

Business Law, 7e (Cheeseman)

Chapter 1 Legal Heritage and the Information Age

1) The law in the United States has been influenced by English, French, and Spanish law.

Answer: TRUE

Diff: 2

Topic: Introduction to Legal Heritage and the Information Age

2) Many countries in Europe still follow the civil law system.

Answer: TRUE

Diff: 1

Topic: History of American Law

3) Businesses that are organized in the United States are subject to its laws, but not to the laws of other countries in which they do business.

Answer: FALSE

Diff: 2

Topic: Introduction to Legal Heritage and the Information Age

4) Promoting social justice is not a function of the law.

Answer: FALSE

Diff: 2

Topic: What is Law?

5) According to the analytical school of thought, the law is formed by logic.

Answer: TRUE

Diff: 2

Topic: What is Law?

6) The U.S. Supreme Court has ruled that it is improper for a party to be convicted in a criminal case if another party involved in the same criminal activity has already been acquitted of that activity.

Answer: FALSE

Diff: 2

Topic: What is Law?

7) Shaping moral standards is not a function of the law.

Answer: FALSE

Diff: 2

Topic: What is Law?

8) The United States Supreme Court decision in *Brown v. Board of Education* demonstrates that the law's function is to maintain the status quo.

Answer: FALSE

Diff: 2

Topic: What is Law?

9) According to Anotole France, the law should apply equally to the rich and the poor.

Answer: TRUE

Diff: 1

Topic: What is Law?

10) The Natural Law School of jurisprudence believes that the law should be based on morality and ethics.

Answer: TRUE

Diff: 1

Topic: Schools of Jurisprudential Thought

11) The Historical School of jurisprudence believes that changes in societal norms are eventually shown in the law. Further, these scholars depend on precedent to solve modern problems.

Answer: TRUE

Diff: 2

Topic: Schools of Jurisprudential Thought

12) The Sociological School of jurisprudence does not emphasize following precedent.

Answer: TRUE

Diff: 2

Topic: Schools of Jurisprudential Thought

13) The Command School of jurisprudence believes that the law commands the ruling class; thus the law should not change when there is a change in the ruling class.

Answer: FALSE

Diff: 1

Topic: Schools of Jurisprudential Thought

14) Proponents of the Critical Legal Studies School of jurisprudence argue for great subjectivity in decisions made by judges.

Answer: TRUE

Diff: 2

Topic: Schools of Jurisprudential Thought

15) The Law and Economics School of jurisprudential thought holds that rights are not worth protecting if it is too costly from an economic viewpoint to do so.

Answer: TRUE

Diff: 1

Topic: Schools of Jurisprudential Thought

16) The belief that the law is a way to form social behavior and reach sociological goals stems from the Historical School of jurisprudential thought.

Answer: FALSE

Diff: 3

Topic: Schools of Jurisprudential Thought

17) The English law courts could only award monetary damages.

Answer: TRUE

Diff: 2

Topic: History of American Law

18) The English law courts emphasized legal procedure over the merits of the individual case.

Answer: TRUE

Diff: 1

Topic: History of American Law

19) The English Chancery Courts were under the authority of the Lord Chancellor.

Answer: TRUE

Diff: 2

Topic: History of American Law

20) In most states today the law courts and equity courts remain separate so that both legal and equitable remedies can honor the tradition of the English common law court.

Answer: FALSE

Diff: 2

Topic: History of American Law

21) In general, the courts in a civil law system play a much larger role in making law than they do in a common law system.

Answer: FALSE

Diff: 1

Topic: History of American Law

22) The supreme law of the land in the United States of America is the Constitution.

Answer: TRUE

Diff: 2

Topic: Sources of Law in the United States

23) The federal government has all the powers that the states have not been given by the U.S. Constitution.

Answer: FALSE

Diff: 2

Topic: Sources of Law in the United States

24) Codes consist of statutes that have been organized by topic.

Answer: TRUE

Diff: 1

Topic: Sources of Law in the United States

25) A set of state or federal laws that describes conduct that must be followed by those the set of laws was designed to protect is known as a statute.

