.

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c. any facts.
d. no particular facts.

ANSWER: b

54. In deciding a case of first impression, appropriate sources for a court to consider include all of the following *except*
a. legal authorities that are not binding on the court.
b. issues of fairness.
c. government policy based on widely held social values.
d. a poll of those present in the courtroom at the time of the decision.

ANSWER: d

55. In *Peyton v. Quality Motors*, a state supreme court held that a minor could cancel a contract for the sale of a car. Now a trial court in the same state is deciding *Rikki v. Street Deals, Inc.,* a case with similar facts. Under the doctrine of *stare decisis*, the trial court is likely to
a. allow the minor to cancel the contract.
b. disregard the *Peyton* case.
c. order the minor to cancel the contract.
d. require the minor to fulfill the contract.

ANSWER: a

56. In the case of *Sales Corp. v. Transport Co.*, the court may rule contrary to a precedent if the court decides that the precedent
a. is incorrect or inapplicable.
b. is not in line with the judge's personal values.
c. would lead to unintended consequences.
d. would not bring about the result the judge prefers.

ANSWER: a

57. The means to enforce a right or compensate for the violation of a right is
a. a cornerstone.
b. a remedy.
c. jurisdiction.
d. *stare decisis*.

ANSWER: b

58. Federico and Gwen are involved in a court proceeding to enforce a right. This is
a. an action.
b. *stare decisis.*
c. an injunction.
d. a remedy.

ANSWER: a

59. When Lara and Mick cannot resolve their dispute amicably, Lara initiates a lawsuit against Mick. Lara is the
a. case of first impression.

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b. persuasive authority.
c. plaintiff.
d. defendant.

ANSWER: c

60. 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

61. An injunction 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

62. An award of damages is
a. an order to do or to refrain from doing a certain act.
b. the right to harm another.
c. a payment of money or property.
d. the cancellation of a contract.

ANSWER: c

63. At one time, a court of law could grant as a remedy only
a. monetary damages.
b. an order to perform a contract as promised.
c. a judicial proceeding for the resolution of a dispute.
d. an injunction.

ANSWER: a

64. Believing that a higher, or universal, law exists that applies to all human beings, and that each written law should reflect the principles inherent in this higher law is
a. the historical school of legal thought.
b. legal positivism.
c. the natural law tradition.
d. legal realism.

ANSWER: c

65. The classification of law that concerns the rights and duties that exist between persons and between citizens and their government is
a. criminal law.

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b. civil law.
c. natural law.
d. legal positivism.

ANSWER: b

66. Maine has a statute that states, "persons found on a property without permission shall be guilty of the crime of trespass and shall be imprisoned, if convicted, for not more than 90 days." Jacky is found on Kendall's property without permission. What happens next?
a. Jacky will be sued for this criminal act by Kendall, the property owner.
b. Jacky will be prosecuted for this criminal act by Kendall, the property owner.
c. Jacky will be sued for this criminal act by a public official, such as a district attorney.
d. Jacky will be prosecuted for this criminal act by a public official, such as a district attorney.

ANSWER: d

67. In a civil case, the object is to
a. resolve a dispute to the satisfaction of all concerned parties.
b. take coercive action against a violating party.
c. punish a wrongdoer to deter others from similar actions.
d. obtain a remedy to compensate the injured party.

ANSWER: d

68. Cyberlaw is
a. a classification of law.
b. a new type of law.
c. law that relates to the online environment.
d. all of these choices.

ANSWER: c

69. The Appellate Division of the New York Supreme Court issues an opinion that can be found at 157 A.D.3d 486, 69 N.Y.S.3d 26. The portion "157" represents
a. the number of the volume in the official reports of the court's decisions.
b. the number of the volume in an unofficial report of the court's decisions.
c. a page number in the referenced volume.
d. the number of the case in its chronological sequence.

ANSWER: a

70. The United States Supreme Court issues an opinion that can be found at __ U.S. __, 138 S.Ct. 617, 199 L.Ed.2d 501. The portion "617" represents
a. the number of the volume in the official reports of the Court's decisions.
b. the number of the volume in an unofficial report of the Court's decisions.
c. a page number in the referenced volume.
d. the number of the case in its chronological sequence.

