

Chapter 02

Sources of the Law

True / False Questions

1. The primary objective of law is to maintain harmony, stability, and justice within a society.

True False

2. Law should be viewed as a delicate balancing act.

True False

3. Trade-offs occur within the law on a regular basis.

True False

4. The language of the law helps in the execution of the law.

True False

5. Duality in the law is not seen in the work of judges, legislators, and administrators.

True False

6. The principle that states that intent and result never coincide, and when they do it is generally a matter of luck is known as the uncertainty principle.

True False

7. The Articles of Confederation created a strong national government.

True False

8. The principle of the separation of powers divides power between the state and federal government.

True False

9. Article III of the U.S. Constitution gives executive power to the President.

True False

10. The amendments to the U.S. Constitution are attempts to fine-tune the Constitution and update its provisions to meet the demands of a changing socioeconomic structure.

True False

11. The Articles of Confederation set up the democracy.

True False

12. The Eighth Amendment of the U.S. Constitution guaranteed jury trials in common law cases.

True False

13. The Constitution says that all federal laws that are made in line with constitutional principles are to be considered the supreme law of the land.

True False

14. The devolution of a right destroys the right.

True False

15. A code is a compilation of all the statutes of the federal government.

True False

16. The job of a drafting committee is to write the actual uniform law, point by point.

True False

17. Common law is the body of previously recorded legal decisions made by courts in specific cases.

True False

18. Persuasive precedent is a precedent that a court must follow.

True False

19. Judicial review is the process of determining the constitutionality of various legislative statutes, administrative regulations, or executive actions.

True False

20. Legislators are typically experts in the areas over which they have power.

True False

Multiple Choice Questions

21. It is said that the law should be viewed as a delicate balancing act because:

- A. political parties are competing for power.
- B. individuals require restraint to prevent chaos.
- C. one company's contract rights may be upheld at the expense of another's.
- D. one company may overcharge consumers.

22. While one person has found the actual intent of the law, the other has missed its true meaning. This duality in law is the balance between:

- A. the spirit and the letter of law.
- B. words versus interpretation.
- C. the abstract and the concrete.
- D. the uncertainty principle and reason.

23. The basic law of a nation or state typically is the:

- A. common law.
- B. power of the chief executive.
- C. constitution.
- D. legislation.

24. While living in Oregon, Lillian was accused of molesting several children in Idaho five years earlier, where she had worked as a social worker. Lillian could be brought back to Idaho for trial:

- A. under the Uniform Commercial Code.
- B. through persuasive precedent.
- C. under the Third Amendment to the U.S. Constitution.
- D. under Article IV of the U.S. Constitution.

25. Article III of the U.S. Constitution:

- A. determines that a presidential term of office runs for six years.
- B. states that Congress consists of the Senate and the House of Representatives.
- C. provides for trial by jury for crimes.
- D. establishes the principle of supremacy.

26. Which of the following Articles of the U.S. Constitution provides for the original ratification of the Constitution.

- A. Article I
- B. Article III
- C. Article VII
- D. Article V

27. _____ is the process by which the courts decide that a federal statute must take precedence over a state statute.

- A. Devolution
- B. Revision
- C. Uniformity
- D. Preemption

28. _____ includes the freedom of the press, freedom of speech, freedom of assembly, and freedom of religion.

- A. The Bill of Rights
- B. Modern Amendment
- C. Articles of Confederation
- D. The Federal Register

29. Laws passed by a legislature are known as _____

- A. codes
- B. titles
- C. amendments
- D. statutes

30. If Texas attempted to make a trade agreement with Mexico, opposed to the Constitution that establishes tariffs and importing conditions for goods made in Mexico, the U.S. Constitutional objection to Texas' actions would be based upon:

- A. the principle of preemption.
- B. the doctrine of devolution.
- C. the principle of separation.
- D. the principle of supremacy.

31. Codes subdivided into groupings of statutes that deal with a particular area of the law are:

- A. titles.
- B. articles.
- C. chapters.
- D. divisions.