Answer: TRUE

Diff: 1

Topic: Sources of Law in the United States

26) The doctrine of *stare decisis* provides that each court decision is independent and should stand on its own.

Answer: FALSE

Diff: 1

Topic: Sources of Law in the United States

27) According to the text, what is the definition of "law?"

- A) the list of actions a person must not perform
- B) a body of rules of action or conduct prescribed by a controlling authority
- C) the acts a person must perform in order to ensure fairness
- D) optional rules for members of society to follow or ignore as they see fit

Answer: B

Diff: 2

Topic: What is Law?

Skill: Legal Concepts

28) Which of the following is **not** a general function of the law?

- A) shaping moral standards
- B) maintaining the status quo
- C) encouraging individual justice
- D) facilitating orderly change

Answer: C

Diff: 2

Topic: What is Law?

Skill: Legal Concepts

29) When statutes are passed only after considerable study, debate, and public input, this is an example of which function of the law?

- A) maintaining the status quo
- B) facilitating orderly change
- C) keeping the peace
- D) shaping moral standards
- E) encouraging individual justice

Answer: B

Diff: 2

Topic: What is Law?

Skill: Legal Concepts

30) What was the U.S. Supreme Court's reaction to a case in which a business executive was found guilty of aiding and abetting in the bribery of an Internal Revenue Service agent even though the Internal Revenue Service agent had been found not guilty of the bribery in a separate trial?

A) Because one of the defendants had been found guilty, both should have been found guilty.

B) Because one of the defendants had been found not guilty, they both should have been found not guilty.

C) Because of the inconsistent outcomes, a third combined trial was ordered to reconcile the different outcomes.

D) The decisions in both cases were thrown out, making it possible, though not mandatory, that one or both defendants would have to face another trial.

E) This simply underscores the fact that there is always the possibility that different juries might reach different results in a given situation.

Answer: E

Diff: 2

Topic: What is Law?

Skill: Legal Concepts

31) According to Judge Jerome Frank, uncertainty in the law:

A) is an unfortunate accident

B) should be avoided whenever possible

C) is of immense social value

D) does not exist in the U.S. legal system

Answer: C

Diff: 3

Topic: What is Law?

Skill: Legal Concepts

32) The concept of flexibility in the law is best illustrated by:

A) the use of precedent to decide similar cases in similar ways

B) passing statutes that purposely do not address precisely how they would apply in all situations

C) the use of appointed judges rather than elected judges

D) imposing mandatory penalties for criminal violations

E) setting a fixed amount of damages applicable to all wrongful death cases

Answer: B

Diff: 3

Topic: What is Law?

Skill: Legal Concepts

33) Which doctrine was overturned in the case of *Brown v. Board of Education*?

- A) the legality of poll taxes
- B) the permissibility of separate but equal facilities
- C) allowing only white males to vote
- D) the acceptability of paying women less than men for comparable work
- E) different working hours for male and female factory workers

Answer: B

Diff: 1

Topic: What is Law?

Skill: Legal Concepts

34) Documents such as the U.S. Constitution, the Magna Carta, and the United Nations Charter reflect what legal theory?

- A) the Natural Law school
- B) the Historical school
- C) the Sociological school
- D) the Analytical school

Answer: A

Diff: 2

Topic: Schools of Jurisprudential Thought

Skill: Legal Concepts

35) Persons who believe that law is "discovered" by men and women through the use of reasoning and choosing between good and evil adhere to which school of jurisprudential thought?

- A) the Natural Law school
- B) the Historical school
- C) the Analytical school
- D) the Command school
- E) the Sociological school

Answer: A

Diff: 1

Topic: Schools of Jurisprudential Thought

Skill: Legal Concepts

36) Proponents of which school(s) of jurisprudential thought are unlikely to adhere to precedent in making decisions?

- A) the Sociological school only
- B) the Critical Legal Studies school only
- C) both the Sociological school and the Critical Legal Studies school
- D) neither the Sociological school nor the Critical Legal Studies school

Answer: C

Diff: 3

Topic: Schools of Jurisprudential Thought

Skill: Legal Concepts

37) Someone who believes that law is a reflection of those in power believes in which school of jurisprudential thought?

