***Business Law, 17e* (Langvardt)**

**Chapter 1 The Nature of Law**

1) The U.S. Constitution recognizes the states' power to make law in certain areas.

2) Uniform acts are model statutes drafted by private bodies of lawyers and scholars; they become law only after a legislature enacts them.

3) Common law exists only at the state level and only state courts can apply it.

4) The Restatements are binding laws and are promulgated by the American Law Institute.

5) According to the U.S. Constitution, treaties made by the president with foreign governments and approved by two-thirds of the U.S. Senate validate inconsistent state and federal laws.

6) The same behavior will sometimes violate both civil law and criminal law, and in such a case, a person may be held both civilly and criminally liable for the same act.

7) A state statute making murder a crime is an example of a substantive law, criminal law, and public law.

8) Though a natural law defense is not recognized in court, judges may take natural law-oriented views into account when interpreting the law.

9) American legal realists regard the law in the books as less important than the law in action and define law as the behavior of public officials (mainly judges) as they deal with matters before the legal system.

10) The critical legal studies movement regards law as the product of political calculation and longstanding class biases on the part of lawmakers.

11) The doctrine of *stare decisis* states that like cases should be decided alike.

12) Common law provides certainty because a court is bound to make the same decision in a case with a similar issue, despite any factual differences.

13) It is unimportant for the court, whether the interpretation of a statute is consistent with its legislative purpose; it is the actual language (plain or ambiguous) of the statute that needs to be analyzed.

14) The doctrine of standing to sue requires that, in order to be able to mount a civil suit, a plaintiff must have some direct and substantial stake in the outcome of the suit.

15) State and federal declaratory judgment statutes do not allow parties to determine their rights and duties when their controversy has not advanced to the point where harm has occurred and legal relief may be necessary.

16) Although not binding, the Restatements are persuasive and stimulate changes in the common law by suggesting new rules that courts later decide to follow.

17) A reformation occurs when a court rewrites the parties' contract terms to reflect the parties' real intentions.

18) Courts often begin their interpretation of a statute by looking at the plain meaning of its language because it never fails to resolve the ambiguity at issue.

19) The House of Representatives and the Senate in the U.S. Congress is an example of a bicameral legislature.

20) The *ejusdem generis* rule is an example of a maxim.

21) What is a statute?

A) Laws made and applied by judges

B) Laws made by Congress or a state legislature

C) Laws made by administrative agencies

D) Laws made by the federal judiciary

22) \_\_\_\_\_\_\_\_ are model statutes drafted by private bodies of lawyers and scholars.

A) Precedents

B) Uniform acts

C) Ordinances

D) Equitable remedies

23) Which of the following is also called "judge-made law"?

A) Common law

B) Statutes

C) Uniform acts

D) Equity

24) Which of the following is true of the Restatements?

A) They are promulgated by courts.

B) They can be adopted as common law by the states.

C) They include only statutory laws.

D) They are law and binding on courts.

25) A(n) \_\_\_\_\_\_\_\_ is a cancellation of a contract and a return of the parties to their precontractual position.

A) injunction

B) ordinance

C) rescission

D) reformation

26) Which of the following is the most important type of equitable remedy provided by the equity courts?

A) Injunction

B) Specific performance remedy

C) Reformation

D) Rescission

27) Why were equitable remedies developed?

A) Common law rules were too flexible to produce fair results.

B) The remedies available in common law courts were too few.

C) Equitable remedies were rigid rules of law and produced fair results.

D) Common law rules were less technical and rigid.

28) Which of the following is a characteristic of administrative agencies?

A) They derive their power from the Supreme Court.

B) They make ordinances and pass executive orders.

C) They are normally created by statute.

D) They are elected bodies.

29) Ordinances are created by:

A) Congress.

B) the Supreme Court.

C) counties and municipalities.

D) equity courts.

30) The power of executive orders normally derives from a(n):

A) legislative delegation.

B) federal court.

C) injunction.

D) restatement.

31) According to the principle of \_\_\_\_\_\_\_\_, the U.S. Constitution, federal laws enacted pursuant to it, and treaties are "the supreme Law of the Land."