32. _____ is a unified set of statutes designed to govern almost all commercial transactions.

- A. The Uniform Common Law Code
- B. The Uniform Commercial Code
- C. The Uniform Civil Code
- D. The Uniform State Code

33. Which of the following refers to the body of previously recorded legal decisions made by the courts in specific cases?

- A. Statute
- B. Amendment
- C. Constitution
- D. Common law

34. If there are no modern court decisions or statutes dealing with an issue in dispute, the court hearing the case:

- A. will apply common law.
- B. will inevitably devolve.
- C. will be unable to decide the case.
- D. will ask the U.S. Supreme Court for an advisory opinion.

35. Typically, if a decision is made by the Florida Supreme Court, it would be:

- A. persuasive in some Florida states courts.
- B. binding in all Florida state courts.
- C. binding in all other state courts.
- D. persuasive in all Florida states courts.

36. A business asks a court to interpret the way in which newly enacted shoplifter detention legislation will be applied if the business, at some future point, detains a suspected shoplifter. The court may:

- A. issue an advisory memorandum.
- B. convene a conference of business and consumer representatives.
- C. not interpret the statute until faced with a case.
- D. ask the legislature to issue an advisory memorandum.

37. _____ is the process by which the courts analyze those aspects of a statute that are unclear and ambiguous or that were not anticipated at the time the legislature passed the statute.

- A. Judicial review
- B. Statutory interpretation
- C. Devolution
- D. Preemption

38. A new administrative regulation allowed the Social Security Administration to charge women for Social Security cards yet enabled men to obtain the cards for free. This regulation was contradictory to the constitution. Hence the U.S. Supreme Court is likely to:

- A. review common law to see whether a precedent exists.
- B. use statutory interpretation to clarify the law.
- C. rule the regulation as unconstitutional.
- D. let the regulation stand.

39. The process of determining the constitutionality of various legislative statutes, administrative regulations, or executive actions is:

- A. preemption.
- B. statutory interpretation.
- C. devolution.
- D. judicial review.

40. Once a rule is finalized, it is included in the _____.

- A. Administrative Register
- B. Code of Federal Regulations
- C. Uniform Commercial Code
- D. Modern Federal Register

Essay Questions

41. Stanley runs a business in Middletown. He knows bribing an officer in return for favorable duties is a crime. However, he avoids 'bribery' by sending only 'gifts' to the sheriff as a token of appreciation of the officer's services to the town. The sheriff is impressed by Stanley's act and ensures that his business is 'well protected'. Analyze the situation.

42. Pierce was arrested under a city ordinance that made distributing handbills on the city streets a crime. Pierce argued that the U.S. Constitution guaranteed his right to free speech under the First Amendment. The local prosecutor argued that the First Amendment to the U.S. Constitution did not apply to state laws. Was the prosecutor correct? Explain.

43. Matrix Corp. is fined by the Occupational Safety and Health Administration for violations of workplace safety regulations. Matrix challenges the fine on the basis that it was not allowed to have a jury trial before being fined. Discuss.

44. A state law restricts the sulfur dioxide emissions from electric generation plants more severely than those of the federal Clean Air Act. Must an electric generation plant obey the state law or may it follow the federal statute?

45. A court decides that a state agency, rather than a federal one, can control what governmental employees, in the course of performing their duties, are permitted to talk or write about in relation to official policies, procedures, and programs. Such a prohibition might appear to violate the employee's Constitutional right of free speech as a U.S. citizen. Analyze.

46. Small towns want to restrict the speed of trains passing through the town to 20 miles per hour. The Federal Railroad Administration allows trains to travel through the towns at upto 70 miles per hour. Discuss whether or not the towns may restrict the speed of the trains.

47. A local city council enacts an ordinance that prohibits aircraft from taking off before 7:00 A.M. and disturbing the city's residents. An airline whose schedule is subject to federal regulation challenges this ordinance. Discuss the legal basis of this challenge and the likely outcome.