- A) the Natural Law school
- B) the Historical school
- C) the Analytical school
- D) the Command school

Answer: D

Diff: 1

Topic: Schools of Jurisprudential Thought

Skill: Legal Concepts

38) Which of the following is most consistent with the Natural Law School of jurisprudence?

- A) Law is based on moral and ethical principles of what are right, and it is the job of men and women, through study, to discover what these principles are.
- B) The law is a reflection of society, thus the law must change naturally as society changes over time.
- C) The laws of man are secondary to the laws of nature, and thus the laws of nature take precedence whenever the laws of man are in conflict with the laws of nature.
- D) By applying the rules of logic to specific cases, the logical, or natural, result will be obtained.
- E) Laws must first and foremost respect, preserve, and promote the preservation of the environment and life in all its forms.

Answer: A

Diff: 2

Topic: Schools of Jurisprudential Thought

Skill: Legal Concepts

39) The _____ school of jurisprudence believes that legal rules are unnecessary and used by the powerful to maintain the status quo, and that disputes should be resolved based on general notions of fairness.

- A) Historical
- B) Natural
- C) Command
- D) Critical Legal Studies

Answer: D

Diff: 2

Topic: Schools of Jurisprudential Thought

Skill: Legal Concepts

40) The Critical Legal Studies school of jurisprudence believes that:

- A) free market forces and market efficiency are the most important principles underlying the law
- B) past court decisions must be analyzed and criticized in developing new law
- C) subjective decision making by judges based on general notions of fairness is appropriate
- D) the purpose of law is to serve as an official voice of criticism of those in power
- E) judges should employ the same critical methods of analyzing cases in the courtroom that law schools use in teaching the law to students

Answer: C

Diff: 2

Topic: Schools of Jurisprudential Thought

Skill: Legal Concepts

41) The school of jurisprudence that believes that free market forces should determine the outcomes to lawsuits is:

- A) the Command school
- B) the Sociological school
- C) the Critical Legal Studies school
- D) the Law and Economics school

Answer: D

Diff: 2

Topic: Schools of Jurisprudential Thought

Skill: Legal Concepts

42) Which of the following is true about the Law and Economics school of jurisprudence?

- A) It is also known as the Chicago school.
- B) It promotes the use of economic principles in resolving cases, so long as the case is one involving business.
- C) It would say that a case that no lawyer would take on a contingent fee basis should be brought by an attorney who is paid by the state.
- D) It holds that antitrust cases should be vigorously prosecuted in order to protect the economic viability of smaller firms.

Answer: A

Diff: 2

Topic: Schools of Jurisprudential Thought

Skill: Legal Concepts

43) The following courts were common in England before the founding of the United States **except**:

- A) chancery courts
- B) bankruptcy courts
- C) merchant courts
- D) equity courts

Answer: B

Diff: 2

Topic: History of American Law

Skill: Legal Concepts

44) What was the only remedy (relief) available in the law courts of England?

- A) specific performance
- B) fines and imprisonment
- C) monetary awards for damages
- D) returning the parties to their positions before the dispute arose

Answer: C

Diff: 2

Topic: History of American Law

Skill: Legal Concepts

45) Which court was eventually combined with the regular court system?

- A) law courts
- B) equity courts
- C) criminal courts
- D) merchant courts

Answer: D

Diff: 2

Topic: History of American Law

Skill: Legal Concepts

46) What is an equity court's function?

- A) To deal with just the law of merchants.
- B) To issue opinions in cases that later set the precedent for similar cases.
- C) To investigate the merits of a case and base its decisions on fairness.
- D) To issue executive orders.
- E) To set state or federal laws between two or more nations.

Answer: C

Diff: 2

Topic: History of American Law

Skill: Legal Concepts

47) Which of the following is true about the creation of courts in England?