A) judicial activism

B) separation of powers

C) federalism

D) federal supremacy

32) Which of the following takes priority over a federal statute?

A) A state statute

B) A state constitution

C) An equitable principle

D) The U.S. Constitution

33) Which of the following is applied in a lawsuit between two private parties?

A) Criminal law

B) Civil law

C) Procedural law

D) Public law

34) What is substantive law?

A) The laws that govern the rights and duties of people as they act in society.

B) The code of conduct of government bodies.

C) The procedures followed by Congress to make statutes.

D) The procedures followed by municipalities in creating ordinances.

35) John is angry because Harry is now dating John's former girlfriend. One day, as John was driving his car, he saw Harry walking by the side of the road. John deliberately swerved and struck Harry with the car. John may be successfully sued under:

A) criminal law only.

B) civil law only.

C) either criminal law or civil law but not both.

D) both criminal law and civil law.

36) Which of the following covers the rules of contract, property, and agency?

A) Procedural law

B) Private law

C) Criminal law

D) Ordinances

37) Some legal positivists believe that:

A) an unjust law is not law.

B) the validly of enacted laws should be obeyed, just or not.

C) the law should keep up with changing times.

D) justice is what the judge ate for breakfast.

38) Why is sociological jurisprudence seen to resemble natural law?

A) It advocates the separation of law and morality.

B) It stresses on the superiority of lawmakers.

C) It calls for a separation of the judiciary and legislature.

D) Its definition of law includes social values.

39) The law and economics movement has influenced judicial opinions in what area of law?

A) Antitrust law

B) Criminal statutes

C) Discrimination policies

D) Education

40) Which of the following characterizes natural law?

A) It accepts the need for both good and bad laws.

B) It reads constitutional law narrowly.

C) It rejects the separation of law and morality.

D) It opposes the view that law should be guided by a "higher reason."

41) Which of the following is a characteristic of legal realists?

A) They define law as that which is codified in the books.

B) They believe in the use of discretionary standards.

C) They believe that the rules in the books—really affect people's lives.

D) They believe that "law is law, just or not."

42) Which of the following statements is true of statutes and statutory interpretation?

A) Statutes are easier to interpret than case law.

B) Courts begin their interpretation of statues with legislative history.

C) There is often deliberate ambiguity in the language of statutes.

D) Courts rarely engage in statutory interpretation

43) One strength of the instrumentalist attitude:

A) is its willingness to adapt the law to further the social good.

B) is that legal validity and moral validity always remain separate.

C) is that the natural law always remains unworkable.

D) is that it views the law as an unchanging rule that deserves obedience.

44) In which of the following circumstances, under the doctrine of *stare decisis*, does the common law rule stated in an earlier judgment not apply to a present case?

A) Only when the case concerns a government agency.

B) Only when the court distinguishes the earlier decision.

C) Only when the parties involved jointly appeal to the courts to do so.

D) The doctrine of *stare decisis* does not allow this kind of a situation.

45) When a court identifies a meaningful difference between a present and past case, it \_\_\_\_\_\_\_\_ the earlier decision.

A) interprets

B) implements

C) prioritizes

D) distinguishes

46) What are legal rules in prior cases called?

A) Statutes

B) Precedents

C) First impressions

D) Uniform laws

47) Which of the following is not required for a plaintiff to demonstrate standing to sue?

A) Direct stake

B) Tangible stake

C) Monetary stake

D) Substantial stake

48) What are courts and administrative agencies expected to do when they encounter ambiguously worded statutes while deciding a case?

A) Keep the particular statute aside

B) Fill in the details on a case-to-case basis

C) Refer to a different statute

D) Initiate a debate in the legislature

49) What do courts begin their interpretation of a clearly worded statute with?

A) Its plain meaning

B) Its legislative history

C) Records of legislative debates

D) Its different amendments

50) Which of the following is a characteristic of the U.S. government that vests the executive, legislative, and judicial powers in separate bodies?