48. A Massachusetts law prohibited governmental agencies of Massachusetts from buying goods from companies that conducted business with Myanmar. On what basis can this law be struck down by the Supreme Court of the United States?

49. In a case presented to the Philadelphia Court, the judge and the jury realize that no specific statute is applicable and decide to refer to previously recorded legal decision made in similar cases. Discuss.

50. Helen, a 15-year-old citizen of Illinois, was about to go to the doctor for an abortion when the Supreme Court of Michigan ruled that minors could not receive an abortion without parental consent. What effect might the Michigan Supreme Court's decision have on Helen?

Chapter 02 Sources of the Law **Answer Key**

True / False Questions

1. The primary objective of law is to maintain harmony, stability, and justice within a society.

TRUE

The law consists of rules of conduct established by the government of a society to maintain harmony, stability, and justice.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-01 List the objectives of the law.

Topic: The Purpose and Operation of the Law

2. Law should be viewed as a delicate balancing act.

TRUE

The law should be viewed as a delicate balancing act.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-01 List the objectives of the law.

Topic: The Purpose and Operation of the Law

3. Trade-offs occur within the law on a regular basis.

TRUE

One person is allowed to go free while another is imprisoned, fined, and forced to forfeit his property. One corporation's contracts are upheld while another's are struck down. Trade-offs like this occur within the law on a regular basis.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-01 List the objectives of the law.

Topic: The Purpose and Operation of the Law

4. The language of the law helps in the execution of the law.

FALSE

Because words are often ambiguous, the language of the law can become a hindrance rather than a help in the execution of the law.

AACSB: Ethics

Blooms: Understand

Difficulty: 1 Easy

Learning Objective: 02-02 Clarify the duality of the law.

Topic: The Purpose and Operation of the Law

5. Duality in the law is not seen in the work of judges, legislators, and administrators.

FALSE

Duality in the law is also seen in the work of judges, legislators, and administrators.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-02 Clarify the duality of the law.

Topic: The Purpose and Operation of the Law

6. The principle that states that intent and result never coincide, and when they do it is generally a matter of luck is known as the uncertainty principle.

TRUE

The two, intent and result, almost never coincide, and when they do it is generally a matter of luck, nothing more. This principle, which is generally referred to as the uncertainty principle, exists in physics, in politics, and in economics.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-02 Clarify the duality of the law.

Topic: The Purpose and Operation of the Law

7. The Articles of Confederation created a strong national government.

FALSE

The Articles of Confederation were created to hold together a fragile coalition of states, each of which was determined to maintain its own independent existence.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-02 Clarify the duality of the law.

Topic: The Purpose and Operation of the Law

8. The principle of the separation of powers divides power between the state and federal government.

FALSE

The principle of the separation of powers set up the now familiar three branches of the national government: the executive branch, the legislative branch, and the judicial branch. The principle of checks and balances allows each branch to share in the power of the other two branches.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-02 Clarify the duality of the law.

Topic: Constitutional Law

9. Article III of the U.S. Constitution gives executive power to the President.

FALSE

Article III gives judicial power to the Supreme Court and other courts established by Congress.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

10. The amendments to the U.S. Constitution are attempts to fine-tune the Constitution and update its provisions to meet the demands of a changing socioeconomic structure.

TRUE

the amendments are attempts to fine-tune the Constitution and update its provisions to meet the demands of a changing socioeconomic structure.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

11. The Articles of Confederation set up the democracy.

FALSE

The Articles of Confederation did not set up a democracy. From the very first statement to the very last sentence, the Articles expressly support state supremacy.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

12. The Eighth Amendment of the U.S. Constitution guaranteed jury trials in common law cases.

FALSE

Article III gives judicial power to the Supreme Court and other courts established by Congress.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

13. The Constitution says that all federal laws that are made in line with constitutional principles are to be considered the supreme law of the land.

TRUE

The Constitution says that all federal laws that are made in line with constitutional principles are to be considered the supreme law of the land.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

14. The devolution of a right destroys the right.

FALSE

It is important to note that the devolution of a right does not destroy that right. Rather, devolution simply redistributes the authority to define the nature of that right in certain situations.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-04 Explain several central constitutional principles and powers.