- A) The law courts were created in order to have broader jurisdiction than the merchant courts.
- B) The merchant courts were created in order to have more flexibility in fashioning remedies than the chancery courts.
- C) The equity courts were created to allow remedies that could not be granted by the law courts.
- D) The different types of courts were created in order to handle different types of cases, but the remedies available to the different courts were the same.
- E) Today, the Merchant Court remains a separate system of courts in England and the United States.

Answer: C

Diff: 2

Topic: History of American Law

Skill: Legal Concepts

48) Why was "common law" considered to be "common?"

- A) It was the law that applied to the common people.
- B) It was uniformly applied and was therefore common to the various jurisdictions in England.
- C) It was the same in England and the United States, and thus common to the two nations.
- D) It was the law that applied to common, everyday situations.

Answer: B

Diff: 3

Topic: History of American Law

Skill: Legal Concepts

49) Which of the following is a distinguishing feature of a common law legal system?

- A) requiring guilt to be proven beyond a reasonable doubt
- B) the sole source of law is a comprehensive civil code
- C) the making of law by the judges and the following of precedent
- D) having an appeal process
- E) providing remedies to aggrieved parties

Answer: C

Diff: 2

Topic: History of American Law

Skill: Legal Concepts

50) Which of the following is true about United States law today?

- A) The law of all states is based on English common law.
- B) The law in all states, except Louisiana, is based on English common law.
- C) The law and equity courts remain separate in most states today.
- D) The laws of the 50 states are essentially similar.

Answer: B

Diff: 2

Topic: History of American Law

Skill: Legal Concepts

51) A legal system that relies on extensive codes in which judicial decisions do not become law is known as what kind of legal system?

- A) code law
- B) equitable law
- C) common law
- D) civil law

Answer: D

Diff: 1

Topic: History of American Law

Skill: Legal Concepts

52) Influential Civil Codes include the following **except**:

- A) the Napoleonic Code
- B) the Roman *Corpus Juris Civilis*
- C) the Spanish Civil Code of 1898
- D) the German Civil Code of 1896

Answer: C

Diff: 2

Topic: History of American Law

Skill: Legal Concepts

53) In the United States, what is the supreme law of the land?

- A) the U.S. Constitution
- B) the statutes passed by Congress
- C) executive orders issued by the President
- D) state constitutions

Answer: A

Diff: 2

Topic: Sources of Law in the United States

Skill: Legal Concepts

54) Which branch of government has the authority to determine the validity of a law?

- A) executive
- B) administrative
- C) judicial
- D) legislative

Answer: C

Diff: 1

Topic: Sources of Law in the United States

Skill: Legal Concepts

55) Assume that there is a provision in the Colorado state constitution that is in conflict with a statute that was passed by the U.S. Congress and enacted into law. Which is true?

- A) The Colorado constitutional provision will control; the federal statute is invalid.
- B) The federal statute will control and make the state constitutional provision invalid.
- C) In Colorado, the Colorado constitutional provision will control over the statute passed by Congress, but the federal statute will apply in the other 49 states.
- D) Within Colorado, whichever was passed earlier will control over the other.
- E) Within Colorado, whichever was passed later will control over the other.

Answer: B

Diff: 3

Topic: Sources of Law in the United States

Skill: Legal Concepts

56) Which of the following statements is true about treaties?

- A) Treaties are valid only if they do not conflict with a statute passed by Congress.
- B) Treaties are valid only if they do not conflict with a statute passed by Congress or any of the state legislatures.
- C) Treaties are the supreme law of the land, equal in priority with the U.S. Constitution.
- D) Treaties are the supreme law of the land, and take priority over any inconsistent constitutional provision.

Answer: C

Diff: 2

Topic: Sources of Law in the United States

Skill: Legal Concepts

57) When statutes are organized by topic, the resulting compilation of law is known as:

- A) a code
- B) common law
- C) civil law
- D) precedent

Answer: A

Diff: 2

Topic: Sources of Law in the United States

Skill: Legal Concepts

58) Which of the following powers do administrative agencies typically have?

