

TOTALAW CD-ROM
INCLUDED FREE
WITH EVERY
TEXT!

The LEGAL ENVIRONMENT OF BUSINESS

A Critical Thinking Approach

Second Edition

Nancy K. Kubasek
Bartley A. Brennan
M. Neil Browne

The Legal Environment of Business

A Critical Thinking Approach

s e c o n d e d i t i o n

**Nancy K. Kubasek
Bartley A. Brennan
M. Neil Browne**

Bowling Green State University



Prentice Hall, Upper Saddle River, New Jersey 07458

Senior Editor: Don Hull
Editorial Assistant: Paula D'Introno
Editor-in-Chief: Natalie Anderson
Marketing Manager: Tamara Wederbrand
Senior Production Editor: Judy Leale
Managing Editor: Dee Josephson
Manufacturing Buyer: Ken Clinton
Manufacturing Supervisor: Arnold Vila
Manufacturing Manager: Vincent Scelta
Designer: Cheryl Asherman
Design Manager: Patricia Smythe
Interior Design: Jill Yutkowitz
Cover Design: Jill Yutkowitz
Cover Illustration: Salem Krieger
Composition: UG



Copyright © 1999, 1996 by Prentice Hall, Inc.
A Simon & Schuster Company
Upper Saddle River, New Jersey 07458

All rights reserved. No part of this book may be reproduced, in any form or by any means, without written permission from the Publisher.

Library of Congress Cataloging-in-Publication Data

Kubasek, Nancy.

The legal environment of business : a critical-thinking approach /
Nancy K. Kubasek, Bartley A. Brennan, M. Neil Browne.—2nd ed.
p. cm.

Includes bibliographical references and index.

ISBN 0-13-922253-7 (hc.)

1. Industrial laws and legislation—United States. 2. Trade
regulation—United States. 3. Critical thinking—United States.

I. Brennan, Bartley A. II. Browne, M. Neil. III. Title.

KF1600.K83 1998

346.7307—dc21

98-23947

CIP

Prentice-Hall International (UK) Limited, London
Prentice-Hall of Australia Pty. Limited, Sydney
Prentice-Hall Canada, Inc., Toronto
Prentice-Hall Hispanoamericana, S.A., Mexico
Prentice-Hall of India Private Limited, New Delhi
Prentice-Hall of Japan, Inc., Tokyo
Simon & Schuster Asia Pte. Ltd., Singapore
Editora Prentice-Hall do Brasil, Ltda., Rio de Janeiro

Printed in the United States of America

10 9 8 7 6 5 4 3 2

*To the numerous students who appreciate the importance of
developing their critical thinking skills for their personal growth
and development.*

Nancy K. Kubasek and M. Neil Browne

To my parents.

Bartley A. Brennan

P R E F A C E

Writing a preface for a second edition is a great opportunity to thank the many readers who have assisted us in improving this new version of *The Legal Environment of Business: A Critical Thinking Approach*. We have listened to your advice and counsel, and the new edition represents the high level of your scholarship and your passion for teaching and learning. We have been graced by the insights of many readers and certainly urge all of you to pass along any ideas you have about how we can improve the book even more.

INTRODUCTION

Law can be conceptualized as either a set of rules or as a process whereby current rules have developed and new rules will evolve. This latter approach, which we will take in this book, sees law as an intricate, always incomplete tapestry, a piece of art with an identifiable, yet evolving, structure. It emerges and develops. This dynamic approach to the law as it relates to the business world is what our book hopes to encourage.

The readers of this book will typically be prospective managers of public and private enterprise. How can a text best prepare these future managers for functioning in the ever changing global legal environment of business? Critical thinking skills are the essential ingredient for understanding current legal rules and making future business decisions that both comply with and contribute to emergent law. The importance of these skills for contemporary organizations has been recognized not only by educators, but also by those in the business community.