Topic: Constitutional Law

15. A code is a compilation of all the statutes of the federal government.

TRUE

A code is a compilation of all the statutes of a particular state or the federal government.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-05 Explain the role of statutory law in the legal system.

Topic: Statutory Law

16. The job of a drafting committee is to write the actual uniform law, point by point.

TRUE

The job of the drafting committee is to write the actual uniform law, point by point.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-06 Defend the need to set up a system of uniform laws.

Topic: Statutory Law

17. Common law is the body of previously recorded legal decisions made by courts in specific cases.

TRUE

Common law is the body of previously recorded legal decisions made by the courts in specific cases.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-07 State the role of common law in the legal system.

Topic: Court Decisions

18. Persuasive precedent is a precedent that a court must follow.

FALSE

Binding precedent is precedent that a court must follow.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-08 Describe how the principle of stare decisis provides stability within the law.

Topic: Court Decisions

19. Judicial review is the process of determining the constitutionality of various legislative statutes, administrative regulations, or executive actions.

TRUE

A third way that courts make law is through judicial review, which is the process of determining the constitutionality of various legislative statutes, administrative regulations, or executive actions.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-09 Differentiate between statutory interpretation and judicial review.

Topic: Court Decisions

20. Legislators are typically experts in the areas over which they have power.

FALSE

Legislators are generalists; they are rarely experts in all areas over which they have power.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-10 Account for the legislature's need to establish administrative agencies.

Topic: Administrative Regulations

Multiple Choice Questions

21. It is said that the law should be viewed as a delicate balancing act because:

- A. political parties are competing for power.
- B. individuals require restraint to prevent chaos.
- C. one company's contract rights may be upheld at the expense of another's.
- D. one company may overcharge consumers.

The law should be viewed as a delicate balancing act. One person's rights are enforced while another's are not. One group is allowed to act while another group is limited in what it is permitted to do. One person is allowed to go free while another is imprisoned, fined, and forced to forfeit his property. One corporation's contracts are upheld while another's are struck down.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-01 List the objectives of the law.

Topic: The Purpose and Operation of the Law

22. While one person has found the actual intent of the law, the other has missed its true meaning. This duality in law is the balance between:

- A. the spirit and the letter of law.
- B. words versus interpretation.
- C. the abstract and the concrete.
- D. the uncertainty principle and reason.

According to Chase, one of the most obvious dualities in the law is the balance between the spirit and the letter of the law. Generally, a person who follows the spirit of the law has found its actual intent, while one who is tied to the letter of the law has missed its true meaning.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-02 Clarify the duality of the law.

Topic: The Purpose and Operation of the Law

23. The basic law of a nation or state typically is the:

- A. common law.
- B. power of the chief executive.
- C. constitution.
- D. legislation.

A constitution is the basic law of a nation or state.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-02 Clarify the duality of the law.

Topic: Constitutional Law

24. While living in Oregon, Lillian was accused of molesting several children in Idaho five years earlier, where she had worked as a social worker. Lillian could be brought back to Idaho for trial:

- A. under the Uniform Commercial Code.
- B. through persuasive precedent.
- C. under the Third Amendment to the U.S. Constitution.
- D. under Article IV of the U.S. Constitution.

Article IV provides for extradition of those accused of crimes in other states.

AACSB: Ethics

Blooms: Apply

Difficulty: 3 Hard

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

25. Article III of the U.S. Constitution:

- A. determines that a presidential term of office runs for six years.
- B. states that Congress consists of the Senate and the House of Representatives.
- C. provides for trial by jury for crimes.
- D. establishes the principle of supremacy.

Article III provides for trial by jury for crimes.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

26. Which of the following Articles of the U.S. Constitution provides for the original ratification of the Constitution.

- A. Article I
- B. Article III
- C. Article VII
- D. Article V

Article VII outlines how the original 13 states would go about ratifying the new Constitution.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

27. _____ is the process by which the courts decide that a federal statute must take precedence over a state statute.

