Business Law and the Regulation of Business 14th edition Mann Test Bank

SKU: 9780357987650-TEST-BANK

Name:_____ Class:_____ Date:_____

Chapter 01: Introduction to Law

True / False

1. The primary function of the law is to allow flexibility and adaptability in the social, political, and economic system of a society.
   a. True
   b. False

ANSWER: False

2. William Blackstone, an English jurist, defined law as "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong."
   a. True
   b. False

ANSWER: True

3. The common law system is used in most of Canada, Asia, and South America.
   a. True
   b. False

ANSWER: False

4. The law that creates, defines, and regulates most of our legal rights and duties is called executive law.
   a. True
   b. False

ANSWER: False

5. The U.S. Constitution provides that federal statutes supercede provisions of state constitutions and state statutes.
   a. True
   b. False

ANSWER: True

6. The burden of proof required in a criminal case is preponderance of the evidence.
   a. True
   b. False

ANSWER: False

7. The law does not change; it is based on unchanging and universal truths.
   a. True
   b. False

ANSWER: False

8. The main classifications of the law are (a) substantive and procedural, (b) public and private, and (c) civil and criminal.
   a. True
   b. False

ANSWER: True

9. Law is an instrument intended to achieve and maintain social control.

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

a. True
b. False

ANSWER: True

10. Under the civil law system, the judiciary initiates litigation, investigates pertinent facts, and conducts the presentation of evidence.

a. True
b. False

ANSWER: True

11. A judge deciding a common law case must look for guidance to similar cases previously decided by that court or superior courts.

a. True
b. False

ANSWER: True

12. The principle of judicial review divides the government into three distinct and independent branches: judicial, executive, and legislative.

a. True
b. False

ANSWER: False

13. The Uniform Commercial Code is a federal law that applies to commercial transactions among the states.

a. True
b. False

ANSWER: False

14. Since the end of the nineteenth century, case law developed from court opinions has been the primary source of new law and ordered social change in the United States.

a. True
b. False

ANSWER: False

15. A constitution restricts the powers of the government and specifies the rights and liberties of the people.

a. True
b. False

ANSWER: True

16. Laws passed by Congress are the supreme law of the land in the United States and take precedence over all other sources of law.

a. True
b. False

ANSWER: False

17. The final arbiter as to the constitutionality of laws passed by Congress or by the legislature of a state is the Supreme

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

Court of the United States.

a. True

b. False

ANSWER: True

18. The common law system of law uses the inquisitorial system of settling disputes.

a. True

b. False

ANSWER: False

19. Chase and Piper asked a court for reformation of their contract based on the fact that they made a mutual mistake. They can seek an equitable remedy.

a. True

b. False

ANSWER: True

20. The principle of *stare decisis* gives stability to our system of jurisprudence because it encourages consistent decisions for similar cases.

a. True

b. False

ANSWER: True

21. Once a court has decided a case, the principle of *stare decisis* precludes correction of erroneous decisions.

a. True

b. False

ANSWER: False

22. Civil law systems, as found in the state of Louisiana and countries such as Scotland, depend on comprehensive legislative enactments.

a. True

b. False

ANSWER: True

23. The American Law Institute has authored an orderly restatement of the general common law of the United States called the Restatement of law.

a. True

b. False

ANSWER: True

24. The business law topics of contracts, agency, property, and trusts are governed primarily by the common law.

a. True

b. False

ANSWER: True

25. Assume the state of Texas has been negotiating with the Mexican government on issues involving acid rain and

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

eventually reaches an agreement with Mexican officials to regulate industrial pollution that contributes to acid rain in return for Texas regulating cattle waste that contributes to water table pollution. This is a valid treaty under the U.S. Constitution.

a. True

b. False

ANSWER: False

26. In the United States, treaties are not subject to judicial review.

a. True

b. False

ANSWER: False

27. Tate brings an action against Tim for damages from trespass to Tate's property. Tate must prove the case by a preponderance of the evidence.

a. True

b. False

ANSWER: True

28. All laws are derived from morals, but some moral precepts are not enforced by legal sanctions.

a. True

b. False

ANSWER: False

29. Business law is primarily private law.

a. True

b. False

ANSWER: True

30. The terms "law" and "justice" are interchangeable.

a. True

b. False

ANSWER: False

31. Decisions of courts of appeals are published in volumes known as "reports" or "reporters."

a. True

b. False

ANSWER: True

32. The law is a product of pure science.

a. True

b. False

ANSWER: False

33. Moral concepts greatly influence the law, but morals and laws are not the same.

a. True

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

b. False

ANSWER: True

34. An example of a treaty was issued by President Johnson in 1965 prohibiting discrimination by federal contractors.
    a. True
    b. False