The initial motivation for this book was the authors' perception that there was no legal environment book available that explicitly and adequately facilitated the development of students' critical thinking skills. Teaching students in a systematic manner that developed their critical thinking skills required the use of a supplemental critical thinking textbook, which was cumbersome, to say the least.

Some people may argue that merely using the traditional method of case analysis allows them to develop their students' critical thinking skills. The problem with such an approach, however, is that the case method focuses only on the students' analytical skills, ignoring the evaluative component that is really the essence of critical thinking. Another problem with the traditional method of case analysis is that it does not include an ethical component. To engage in critical thinking necessarily includes consideration of the impact of values on the outcome being considered.

The use of cases in the legal environment of business classroom, however, can provide an excellent opportunity for the development of students' critical thinking abilities when the traditional case method is modified to emphasize the development of critical thinking skills. So, the initial two authors of this text contacted M. Neil Browne, one of the authors of the best-selling critical thinking textbook, *Asking the Right Questions* (Prentice Hall, 5th Edition, 1998), and asked him whether he would be interested in collaborating on a legal envi-

ronment of business textbook that incorporated the teaching of critical thinking skills. Because he has a law degree, and in fact, has written articles about the relationship between critical thinking and traditional case analysis, he was interested in the project.

The result of this collaboration is a textbook that explicitly lays out in the first chapter the critical thinking skills that the students are to acquire. It provides a modified approach to case analysis that gives students the opportunity to practice these skills throughout the semester, whenever they read either a case or an article containing legal analysis. Case questions that focus on various critical thinking skills appear after several cases throughout the book and are clearly identified by a “CT” critical thinking icon.

The feedback we received from the users of the first edition of this book told us that many faculty did in fact want to use a critical thinking approach, however, they did not want this approach limited to just the cases. Thus, an especially significant change to the second edition is the addition of critical thinking questions at the beginning of each chapter to get the students thinking critically about the material from the start.

DISTINCTIVE FEATURES OF THE TEXT

CONTAINS AN EXPLICIT CRITICAL THINKING MODEL

This is the first legal environment of business textbook that tells the students what critical thinking is and gives them the opportunity to explicitly work on developing those critical thinking skills. The critical thinking materials were developed by M. Neil Browne, a recognized authority in the field of critical thinking, who also has a law degree.

The model of critical thinking provided in the book is one that can also be easily adapted to essays, so that students can internalize the kinds of questions they ask when analyzing cases or an editorial in the newspaper.

The book was written in a manner that will give instructors maximum flexibility in terms of the degree to which they want to emphasize the development of the students’ critical thinking skills. Those who want to maximize the development of students’ critical thinking skills may find it helpful to spend a significant amount of time discussing the critical thinking material in chapter 1 and have the students apply this to every case, as well as answer the questions in the critical thinking boxes, which appear at the beginning of each chapter and follow some of the cases. Dr. Browne has also written a new student workbook for the text that will provide additional practice opportunities for anyone wishing to emphasize critical thinking skills. These instructors may also want to use the additional critical thinking questions and assignments in the instructor’s manual.

Other instructors, who do not wish to emphasize critical thinking, may simply instruct the students to think about their responses to questions in the critical thinking boxes when they read the material, but then concentrate their class discussions on the substantive material in the text.

EMPHASIZES THE ROLE OF ETHICS

One of the issues professors continually grapple with is how to integrate ethics into the legal environment of business course. The critical thinking model introduced in chapter 1 incorporates ethics into the case analysis. Questioning how a person’s ethics influences his or her decision making therefore becomes a routine part of a student’s evaluative behavior. For those who prefer a more traditional approach to ethics, or who would like to spend additional time discussing ethics, we have included a new chapter on ethics and social responsibility in this edition.

CONTAINS CURRENT AND CLASSIC CASES

The textbook contains many of the most significant contemporary cases, including important United States Supreme Court decisions handed down as re-

cently as 1998. The book includes many of the more recent controversial cases such as the case of Paula Jones against President Clinton, and the Cattle Ranchers' law suit against talk show host Oprah Winfrey. Yet it also retains many of those classic cases whose holdings have continued to have a significant impact on the legal environment of business for years after they were decided.

