

CHAPTER 01 Introduction

1. Those who believe law is power are concerned with just and ethical law.

- a. True
- b. False

ANSWER: False

2. Natural law philosophers argue that law is based on the built-in sense of right and wrong that exists in each person at birth.

- a. True
- b. False

ANSWER: True

3. The utilitarian conception of law focuses on the social usefulness of legislation.

- a. True
- b. False

ANSWER: True

4. One example of public law would be when one person contracts to buy flowers from another.

- a. True
- b. False

ANSWER: False

5. One example of private law would be when a state prosecutes a criminal.

- a. True
- b. False

ANSWER: False

6. Both public and private law seek justice, speed, and economy.

- a. True
- b. False

ANSWER: True

7. The British victory over the French in the French and Indian Wars preserved the English common law system in the American colonies.

- a. True
- b. False

ANSWER: True

8. The English chancellors originally issued writs of subpoena to speed up their hearings of cases.

- a. True
- b. False

ANSWER: True

9. Upon gaining independence, the American states designed court systems based on the English common law courts.

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- a. True
- b. False

ANSWER: False

10. At the conclusion of a bench trial the judge will announce findings of fact, conclusions of law, and award a judgment.

- a. True
- b. False

ANSWER: True

11. U.S. Supreme Court cases tend to be quite long. Thus, when reading a court opinion, a student should focus only on whether the decision was just.

- a. True
- b. False

ANSWER: False

12. Briefing a case is the process of presenting legal arguments to the court.

- a. True
- b. False

ANSWER: False

13. When briefing a case, a student should not quote extensively from the text of the case.

- a. True
- b. False

ANSWER: True

14. The Due Process Clause of the U.S. Constitution focuses on “life, liberty, and the pursuit of happiness.”

- a. True
- b. False

ANSWER: False

15. The Fifth Amendment Due Process Clause controls both the federal government and the state governments.

- a. True
- b. False

ANSWER: False

16. The Due Process Clause addresses both procedural and substantive due process rights.

- a. True
- b. False

ANSWER: True

17. In order to meet the burden of proof to find a person guilty of a crime, the defendant’s guilt must be proven beyond the shadow of a doubt.

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- a. True
- b. False

ANSWER: False

18. A wrongful act must be intentional to be considered a tort.

- a. True
- b. False

ANSWER: False

19. Tort law allows an individual to require the state to file criminal charges when someone fails to meet established standards of conduct.

- a. True
- b. False

ANSWER: False

20. An intentional tort can lead to both criminal and civil charges.

- a. True
- b. False

ANSWER: True

21. When a person fails to perform a contractual obligation, they commit a tortious act.

- a. True
- b. False

ANSWER: False

22. Why were the elites attracted to the idea of historical jurisprudence?

- a. It resulted in the greatest fairness for the most people.
- b. It maintained the status quo, which preferred the elites.
- c. It banned lawsuits against the elites.
- d. It promoted rapid change and easily kept up with the times.

ANSWER: b

23. In the 1960s during the Civil Rights movement, people would frequently protest laws that permitted segregation based upon race by peacefully refusing to obey them. For example, Rosa Parks, an African American woman, was arrested for refusing to move to the back of a Montgomery bus. Many such protesters justified their disobedience based upon the belief that the segregation laws were immoral and unfair. They believed that arbitrary classifications based upon immutable traits, such as race, should not be respected as law because the government has a moral duty to treat all persons equally and fairly whatever their race. Which jurisprudential school of thought is reflected in such beliefs?

- a. Legal Realism
- b. Natural Law
- c. Historical Jurisprudence
- d. Utilitarian Law

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ANSWER:

b

24. Which of the following legal areas retains aspects of historical jurisprudence?

- a. Tort law
- b. Family law
- c. Real Estate law
- d. Entertainment law

ANSWER:

c

25. Ezra is not concerned about the morality involved in Insider Trading prohibitions. Instead he adamantly believes that because these laws are valid statutes passed by Congress, people ought to obey them—end of story. To which jurisprudential school of thought would Ezra belong?