A. Devolution

B. Revision

C. Uniformity

D. Preemption

Preemptions is the process by which the courts decide that a federal statute must take precedence over a state statute.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-04 Explain several central constitutional principles and powers.

Topic: Constitutional Law

28. _____ includes the freedom of the press, freedom of speech, freedom of assembly, and freedom of religion.

- A. The Bill of Rights
- B. Modern Amendment
- C. Articles of Confederation
- D. The Federal Register

The First Amendment contains some of the most important rights in the Bill of Rights. These include freedom of the press, freedom of speech, freedom of assembly, and freedom of religion.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-04 Explain several central constitutional principles and powers.

Topic: Constitutional Law

29. Laws passed by a legislature are known as _____

- A. codes
- B. titles
- C. amendments
- D. statutes

Laws passed by a legislature are known as statutes.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-05 Explain the role of statutory law in the legal system.

Topic: Statutory Law

30. If Texas attempted to make a trade agreement with Mexico, opposed to the Constitution that establishes tariffs and importing conditions for goods made in Mexico, the U.S. Constitutional objection to Texas' actions would be based upon:

- A. the principle of preemption.
- B. the doctrine of devolution.
- C. the principle of separation.
- D. the principle of supremacy.

A basic principle of constitutional law is that the U.S. Constitution is the supreme law of the land. This principle of constitutional supremacy means that all other laws must be in line with constitutional principles. If a law somehow conflicts with the Constitution, that law is said to be unconstitutional. If it does not conflict, it will be upheld by the court as constitutional.

AACSB: Ethics

Blooms: Apply

Difficulty: 3 Hard

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

31. Codes subdivided into groupings of statutes that deal with a particular area of the law are:

- A. titles.
- B. articles.
- C. chapters.
- D. divisions.

In general, codes are subdivided into titles, which are groupings of statutes that deal with a particular area of the law.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-05 Explain the role of statutory law in the legal system.

Topic: Statutory Law

32. _____ is a unified set of statutes designed to govern almost all commercial transactions.

- A. The Uniform Common Law Code
- B.** The Uniform Commercial Code
- C. The Uniform Civil Code
- D. The Uniform State Code

The Uniform Commercial Code (UCC) is a unified set of statutes designed to govern almost all commercial transactions.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-06 Defend the need to set up a system of uniform laws.

Topic: Statutory Law

33. Which of the following refers to the body of previously recorded legal decisions made by the courts in specific cases?

- A. Statute
- B. Amendment
- C. Constitution
- D. Common law

Common law is the body of previously recorded legal decisions made by the courts in specific cases.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-07 State the role of common law in the legal system.

Topic: Court Decisions

34. If there are no modern court decisions or statutes dealing with an issue in dispute, the court hearing the case:

- A. will apply common law.
- B. will inevitably devolve.
- C. will be unable to decide the case.
- D. will ask the U.S. Supreme Court for an advisory opinion.

Courts still apply the common law when there are no modern court decisions or statutes dealing with an issue in dispute.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-08 Describe how the principle of stare decisis provides stability within the law.

Topic: Court Decisions

35. Typically, if a decision is made by the Florida Supreme Court, it would be:

- A. persuasive in some Florida states courts.
- B.** binding in all Florida state courts.
- C. binding in all other state courts.
- D. persuasive in all Florida states courts.

Whether a precedent is binding or persuasive is determined by the court's location. For instance, decisions made by the Florida Supreme Court would be binding in all Florida state courts but persuasive in all other states' courts.

AACSB: Ethics

Blooms: Apply

Difficulty: 2 Medium

Learning Objective: 02-08 Describe how the principle of stare decisis provides stability within the law.

Topic: Court Decisions

36. A business asks a court to interpret the way in which newly enacted shoplifter detention legislation will be applied if the business, at some future point, detains a suspected shoplifter. The court may:

- A. issue an advisory memorandum.
- B. convene a conference of business and consumer representatives.
- C. not interpret the statute until faced with a case.
- D. ask the legislature to issue an advisory memorandum.