ANSWER: c

Essay

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71. The National Rights Council, a nonprofit organization, files a suit against the U.S. Department of Justice (DOJ), claiming that a certain federal statute the DOJ is empowered to enforce conflicts with the U.S. Constitution and with a state constitution. In each situation, which source of law has priority?

ANSWER: The U.S. Constitution is the supreme law of the land. A law in violation of the Constitution, no matter what its source, will be declared unconstitutional and will not be enforced. Thus, the federal statute does not have priority over the Constitution. The federal statute would have priority over the state constitution, however, because under the U.S. Constitution, when there is a conflict between a federal law and a state law, the state law is rendered invalid.

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. Remedies granted by the equity courts are remedies in equity. List these equitable remedies and describe them in detail.

ANSWER: The remedies granted by the equity courts became known as remedies in equity, or equitable remedies. These remedies include specific performance, injunction, and rescission. Specific performance involves ordering a party to perform an agreement as promised. An injunction is an order to a party to cease engaging in a specific activity or to undo some wrong or injury. Rescission is the cancellation of a contractual obligation.

74. Courts must sometimes decide cases for which no precedents exist, called cases of first impression. In deciding cases of first impression, what do courts consider?

ANSWER: In deciding cases of first impression, courts often look at persuasive authorities—legal authorities that a court may consult for guidance but that are not binding on the court. A court may consider precedents from other jurisdictions, although those precedents are not binding. A court may also consider legal principles and policies underlying previous court decisions or existing statutes. Additionally, a court might look at issues of fairness, social values and customs, and public policy. Finally, federal courts can look at unpublished opinions as sources of persuasive authority.

75. In deciding cases, judges engage in legal reasoning and follow existing philosophical approaches to the law. List and describe the four schools of legal thought.

ANSWER: The four schools of jurisprudential thought are the natural law school, positivist school, historical school, and legal realism. According to the natural law theory, a higher, or universal, law exists that applies to all human beings. Each written law should reflect the principles inherent in natural law. If it does not, then it loses its legitimacy and need not be obeyed. Positive law, or national law, is the written law of a given society at a particular time. In contrast to natural law, it applies only to the citizens of that nation or society. Those who adhere to legal positivism believe that there can be no higher law than a nation's positive law. The historical school of legal thought emphasizes the evolutionary process of law by concentrating on the origin and history of the legal system. This school looks to the past to discover what the principles of contemporary law should be. The legal doctrines that have withstood the passage of time—those that have worked in the past—are deemed best suited for shaping present laws. Hence, law derives its legitimacy and authority from adhering to

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the standards that historical development has shown to be workable. Legal realism is based on the idea that law is just one of many institutions in society and that it is shaped by social forces and needs. Because the law is a human enterprise, this school reasons that judges should take social and economic realities into account when deciding cases. Legal realists also believe that the law can never be applied with total uniformity. Given that judges are human beings with unique personalities, value systems, and intellects, different judges will obviously bring different reasoning processes to the same case.

Multiple Response

76. Under the doctrine of *stare decisis*, judges are obligated to follow the precedents established within their jurisdictions. What does *stare decisis* require? Choose two answers.

a. A court should not overturn its own precedents unless there is a compelling reason to do so.
b. Decisions made by a higher court are binding on lower courts.
c. Precedents do not need to be followed if the judge believes it is best to ignore them.
d. Stare decisis is followed only in criminal cases and does not need to be followed in civil lawsuits.

ANSWER: a, b

77. Courts must sometimes decide cases for which no cases exist, called cases of first impression. In deciding cases of first impression, courts consider what? Choose three answers.

a. Persuasive authorities—legal authorities that a court may consult for guidance but that are not binding on the court
b. Legal principles and policies underlying previous court decisions or existing statutes
c. Issues of fairness, social values and customs, and public policy
d. Ethical mores

ANSWER: a, b, c

78. There are many primary sources of law. Name two.

a. Citations
b. Verdicts
c. Constitutions
d. Statutes

ANSWER: c, d

79. There are different levels of courts in our legal system. Name two.

a. Trial courts
b. Appellate courts
c. Supreme courts
d. Tribunal courts

ANSWER: a, b

80. Name two secondary sources of law.

a. Statutes
b. Regulations
c. Legal encyclopedias
d. Restatements of the law

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ANSWER: c, d

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