- a. Natural law
- b. Analytical positivism
- c. Utilitarian law
- d. Sociological law

ANSWER:

b

26. Our nation is committed to the rule of law. What does that mean?

- a. Our laws were enacted for and apply primarily to the elites.
- b. Our laws apply to everyone— no person is above the law.
- c. Our laws were enacted for and apply primarily to the poor and uneducated.
- d. Our laws exist only to be applied to those who are not members of the majority political party.

ANSWER:

b

27. Which of the following is not an objective of law in the United States?

- a. Equity
- b. Continuity and stability
- c. Adaptability
- d. Justice, speed, and economy

ANSWER:

a

28. Which of the following does not fall under private law in the United States?

- a. Property law
- b. Family law
- c. Probate law
- d. Administrative law

ANSWER:

d

29. Which of the following was a traditional characteristic of the English law courts?

- a. Issuing writs of *subpoena* and summons.

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- b. Ordering specific performance of contracts.
- c. Following precedent when deciding cases.
- d. The judges were often priests.

ANSWER:

c

30. Which king was the most involved in the development of English common law?

- a. Edward the Confessor
- b. John
- c. Richard III
- d. Henry II

ANSWER:

d

31. By 1200, the principal components of the common law in England were in place. Which of these was not a component of common law?

- a. The use of local and regional customs of the shire and hundred
- b. A body of royal judges applied law throughout the nation
- c. A tradition of respecting precedent
- d. The writ system

ANSWER:

a

32. What does a writ of subpoena do?

- a. It commands a person to appear in court as a defendant.
- b. It commands a person to appear in court as a witness.
- c. It informs a person that their case will be heard in court.
- d. It informs a person of the verdict in their case.

ANSWER:

b

33. Which of these is a form of equitable relief that a plaintiff may demand?

- a. An injunction
- b. A declaratory judgment
- c. Monetary damages
- d. Cancellation of a contract

ANSWER:

c

34. When an appellate court remands a case, what does that mean?

- a. It affirms the lower court's decision.
- b. It reverses the lower court's decision.
- c. It submits the case to a higher court.
- d. It returns the case to the lower court.

ANSWER:

d

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35. Which of the following is not part of a typical brief?

- a. Issue presented
- b. Holding
- c. Rationale
- d. Dicta

ANSWER:

d

36. Which of the following is a description of a concurring opinion in a case?

- a. A judge disagrees with the majority's opinion.
- b. A judge joins in the majority's opinion.
- c. A judge agrees with the majority but wants to make additional comments.
- d. A judge agrees with some parts of the majority's opinion but disagrees with other parts.

ANSWER:

c

37. What happens if an appellate case dismisses an appeal?

- a. It vacates the lower courts verdict.
- b. It refuses to hear the appeal.
- c. It returns the case to the lower court with instructions for review.
- d. It rules that the lower court's verdict was valid.

ANSWER:

b

38. What kind of classification schemes are invalidated by the Equal Protection Clause?

- a. Discriminatory
- b. Contractual
- c. Economic
- d. Discretionary

ANSWER:

a

39. What does due process apply to?

- a. Only substantive law.
- b. Only procedural law.
- c. Both substantive and procedural law.
- d. Neither substantive nor procedural law.

ANSWER:

c

40. Fuentes purchased a stove and stereo from Firestone Tire and Rubber Company. Payment was to be made in monthly installments over a period of time. After two-thirds of the payments were made, Fuentes defaulted. Firestone filed an action for repossession and at the same time instructed the sheriff to seize the property pursuant to state law. The sheriff seized the property before Fuentes even knew of Firestone's suit for repossession. Which constitutional safeguard does the state statute, which allows seizure prior to notice and hearing, violate?

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- a. Sixth Amendment, right to trial by jury
- b. Fifth Amendment, Due Process Clause
- c. Fourteenth Amendment, Due Process Clause
- d. Fourth Amendment, right to be free from unreasonable searches and seizures

ANSWER:

c

41. Which of the following is NOT a fundamental right under substantive due process?

- a. Contraception
- b. Health care
- c. Child rearing
- d. Education

ANSWER:

b

42. If Webster sues Olson for breaking Webster's arm in a barroom fight in Lihue, Hawaii, what would the civil case be captioned?