ANSWER: False

35. An example of a widely adopted uniform law for states to consider is the Uniform Partnership Act.
    a. True
    b. False

ANSWER: True

Multiple Choice

36. A crime is:
    a. a wrongdoing that requires litigation between the victim and the perpetrator.
    b. any act prohibited by the government or an omission of an act required by public law and made punishable by the government in a judicial proceeding brought by it.
    c. litigation where the injured party sues to recover compensation for the damages and injury sustained as a result of the defendant's wrongful conduct.
    d. wrongful conduct as set forth in statutes that constitute the supreme law of the land.

ANSWER: b

37. What is the supreme law of the land in the United States?
    a. Federal statutes
    b. International treaties
    c. Case law as developed through the U.S. Supreme Court
    d. The U.S. Constitution

ANSWER: d

38. Which of the following is not descriptive of the law?
    a. It is always prohibitory.
    b. It is pervasive.
    c. It may be permissive.
    d. It is regulatory.

ANSWER: a

39. In which of the following cases is a court unlikely to provide remedies?
    a. A person refuses to return a friend's borrowed book.
    b. A stranger watches and refuses to help rescue a drowning child.
    c. A person pushes a stranger into the lake, causing the stranger severe injury.
    d. A driver maneuvers recklessly on a busy street.

ANSWER: b

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

40. Which one of the following is NOT true of a suit brought under criminal law?
    a. It must be brought by the government.
    b. It may be a state or a federal case.
    c. Proof of guilt must be "by preponderance of the evidence."
    d. Conviction may result in imprisonment.

ANSWER: c

41. Which of the following is NOT a source of federal law?
    a. Rules of administrative agencies
    b. Decisions of federal courts
    c. Executive orders of the President
    d. Hearings before the Senate

ANSWER: d

42. What American jurists defined law in a functional sense as predictions of the way that a court will decide specific legal questions?
    a. Roscoe Pound and Alexander Hamilton
    b. Blackstone and Austin
    c. Roscoe Pound and Benjamin Cardozo
    d. Oliver Wendell Holmes and Benjamin Cardozo

ANSWER: d

43. Courts of equity:
    a. have remained separate court systems in nearly every jurisdiction in the United States.
    b. ordinarily do not involve juries.
    c. in all cases recognized new rights that were not enforceable at common law.
    d. typically have three judges and a jury of twelve citizens.

ANSWER: b

44. Maddox has been charged with vandalism of a privately owned office building. The prosecutor must prove Maddox's guilt:
    a. by a preponderance of the evidence.
    b. by a majority of the evidence.
    c. beyond a reasonable doubt.
    d. beyond any doubt.

ANSWER: c

45. The President of the United States has the authority to issue laws, which are called:
    a. Restatements of law.
    b. Executive orders.
    c. Constitutional amendments.
    d. Codes.

ANSWER: b

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

46. The courts in common law systems have developed a body of law that serves as precedent for determination of later controversies. This is called:
    a. civil law.
    b. case law.
    c. court law.
    d. county law.

ANSWER: b

47. An example of private law is:
    a. contracts between two corporations.
    b. administrative agency rulings.
    c. a trial of an accused thief.
    d. investigation of bribery of a public official.

ANSWER: a

48. The decision of an equity court is called:
    a. a judgment.
    b. a decree.
    c. s*tare decisis*.
    d. an inquisition.

ANSWER: b

49. The branch of public law that deals with the various regulatory functions and activities of agencies of the government is:
    a. criminal law.
    b. administrative law.
    c. Constitutional law.
    d. substantive law.

ANSWER: b

50. A constitution establishes government structure, specifically enumerates certain liberties of the people and:
    a. gives power of commerce to the federal government.
    b. defines the role of churches.
    c. restricts powers of government.
    d. allows any action that is not harmful to society.

ANSWER: c

51. The person who files or commences a civil lawsuit is the:
    a. plaintiff.
    b. defendant.
    c. prosecuting attorney.
    d. attorney general.