EMPHASIZES THE IMPORTANCE OF THE GLOBAL ENVIRONMENT

In recognition of the growing importance of the global environment, we have introduced the international environment of business to the students in the third chapter of the text. Of course, individual instructors may always choose to have the students read this chapter later, but its placement reflects the importance the authors place on international considerations, an importance stressed recently by the AACSB.

We have also incorporated into every chapter a section that focuses on the international dimensions of the subject matter of the chapter. In this way, international issues may be discussed throughout the semester.

STRESSES VOCABULARY DEVELOPMENT

We all recognize the importance of being able to use the "language of the law." Our text recognizes the importance of students' acquiring the necessary vocabulary to discuss legal issues by providing a running glossary in the margin.

CONTAINS NUMEROUS CHARTS, TABLES, AND EXHIBITS

Student learning is facilitated by the use of charts, tables, and exhibits. These matters convey the material to the students in a slightly different form, sometimes making concepts easier to comprehend. We have therefore incorporated them wherever possible. The publisher has carefully designed these elements in full color for effective comprehension by the student.

CONTAINS WEB SITES FOR EACH CHAPTER

We cannot ignore the fact that many of our students feel more comfortable on the Web than in the library. Therefore, at the end of each chapter, we have provided numerous Web sites to which they can go to learn more about the topics covered in the chapter.

COVERAGE

The AACSB mandates coverage of global and ethical issues; the influence of political, social, legal and regulatory, and environmental and technological issues; and the impact of demographic diversity on organizations. This book covers every one of the topics listed in the AACSB mandate and is especially strong in its emphasis on ethics and international issues. The critical thinking approach of the book makes the students recognize that ethics plays a significant role in every business decision they make.

ORGANIZATION

The book is conveniently organized into three parts. Part one introduces the student to the legal, social, political, global, international, and regulatory environment. Part two explores those areas of private law that have a significant impact on how businesses operate. Part three then focuses on the regulatory environment of business, familiarizing students with all of the areas of regulation they will be forced to respond to when they are managers.

CHANGES MADE TO THE SECOND EDITION

UPDATED CASES

Reviewers and users of the first edition have commented extensively on the interesting cases we have included in the text. As would be expected for a new

edition, we have updated our cases to ensure inclusion of the most recent changes in the law. New cases are not only featured in the text, but have also been used to replace some of the older case problems. As with our initial case selection, we tried to find cases that not only illustrated important legal concepts, but contained fact patterns that would captivate the students' interest.

IMPROVED CRITICAL THINKING MATERIALS

We have made a number of changes in response to our users and reviewers suggestions. The first of these changes was to better incorporate the critical thinking materials into the text by beginning each chapter with a series of critical thinking questions. These questions will get the students thinking critically from the very start of the chapter.

WEB SITES FOR EACH CHAPTER

As noted earlier in the preface, we have now included the addresses for numerous relevant Web sites at the end of each chapter.

EXPANDED CONTRACTS AND SALES MATERIALS

A number of users wanted a little more material on contracts and sales, and so this edition features two chapters on contracts and sales, including additional Uniform Commercial Code materials.

NEW COVERAGE OF EMPLOYEE BENEFITS

The material on labor law has been reorganized, and we have added an additional chapter that covers issues fundamental to employee security, including such topics as unemployment compensation, workers compensation, and employee privacy rights.

SUPPLEMENTS

A wide range of supplements are available to make this course administratively easier for the instructor, and to enable the instructor to provide the students access to a broader range of educational experiences than would be available with the textbook alone.