- a. *Olson v. Webster*
- b. *State of Hawaii v. Webster*
- c. *Webster v. Olson*
- d. *Olson v. State of Hawaii*

ANSWER:

c

43. John was tired of having his lunch stolen from his locker at his place of employment. To get even with the thief, John armed the locker with explosives that would be triggered by the movement of the lunch bag. When triggered, the explosion seriously injured Tom, who had been taking the lunches for his own consumption.

Which of the following statements is true?

- a. No criminal prosecution could result from this incident because one has the right to defend property with deadly force.
- b. No criminal prosecution could result from this incident because John only got hurt.
- c. Either a criminal or a civil proceeding could result from this incident, but John would have to choose one or the other; there cannot be both.
- d. Both a criminal and a civil proceeding would likely result from this incident.

ANSWER:

d

44. Which of the following statements regarding *Katko v. Briney* is true?

- a. *Katko v. Briney* is an example of a criminal appeal.
- b. At the end of the trial, the landowner in *Katko v. Briney* was found responsible and would have to go to jail.
- c. *Katko v. Briney* is an example of a civil case. While the trespasser faced a separate criminal proceeding, the landowner did not; he only had to pay damages after the verdict was upheld on appeal.
- d. Because there was a dissenting opinion in the appeal of *Katko v. Briney*, there will have to be a new trial.

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ANSWER:

c

45. In a civil suit, which of the following is not an example of how the court attempts to remedy the dispute between individuals?

- a. Fining the defendant if the verdict is decided for the plaintiff.
- b. Determining the legal rights of both parties.
- c. Awarding money damages to the injured party.
- d. Directing one part to perform or refrain from performing a specific act.

ANSWER:

a

46. What does a contract consist of?

- a. An offer, consideration, and a remedy
- b. An offer, a remedy, and equitable relief
- c. An offer, acceptance, and consideration
- d. An offer, acceptance, and a remedy

ANSWER:

c

47. When does a breach of contract happens?

- a. A party fails to perform their contractual obligations.
- b. A party commits a tort.
- c. A contract is voluntarily entered into for a criminal purpose.
- d. A contract lacks consideration.

ANSWER:

a

48. Which of the following cases involved a tort?

- a. *Loving v. Virginia*
- b. *Jones v. Mississippi*
- c. *Katko v. Briney*
- d. *Sessions v. Dimaya*

ANSWER:

c

49. What are the five schools of legal philosophy discussed in your textbook? Describe how each answers the question: What is law? Provide examples of each.

ANSWER: Answers may vary.

50. What are the historical differences between English common law courts and courts of chancery or equity courts? Give examples of the kinds of cases each might hear.

ANSWER: Answers may vary.

51. How are the approaches of sociological jurisprudence, legal realism, and legal sociology similar and different?

ANSWER: Answers may vary.

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52. Describe the purpose of a case brief and list its main elements.

ANSWER: Answers may vary.

53. Mildred Jeter, a black woman, and Richard Loving, a white man, were residents of Virginia. In 1958 they were married in the District of Columbia. The Lovings returned to Virginia to begin their married lives together. The State of Virginia prosecuted and convicted the Lovings of violating Virginia's statute prohibiting interracial marriages. The Lovings were sentenced to a one-year jail term, which would be suspended if they agreed to leave Virginia for a 25-year period. The Lovings moved to the District of Columbia and brought a motion in the Virginia trial court to vacate the judgment and set aside the sentence. They maintained that their Fourteenth Amendment due process rights had been violated by Virginia. Explain the Lovings' argument.

ANSWER: Answers may vary.

54. Compare criminal and civil law. Who sues whom in each area? What kinds of acts generate a suit? What kinds of remedies are available? Explain your answers fully.

ANSWER: Answers may vary.

55. What are the similarities and differences between tort and contract law? Provide and discuss a tort and a contract.

ANSWER: Answers may vary.