- A) rulemaking only
- B) statute interpretation only
- C) dispute adjudication only
- D) All of these are correct

Answer: D

Diff: 2

Topic: Sources of Law in the United States

Skill: Legal Concepts

59) The Federal Trade Commission is an example of:

- A) a federal agency created by Congress
- B) a corporation subsidized by the federal government
- C) a branch of the U.S. Supreme Court
- D) a temporary commission created by executive order that has become permanent
- E) a judicially created subdivision of the executive branch

Answer: A

Diff: 1

Topic: Sources of Law in the United States

Skill: Legal Concepts

- 60) The power of the president to issue executive orders:
- A) is expressly provided for in the U.S. Constitution
 - B) was granted to the president in an early Supreme Court decision
 - C) is implied, but not expressly stated in the U.S. Constitution
 - D) is subject to a two-thirds approval of the Senate
 - E) exists only because it has never been challenged

Answer: C

Diff: 2

Topic: Sources of Law in the United States

Skill: Legal Concepts

- 61) *Stare decisis* is the doctrine of:
- A) separation of powers so that decisions are not made by a single branch of government
 - B) following precedent so that legal principles in earlier cases are followed in later cases
 - C) constitutional principles applied when making any decision
 - D) spending long periods of time looking at facts before making a decision

Answer: B

Diff: 3

Topic: Sources of Law in the United States

Skill: Legal Concepts

- 62) What use may a court of one state make of an earlier state court decision made in another state?
- A) If the earlier decision in the other state is relevant, it must be followed even though it is from another state, because all of the states are part of one legal system.
 - B) The court deciding the case cannot take the decisions of other states into account.
 - C) Earlier court decisions are equally relevant as precedent whether they were made in the same state or in a different state.
 - D) The court of the state deciding a case can look to earlier court decisions in other states for guidance in deciding the case at hand, but is not required to follow them.

Answer: D

Diff: 3

Topic: Sources of Law in the United States

Skill: Legal Concepts

63) John lives in a large city and desires to start an airport shuttle service. In order to do so, John must go through a complicated permit application and approval process. John believes that this process is in place in order to protect the persons already operating such services. John believes that these rules are arbitrary, and he should be allowed to start his business based on general notions of fairness. John's beliefs most closely correspond to which school of jurisprudence?

- A) Critical Legal Studies School
- B) Law and Economics School
- C) Natural Law School
- D) Historical School
- E) Sociological School

Answer: A

Diff: 2

Topic: Schools of Jurisprudential Thought

Skill: Factual Application

64) Betty believes that she has been discriminated against because of her sexual orientation. Although federal law does not prohibit this discrimination, Mary believes that the law should be changed in order to make the members of society more accepting of gay individuals. Mary's beliefs most closely correspond to which school of jurisprudence?

- A) Critical Legal Studies School
- B) Natural Law School
- C) Historical School
- D) Sociological School

Answer: D

Diff: 2

Topic: Schools of Jurisprudential Thought

Skill: Factual Application

65) Assume that Colorado passes a new law that provides "skiing and snowboarding at excessive speed within the boundaries of a commercially operated ski area shall result in a \$1,000 fine." Charlie is convicted of violating this statute for skiing at 30 mph on a run at the Silver Peak ski area. Later, two skiers are separately charged with violating the same statute in conditions virtually identical to those when Charlie was skiing. Sam Swift was skiing at 25 mph and Barry Bomber was skiing at 35 mph. Based on the precedent established in the *Standfer v. United States* case, what would the juries in each case decide?

- A) Both would be found guilty because even 25 miles per hour is simply too fast.
- B) Sam would be found not guilty and Barry would be found guilty.
- C) Sam's case could be decided either way, but Barry would be found guilty.
- D) Either case could be decided either way because the prior case is separate from the two later cases.
- E) Sam would be found not guilty, but Barry's case could be decided either way.

Answer: D

Diff: 3

Topic: Sources of Law in the United States

Skill: Factual Application

66) Barry owns a small software development firm. Barry has an employee who needs special accommodations in order to be able to perform the functions of his job. These accommodations would cost \$10,000, an amount that Barry believes is more than he should have to spend. The Americans with Disabilities Act provides that an employer is required to make "reasonable accommodations" for employees with a disability, but does not define what constitutes a "reasonable accommodation." Assume that size of the employer (by some measure) determines the maximum amount of money that would be considered reasonable for a particular employer to be required to spend. Under the principles of *stare decisis*, which of the following is true?