A) Federalism

B) Separation of powers

C) Federal supremacy

D) Judicial activism

51) The Supreme Court once denied tax-exempt status to a private university that discriminated on the basis of race. Which of the following is likely to have influenced or guided the interpretation of the statute relevant to this case?

A) Maxims

B) Precedents

C) General public purposes

D) Standing to sue

52) Which of the following is false about the power of courts?

A) Courts are not absolutely bound to favor one technique of statutory interpretation over another.

B) Courts can distinguish prior decisions in common law cases.

C) State supreme courts can overrule their own prior decisions.

D) Courts can make or interpret law in the absence of a case.

53) What is the main argument for avoiding a statute's plain meaning or legislative history and instead following a prior interpretation in a case?

A) Plain meaning is subject to debate

B) Promoting stability and certainty

C) Legislative history can be contentious

D) Saving the court's valuable time

54) \_\_\_\_\_\_\_\_ are general rules of thumb employed in statutory interpretations.

A) Idioms

B) Phrases

C) Quotations

D) Maxims

55) Cases are said to be \_\_\_\_\_\_\_\_ when there no longer is a real dispute between the parties.

A) ripe

B) moot

C) feigned

D) intangible

56) The doctrine of standing to sue implies that:

A) the lawsuit must benefit the public in general.

B) the plaintiff has a substantial stake in the litigation.

C) cases must be genuine controversies.

D) courts must not issue any advisory opinions in cases.

57) Which of the following allows courts to help parties determine their rights and duties even though neither may yet have been harmed, so long as there is a real case or controversy between them?

A) No liability outside privity of contract rule

B) *Ejusdem generis*

C) A declaratory judgment statute

D) Public law

58) Which of the following allows parties to determine their rights and duties even though their controversy has not advanced to the point where harm has occurred and legal relief may be necessary?

A) *Ejusdem* *generis*

B) Standing to sue

C) Declaratory judgment

D) Precedents

59) Evan plans to open a company named "Maryland" for which her trademark is "M." This trademark in no way resembles the famous McDonald's trademark. However, she fears that the latter might think otherwise and sue her in the future. Evan wants to take no risk and hence seeks the court's judgment on the issue. Can she do it?

A) Yes, she can do it because she wishes to seek the court's opinion.

B) Yes, she can do it under state and federal declaratory judgment statutes.

C) No, she cannot agitate an issue that has not yet arisen.

D) No, she cannot agitate the issue as she knows that the two marks are not similar.

60) Which method of statutory interpretation was most emphasized (and used) in the *James v. City of Costa Mesa* case in the text?

A) The plain meaning rule.

B) Interpreting a statute consistent with its purpose.

C) Following prior interpretations of a statute.

D) Maxims of statutory construction.

61) The Bill of Rights to the U.S. Constitution is an example of:

A) a prohibition of government action that would restrict certain individual rights.

B) a structured government.

C) a form of power given to Congress to make law.

D) federalism.

62) What is the goal of uniform acts?

A) To demonstrate a logical approach on how to reconcile conflicting laws

B) To explain why current laws are illogical

C) To provide reference materials to aid decision makers

D) To produce state-by-state uniformity

63) Which area of law does not mainly consist of common law?

A) Contracts

B) Bankruptcy

C) Torts

D) Agency

64) Which of the following was the conclusion in the *Price v. High Pointe Oil Company, Inc*. case in the text?

A) The longstanding common law rule applied and declined to extend the rule in the plaintiff's circumstances.

B) The unambiguous language of the statute prevailed.

C) The court declined to assume the role of the legislature.

D) The court created a new rule and the plaintiff prevailed.

65) Which of the following is not an equitable remedy?

A) Monetary damages

B) Injunction

C) Specific performance

D) Reformation

66) Which of the following remedies is described as a court order for a party to perform according to the terms of the parties' contract?

A) Injunction

B) Specific performance

C) Reformation

D) Rescission

67) Administrative agencies obtain the ability to make law through a(n) \_\_\_\_\_\_\_\_ of power from the legislature.

A) assignment

B) delegation

C) separation

D) allocation

68) What type of law do administrative agencies create?

A) Statutes

B) Uniform acts

C) Common law

D) Agency decisions

69) What is a formally negotiated and ratified agreement between countries called?