INSTRUCTOR'S RESOURCE MANUAL

Once again, our instructor's resource manual has been expertly prepared by Andrea Giampetro-Meyer, of Loyola College, a recipient of teaching awards from the ALSB, her college, and Beta Gamma Sigma. Because she uses the textbook, the authors asked her to incorporate ideas into the manual that have actually been tested in the class. The author is also someone who has expertise in the area of critical thinking, having written numerous articles on the topic. The manual includes the following features:

- discussion outlines for each chapter, with references to other supplements when appropriate
- answers to questions in Critical Thinking Boxes
- answers to end of the chapter questions
- additional critical thinking questions and assignments

STUDENT STUDY GUIDE/CRITICAL THINKING SUPPLEMENT

M. Neil Browne, who authored the critical thinking materials in the text, has written a new *Student Study Guide* for the second edition. This study guide provides significant opportunities for students to practice and improve their critical thinking skills, in addition to providing them with exercises to test their knowledge of the substantive materials provided in the text. The idea for this supplement grew out of users' requests that we provide more opportunities for students to focus on developing their critical thinking skills.

POWERPOINT SLIDES

Developed by Howard Ellis of Millersville University, Millersville, PA. Students today are visually oriented, and perhaps one of the best methods for keeping their attention in class is to have color graphics available. Each chapter of the text is supported by a substantial number of content-oriented graphics that will enhance the student's classroom experience.

PRENTICE HALL CUSTOM VIDEO SERIES

Fifteen core topics in business law and legal environment of business are expertly illustrated in this new, custom video series just for legal studies in business. The videos sharply illustrate the important connection between business and management issues and the law. Available in fall 1998. Contact your local Prentice Hall sales representative for details.

THE PRENTICE HALL/NEW YORK TIMES CONTEMPORARY VIEW PROGRAM

The *New York Times* and Prentice Hall are sponsoring "Themes of the Times," a program designed to enhance student access to current information of relevance in the classroom. Through this program, the core subject matter provided in the text is supplemented by a collection of time-sensitive articles from one of the world's most distinguished newspapers, the *New York Times*. These articles demonstrate the vital, ongoing connection between what is learned in the classroom and what is happening in the world around us.

Prentice Hall and the *New York Times* are proud to co-sponsor "Themes of the Times." We hope it will make the reading of both textbooks and newspapers a more dynamic, involving process.

PRENTICE HALL CUSTOM TEST

Based on the number one best-selling, state-of-the-art test generation software program developed by Engineering Software Associates (ESA), Prentice Hall Custom Test is not only suitable for your course, but can be customized to your personal needs. With Prentice Hall Custom Test's user-friendly test creation and powerful algorithmic generation, you can create tailor-made tests quickly, easily and error-free. Whether you are on Macintosh, Windows, or DOS, you can create an exam, administer it traditionally or on-line, evaluate and track student's results, and analyze the success of the exam—all with a simple click of the mouse.

WEB SITE SUPPORT

Prentice Hall has been a leader in on-line support of both professors and students. The legal studies Web site is part of the number one Web site for business faculty and students—PHLIP (Prentice Hall Learning on the Internet Partnership). PHLIP generates about 500,000 "hits" per month. Both faculty and students add to their in- and out-of-class experience by making PHLIP part of their course. PHLIP supports several Prentice Hall legal studies texts with current events links, cases, discussion questions, student study hall, "ask the tutor," faculty supplements and much more. Visit PHLIP at <http://www.phlip.marist.edu>.

CASE UPDATES

Adopters of the book may subscribe to a list service that will provide regular case updates via e-mail, consisting of edited versions of newly decided cases and accompanying critical thinking questions that may be used to stimulate discussions about these cases.

TOTALAW CD-ROM for Legal Studies in Business

TotalLaw is packaged **free** with every copy of the text and is a comprehensive resource. It contains thirty important acts and statutes that have a direct impact

on business in the United States and in international arenas every day. Students can search by key word and will never find an undergraduate textbook with the comprehensiveness of *TotaLaw*.

ACKNOWLEDGMENTS

Numerous people have contributed to the success of this project, without which this book would not have become a reality. We would therefore like to acknowledge their contributions. Our sincere thanks for all of their work go to the professionals at Prentice Hall: Don Hull, our editor; Paula D'Introno, his assistant; Judy Leale, our production editor; and Margo Quinto, our copy editor. Tamara Wederbrand, marketing manager, has worked with us to design the right strategy and marketing communications.