A) If a similar-size employer had been required to spend \$15,000 in the past, then Barry would be required to spend the \$10,000.

B) If a similar-size employer had been required to spend \$15,000 in the past, this would not be relevant in Barry's case because it happened in the past.

C) If a similar-size employer had **not** been required to spend \$15,000 in the past, then Barry would **not** be required to spend \$10,000.

D) If a similar-size employer had **not** been required to spend \$15,000 in the past, then Barry **would** be required to spend \$10,000.

Answer: A

Diff: 3

Topic: Sources of Law in the United States

Skill: Factual Application

67) A number of the functions of the law can be viewed as contradictory. For example, one function is to maintain the status quo, whereas another is to facilitate orderly change. What other functions could be in conflict with one another? How can the law simultaneously have seemingly inconsistent functions?

Answer: The law has the function to keep the peace, yet also to maximize individual freedom. Likewise, the function of shaping moral standards can conflict with maximizing individual freedom. There are other examples of conflicting functions. This is reasonable because, although all are legitimate functions of the law, these functions will inevitably come into conflict in some circumstances. Thus, the law not only has these functions, but it must also determine which function takes precedence when there is a conflict. Thus, the law can have the function of maximizing individual freedoms, but that can be limited by the separate function of keeping the peace.

Diff: 2

Topic: Ethics and Policy

Skill: Factual Application

68) There has been much talk in recent years of eliminating the so-called "marriage penalty" in the tax code. This "penalty" actually consists of many different provisions, each of which results in a married couple paying greater taxes than the same two people would pay if both were single. How might the changing norms of society justify the elimination of these provisions, even though they have long been part of the tax code?

Answer: Because it is less expensive for two people to share a household than for those same two people to maintain separate households, the tax law incorporated numerous provisions providing smaller deductions or higher tax rates for married couples. One argument for eliminating the marriage penalty is that society has changed. In the past, very few couples would share a household without getting married, thus marital status was a determinant of whether people lived together and enjoyed the lower living expenses of living under one roof. In other words, if you were not married, then you must have been supporting a household with only one income. Because many couples living together today are not married, marital status is not as much of a determinant whether two persons are supporting one household or two, and thus, proponents say, not a justification for taxation differences. Thus today, many single people are living together as couples without getting married, and many people argue that a decision by these persons to marry should not increase their tax burden.

Diff: 3

Topic: Ethics and Policy

Skill: Factual Application

69) Evaluate the views of the Critical Legal Studies School of jurisprudence. What are the benefits and drawbacks of using broad notions of fairness in deciding cases?

Answer: An advantage is that decisions might be more flexible in fitting the situation of the case being decided. On the other hand, some judges might not use this discretion properly. Furthermore, by not relying on precedent, there would be much uncertainty in the law.

Diff: 2

Skill: Ethics and Policy

70) What are the good and bad aspects of relying on precedent to decide current cases? Give an example of precedent that either was not followed in the past, or should not be followed in the future. How much leeway do judges have in deciding whether to follow precedent? How much leeway should they have?

Answer: Precedent provides consistency in the law, but can lead to bad decisions when precedent becomes outdated or when the precedent-setting decision was wrong.

Diff: 2

Skill: Ethics and Policy

71) As courts decide cases involving the Internet and new kinds of issues not addressed previously, what role, if any, does precedent play? What role should it play? What difficulties could arise?

Answer: A court would first look to see if any applicable statutes apply to the situation. Beyond that, the court would consider whether or not there are any earlier relevant court decisions applicable to the case. The court might find a similar case, though one not involving the Internet, and extend its application to the Internet. Through this process, existing law can be extended to apply to new situations. Difficulties can arise if courts extend the application of an existing law to a new area where there are crucial differences that make the application of the old law improper.

Diff: 2

Skill: Ethics and Policy