A) Settlement

B) Convention

C) Treaty

D) Covenant

70) Although the president or a state's governor does not have typical law-making powers, these officials have limited power to issue laws called:

A) uniform acts.

B) advisory opinions.

C) statutes.

D) executive orders.

71) When a treaty conflicts with a federal statute over a purely domestic matter, which prevails?

A) The measure that is later in time

B) The measure that is first in time

C) The federal statute

D) The treaty

72) When a conflicting common law rule is inconsistent with an administrative regulation, which prevails?

A) The measure that is later in time

B) The measure that is first in time

C) The conflicting common law rule

D) The administrative regulation

73) Which of the following was an issue the court considered in the *Advance Dental Care, Inc. v. SunTrust Bank* case in the text?

A) Whether the statute involved offered a sufficient remedy to replace the common law rule.

B) Whether the statute was ambiguous.

C) Whether the plaintiff pleaded sufficient facts to recover under the common law rule.

D) Whether the plaintiff pleaded sufficient facts to recover under the statute.

74) Which of the following classifications of law does not describe contract law?

A) Private

B) Procedural

C) Substantive

D) Civil

75) Which of the following is not an example of public law?

A) Constitutional law

B) Administrative law

C) Contract law

D) Criminal law

76) Which of the following terms stands for the philosophy of law?

A) Canon

B) Jurisprudence

C) Equity

D) Mandate

77) One weakness of the instrumentalist attitude:

A) is its legal instability and uncertainty.

B) is its unwillingness to adapt the law to further social good.

C) is that it often conflicts with ethics.

D) is its constant evolution.

78) Which of the following is not a function of the law discussed in the text?

A) Peacekeeping

B) Protecting the environment

C) Checking government power and promoting personal freedom

D) Promoting societal norms

79) A distinction between cases is considered valid if it involves:

A) a widely accepted ethical or policy reason.

B) supporting legislative history.

C) reasoning from the Restatements.

D) a clear and obvious conclusion.

80) Which of the following was the court's holding in the *Coomer v. Kansas City Royals Baseball Corp*. case in the text?

A) The risk of injury from the hotdog toss was not one of the risks inherent in watching the baseball game and the defendants owed the plaintiff a duty to use reasonable care.

B) The risk of injury from the hotdog toss was foreseeable and the defendants were not liable.

C) Risk, if any, could not be eliminated so the defendants were not liable.

D) The plaintiff assumed the risk when he was hit with a hotdog.

81) The *Chicago Lawyers Committee for Civil Rights Under Law, Inc. v. Craigslist* case discussed in the text is an example of:

A) indecent exposure penalties.

B) how legislative history is persuasive.

C) a plain meaning interpretation.

D) a statute being applied to a situation the legislature may not have foreseen.

82) In the *O'Connor v. Oakhurst Dairy* case in the text, what was the largest deciding factor in determining whether the defendant might be liable for millions of dollars in unpaid overtime wages?

A) Unambiguous language

B) Legislative history

C) Use of the word "and"

D) A "missing" comma

83) Which of the following is not an example of legislative history?

A) Reports of investigative committees

B) Transcripts or summaries of hearings of legislative committees

C) A common law case that interpreted a previous version of the statute

D) Records of legislative debates

84) A case is said to be \_\_\_\_\_\_\_\_ when it has matured into a genuine controversy.

A) moot

B) ripe

C) substantial

D) feigned

85) Which of the following was not a consideration when the U.S. Supreme Court decided the case in the text *Olympic Airways v. Husain*?

A) The definition of "accident" in the Court's earlier precedent

B) The language of the Warsaw Convention

C) Public policy

D) Legislative history

86) What do statutes and administrative regulations have in common?

87) Explain the position adopted by legal positivists regarding law.

88) Sociological jurisprudence has a tendency to say that, when interpreting and applying the law, courts should pay attention to changing social values and let the law reflect those new values. How is this different from the natural law approach, which also discusses values?

89) Why might legislators deliberately use ambiguous language in a statute?

90) Explain the two ways courts use legislative history.