ANSWER: a

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

52. Because of the increasing complexity of the social, economic, and industrial life of the nation, the scope of which type of law has expanded enormously?
a. Common
b. Administrative
c. Procedural
d. Equitable
ANSWER: b

53. A court order requiring a person to do or refrain from doing a particular act is known as a(n):
a. injunction.
b. maxim.
c. statute.
d. executive order.
ANSWER: a

54. The three distinct and independent branches of the U.S. government are:
a. the executive branch, the House of Representatives, and the U.S. Senate.
b. the federal judiciary, the House of Representatives, and the U.S. Senate.
c. the federal judiciary, the Congress, and the executive branch.
d. the state government, the federal government, and local government.
ANSWER: c

55. Which of the following is a true statement?
a. A treaty signed by the President and approved by the Senate has the legal force of a federal statute.
b. A federal statute may not supersede a prior treaty.
c. A treaty signed by the President does not need approval by Congress.
d. A treaty must be approved by a majority of the Supreme Court Justices before being signed by the President.
ANSWER: a

56. An orderly compilation of the general common law of the United States, prepared by a distinguished group of lawyers, judges, and law teachers, is known as the:
a. statute of frauds.
b. Uniform Commercial Code.
c. maxims of law.
d. Restatement of Law.
ANSWER: d

57. In which of the following ways does a state constitution differ from the U.S. Constitution?
a. State constitutions are often more restrictive of rights than the U.S. Constitution.
b. A state constitution can guarantee rights beyond those provided in the U.S. Constitution.
c. A state constitution is generally amended less frequently than the U.S. Constitution.
d. State constitutions tend to be more general than the U.S. Constitution.
ANSWER: b

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

58. Rosalind signs a contract to sell 500 wood panels for $5,000 to Schirmer Industries to be delivered by April 1. In this case, which of the following statements is NOT true?

a. Rosalind has a duty to deliver the goods by April 1.
b. Schirmer Industries has a right to receive the goods by April 1.
c. The duties and rights of Rosalind and Schirmer Industries are correlative.
d. Substantive law provides the remedy if either Rosalind or Schirmer Industries breaches this contract.

ANSWER: d

59. The source of law best suited to making drastic or comprehensive change is:

a. common law.
b. the federal court system.
c. statutes.
d. state court decisions.

ANSWER: c

60. Which of the following is NOT considered to be an equitable remedy?

a. Specific performance
b. Injunction
c. Reformation
d. Money damages

ANSWER: d

61. The National Conference of Commissioners on Uniform State Laws:

a. was created by then-President Bill Clinton to study and report on the Uniform Commercial Code.
b. is another name for the American Law Institute.
c. has drafted only five uniform laws: the UCC, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Probate Code, and the Model Business Corporation Act.
d. has drafted over 250 uniform laws.

ANSWER: d

62. In reading the title of a case, *Smith v. Jones*:

a. Smith is the plaintiff.
b. Jones is the plaintiff.
c. the determination of who is the plaintiff depends on the level of the court at which the case is being heard.
d. it is not always possible to determine from the case title which party is the plaintiff.

ANSWER: d

63. Which of the following is correct regarding the decisions of state trial courts?

a. They are generally not reported.
b. They are reported in regional reports.
c. They are reported in state court reports.
d. They are binding upon lower courts based upon the principle of *stare decisis*.

ANSWER: a

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

64. Characteristics of a common law system include which of the following?
    a. A common law system relies heavily on comprehensive legislative enactments and an inquisitorial system of determining disputes.
    b. In a common law system, the judiciary initiates litigation, investigates pertinent facts, and conducts the presentation of evidence.
    c. The common law system prevails in most of Europe and Scotland.
    d. A common law system relies heavily on the judiciary as a source of law and on the adversary system for settling disputes.

ANSWER: d

65. The doctrine of *stare decisis* means that:
    a. the common law has not been able to evolve in a stable and predictable manner.
    b. decisions can be overruled.
    c. courts adhere to and rely on rules of law that they or superior courts relied on in similar decisions.
    d. courts are not allowed to correct erroneous decisions or to choose among conflicting precedents.

ANSWER: c

66. Which of the following is correct regarding treaties in the U.S. legal system?
    a. They have no legal effect.
    b. Under the U.S. Constitution, they must be signed by the President and approved by the U.S. Senate.
    c. They have no effect on business law.
    d. They must be approved by the states before they have the force of law.

ANSWER: b

67. The category of law that creates, defines, and regulates legal rights and obligations is known as:
    a. substantive law.
    b. procedural law.
    c. Constitutional law.
    d. criminal law.

ANSWER: a

68. Which of the following is correct regarding the English courts of equity?
    a. They were presided over by a judge.
    b. They could only award money damages.
    c. They could issue a decree ordering a defendant to do or to refrain from a specific act.
    d. They had very few options of remedies for breach of contract.