A court cannot interpret a statute unless it is faced with a case involving that statute.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-09 Differentiate between statutory interpretation and judicial review.

Topic: Court Decisions

37. _____ is the process by which the courts analyze those aspects of a statute that are unclear and ambiguous or that were not anticipated at the time the legislature passed the statute.

- A. Judicial review
- B.** Statutory interpretation
- C. Devolution
- D. Preemption

Statutory interpretation is the process by which the courts analyze those aspects of a statute that are unclear and ambiguous or that were not anticipated at the time the legislature passed the statute.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-09 Differentiate between statutory interpretation and judicial review.

Topic: Court Decisions

38. A new administrative regulation allowed the Social Security Administration to charge women for Social Security cards yet enabled men to obtain the cards for free. This regulation was contradictory to the constitution. Hence the U.S. Supreme Court is likely to:

- A. review common law to see whether a precedent exists.
- B. use statutory interpretation to clarify the law.
- C. rule the regulation as unconstitutional.
- D. let the regulation stand.

If they are contradictory, one of the two must be declared void. Because the Constitution is the supreme law of the land, the Constitution always rules, and the statute, regulation, or action is ruled unconstitutional.

AACSB: Ethics

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 02-09 Differentiate between statutory interpretation and judicial review.

Topic: Court Decisions

39. The process of determining the constitutionality of various legislative statutes, administrative regulations, or executive actions is:

- A. preemption.
- B. statutory interpretation.
- C. devolution.
- D. judicial review.

A third way that courts make law is through judicial review, which is the process of determining the constitutionality of various legislative statutes, administrative regulations, or executive actions.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-09 Differentiate between statutory interpretation and judicial review.

Topic: Court Decisions

40. Once a rule is finalized, it is included in the _____.

- A. Administrative Register
- B.** Code of Federal Regulations
- C. Uniform Commercial Code
- D. Modern Federal Register

Once a rule is finalized, it is included in the Code of Federal Regulations (CFR), which is updated each year.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-10 Account for the legislature's need to establish administrative agencies.

Topic: Administrative Regulations

Essay Questions

41. Stanley runs a business in Middletown. He knows bribing an officer in return for favorable duties is a crime. However, he avoids 'bribery' by sending only 'gifts' to the sheriff as a token of appreciation of the officer's services to the town. The sheriff is impressed by Stanley's act and ensures that his business is 'well protected'. Analyze the situation.

According to Chase, one of the most obvious dualities in the law is the balance between the spirit and the letter of the law. Generally, a person who follows the spirit of the law has found its actual intent, while one who is tied to the letter of the law has missed its true meaning. In this case, Stanley seems to have missed the true meaning of the prohibition of bribery that ensures that citizens from all economic sections are treated equally.

AACSB: Ethics

Blooms: Apply

Difficulty: 3 Hard

Learning Objective: 02-02 Clarify the duality of the law.

Topic: The Purpose and Operation of the Law

42. Pierce was arrested under a city ordinance that made distributing handbills on the city streets a crime. Pierce argued that the U.S. Constitution guaranteed his right to free speech under the First Amendment. The local prosecutor argued that the First Amendment to the U.S. Constitution did not apply to state laws. Was the prosecutor correct? Explain.

The prosecutor was wrong. Pierce's argument was correct in that the First Amendment extends the protections of the Bill of Rights to state governments.

AACSB: Ethics

Blooms: Apply

Difficulty: 3 Hard

Learning Objective: 02-04 Explain several central constitutional principles and powers.

Topic: Constitutional Law

43. Matrix Corp. is fined by the Occupational Safety and Health Administration for violations of workplace safety regulations. Matrix challenges the fine on the basis that it was not allowed to have a jury trial before being fined. Discuss.

The Seventh Amendment to the U.S. Constitution only guarantees trials in common law cases, not administrative agency action. Matrix Corp. loses.

AACSB: Ethics

Blooms: Apply

Difficulty: 3 Hard

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

44. A state law restricts the sulfur dioxide emissions from electric generation plants more severely than those of the federal Clean Air Act. Must an electric generation plant obey the state law or may it follow the federal statute?

State statutes can be preempted by federal statutes when they conflict with the objectives of federal legislation. The courts will preempt a state statute that has entered an area of the law that is traditionally an area that the federal government handles, such as foreign affairs or banking.

AACSB: Ethics

Blooms: Evaluate

Difficulty: 3 Hard

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

45. A court decides that a state agency, rather than a federal one, can control what governmental employees, in the course of performing their duties, are permitted to talk or write about in relation to official policies, procedures, and programs. Such a prohibition might appear to violate the employee's Constitutional right of free speech as a U.S. citizen. Analyze.

Devolution occurs when the courts redefine a right and shift the obligation to enforce a right from an upper level authority to a lower one. In such cases, the court has decided that the duty and the power to define and enforce that right belong to the state rather than to the federal government. It is important to note that the devolution of a right does not destroy that right. Rather, devolution simply redistributes the authority to define the nature of that right in certain situations.

AACSB: Ethics

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 02-04 Explain several central constitutional principles and powers.

Topic: Constitutional Law

46. Small towns want to restrict the speed of trains passing through the town to 20 miles per hour. The Federal Railroad Administration allows trains to travel through the towns at upto 70 miles per hour. Discuss whether or not the towns may restrict the speed of the trains.

The administration should analyze if this decision of the state comes with the intent of taking extra precaution. However, state statutes can be preempted by federal statutes in areas that are traditionally that of the federal government.

AACSB: Ethics

Blooms: Evaluate

Difficulty: 3 Hard

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

47. A local city council enacts an ordinance that prohibits aircraft from taking off before 7:00 A.M. and disturbing the city's residents. An airline whose schedule is subject to federal regulation challenges this ordinance. Discuss the legal basis of this challenge and the likely outcome.

The principle of supremacy, the commerce clause in this case, allows federal regulations enacted under Constitutional authority to be superior to state law. The airline wins.

AACSB: Ethics

Blooms: Apply

Difficulty: 2 Medium

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

48. A Massachusetts law prohibited governmental agencies of Massachusetts from buying goods from companies that conducted business with Myanmar. On what basis can this law be struck down by the Supreme Court of the United States?

The Supreme Court of the United States can use the preemption doctrine to strike down this Massachusetts law. The courts can preempt a state statute that has entered an area of the law that is traditionally an area that the federal government handles, such as foreign affairs or banking.

AACSB: Ethics

Blooms: Apply

Difficulty: 2 Medium

Learning Objective: 02-03 Outline the content of the U.S. Constitution.

Topic: Constitutional Law

49. In a case presented to the Philadelphia Court, the judge and the jury realize that no specific statute is applicable and decide to refer to previously recorded legal decision made in similar cases. Discuss.

The judge and the jury will arrive at a decision using common law - a body of previously recorded legal decisions made by the courts in specific cases. The process of relying on common law is known as stare decisis. The court is like to use a precedent in using the principle of stare decisis. A precedent is a model case that a court can follow when facing a similar situation.

AACSB: Ethics

Blooms: Apply

Difficulty: 2 Medium

Learning Objective: 02-08 Describe how the principle of stare decisis provides stability within the law.

Topic: Court Decisions

50. Helen, a 15-year-old citizen of Illinois, was about to go to the doctor for an abortion when the Supreme Court of Michigan ruled that minors could not receive an abortion without parental consent. What effect might the Michigan Supreme Court's decision have on Helen?

The ruling of the Michigan Supreme Court will have only persuasive power in Illinois, where Helen lives. Persuasive precedent is a precedent that a court is free to follow or ignore.

AACSB: Ethics

Blooms: Apply

Difficulty: 2 Medium

Learning Objective: 02-08 Describe how the principle of stare decisis provides stability within the law.

Topic: Court Decisions