ANSWER: c

69. The party who files an appeal is the:
    a. plaintiff.
    b. appellant.
    c. appellee.
    d. defendant.

ANSWER: b

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

70. The group composed of lawyers, judges, and law teachers who assumed the task of preparing "an orderly restatement of the general common law of the United States" is the:
a. American Legal Bar.
b. American Law Institute.
c. National Conference of Commissioners on Uniform State Laws.
d. National Reporter System.
ANSWER: b

71. A decision of an appeals court in Minnesota would be recorded in the:
a. state's statutory code.
b. Minnesota administrative code.
c. Northwestern regional reporter.
d. Federal Supplement.
ANSWER: c

72. Which of the following is NOT ordinarily a part of a reported opinion?
a. The essential facts
b. The names of the attorneys representing the parties
c. What pleadings are material to the issues
d. The application of legal principles involved in the case
ANSWER: b

73. A decision of a trial court is called:
a. treaty of peace.
b. opinion.
c. ethical decree.
d. model rule.
ANSWER: b

74. Restatements of law are developed by:
a. federal judges.
b. a distinguished group of scholars.
c. Congress.
d. state judges.
ANSWER: b

75. Which of the following is NOT a classification of the law?
a. Criminal/civil
b. Public/private
c. Substantive/procedural
d. Corporate/individual
ANSWER: d

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

Chapter 01: Introduction to Law

Essay

76. What is *stare decisis*? Discuss its role in the American legal system.

ANSWER: *Stare decisis* ("to stand by the decisions") is the principle that, in reaching a decision, courts should adhere to and apply rules of law decided in prior, substantially similar cases. This principle is followed in the American legal system, and it allows the common law to evolve in a stable and predictable manner. Stare decisis does not preclude courts from correcting erroneous decisions or from choosing among conflicting precedents.

77. Compare and contrast civil and criminal law. Include in your discussion definitions, how the cases are commenced, the purposes of civil and criminal law, the burdens of proof, and principal sanctions.

ANSWER: Civil law defines duties, the violation of which constitutes a wrong against the party injured by the violation. Civil law is part of private law, and a civil lawsuit is brought by the injured party, known as the plaintiff. Purposes of civil law include compensation to the injured party and deterrence of such wrongful action in the future. The plaintiff has the burden of proof, which must be sustained by a preponderance of the evidence. Principal sanctions are monetary damages and equitable remedies, such as a decree ordering specific performance or an injunction ordering the defendant to do or refrain from doing a specified act.
Criminal law establishes duties, the violation of which is a wrong against the whole community. Criminal law is part of public law. The government brings the criminal case and has the burden of proving criminal guilt beyond a reasonable doubt, a significantly higher burden of proof than that required in a civil case. The primary purpose of criminal law is to punish the wrongdoer. Additional purposes include public policy (safeguarding government, human life, or private property), deterrence, rehabilitation, and preservation of peace. Principal sanctions include capital punishment (death), imprisonment, and fines.

78. What are the various sources of American law? Discuss how these various laws interrelate to form the system of law in the United States.

ANSWER: The sources of American law include the U.S. Constitution and the constitutions of the various states; judicial decisions in precedent-setting cases, the common law that has developed over centuries; statutes passed by Congress and by state legislatures; ordinances passed by local legislative bodies, such as city councils; treaties; interstate compacts; executive orders; and administrative rules or regulations adopted by federal and state administrative agencies. The U.S. Constitution is the supreme law of the land, and federal statutes and treaties are paramount to state constitutions and statutes.

79. Identify three essential functions of law.

ANSWER: The primary function of law is to maintain stability in the social, political, and economic system while simultaneously permitting change. A second essential function of law is to protect the private ownership of property and to assist in the making of contracts relating to exchanges of property and services. A third function of law is preservation of the state.

80. Explain how the terms *civil law* and *civil law system* differ.

ANSWER: The term "civil law" is the law dealing with the rights and duties of individuals among themselves. The violation of these rights and duties constitutes a wrong against the party injured by the violation. The counterpart to civil law is criminal law.
The purpose of the civil law is to compensate the injured party, not, as in the case of criminal law, to punish the wrongdoer. The principal forms of relief the civil law affords are a judgment for money damages and a decree ordering the defendant to perform a specified act or to desist from specified conduct.

"Civil law system" is a body of law derived from Roman law and based upon comprehensive legislative enactments called codes and the inquisitorial system of determining disputes. In the inquisitorial system, the judiciary initiates litigation, investigates pertinent facts, and conducts the presentation of evidence. The civil law system prevails in most of Europe, Scotland, the state of Louisiana, the province of Quebec, the state of

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank

Gao in India, Latin America, and parts of Africa and Asia.

Copyright Cengage Learning. Powered by Cognero.

Business Law and the Regulation of Business 14th edition Mann Test Bank