We wish to thank the following reviewers whose numerous comments, suggestions, and criticisms significantly improved the content of this textbook: Louis Aranda, Arizona State; Roy J. Girasa, Pace University; Jane A. Malloy, Delaware Valley CC; Ernest W. King, University of Southern Mississippi; James Marshall, Michigan State University; John McGee, Southwest Texas State University; Royce Barondes, Louisiana State University; and Debra Burke, Western Carolina University. Andrea Giampetro-Meyer, the author of the Instructor's Manual, also provided numerous helpful suggestions to both the first and second editions.

We wish to acknowledge our colleague Robert Holmes, who generously agreed to share his expertise in the labor and employment fields by reviewing those chapters for the first edition with painstaking care. His comments and suggestions were invaluable. His subsequent comments based on his use of the book provided additional assistance to us in our revisions.

We thank Don Boren, the Chair of our Legal Studies Department, whose careful reading of the text when he used it for his classes stimulated a number of conversations about issues raised in the text. As a result of these conversations, many complex issues have been clarified in the second edition.

We thank Wesley J. Hiers, a Ph.D. student in industrial relations at Cornell University, who provided unusually dedicated and creative assistance for this project and also our research assistants, Carrie Williamson, who drafted a number of the graphics for the new edition and Michael Meuti, who provided substantial assistance to us in the final stages of the book's production. We also thank the word processing staff at Bowling Green State University who retyped numerous versions of this manuscript without complaint: Joyce Hyslop, Karen Masters, and Tami Thomas.

And finally, we thank the numerous students who used the book and made suggestions.

The authors hope that this book will help fulfill its purpose of providing a useful tool for students who wish to develop their critical thinking skills while gaining a better understanding of the legal environment of business. Toward that end, the authors would be happy to correspond with any readers via e-mail. So if you have any questions while reading the text, please feel free to contact Nancy Kubasek at nkubase@cba.bgsu.edu or Neil Browne at nbrown2@cba.bgsu.edu.

ABOUT THE AUTHORS



Nancy Kubasek is a Professor of Legal Studies at Bowling Green State University, where she teaches the Legal Environment of Business, Environmental Law, and Women and the Law. For eight years she team-taught a freshman honors seminar on critical thinking and values analysis. She has published an undergraduate textbook entitled *Environmental Law*, second edition (Prentice Hall, 1996) and more than 40 articles. Her articles have appeared in such journals as the *American Business Law Journal*, the *Journal of Legal Studies Education*, the *Harvard Women's Law Journal*, the *Georgetown Journal of Legal Ethics*, and the *Harvard Journal on Legislation*. She received her J.D. from the University of Toledo College of Law and her B.A. from Bowling Green State University.

"The most important thing that a teacher can do is to help his or her students develop the skills and attitudes necessary to become lifelong learners. Professors should help their students learn the types of questions to ask to analyze complex legal issues, and to develop a set of criteria to apply when evaluating reasons. If we are successful, students will leave our legal environment of business classroom with a basic understanding of important legal concepts, a set of evaluative criteria to apply when evaluating arguments that includes an ethical component, and a desire to continue learning.

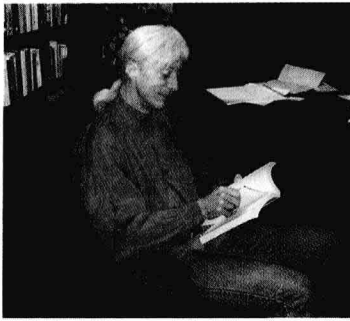
To attain these goals, the classroom must be an interactive one, where students learn to ask important questions, define contexts, generate sound reasons, point out the flaws in erroneous reasoning, recognize alternative perspectives, and consider the impacts that their decisions (both now and in the future) have on the broader community beyond themselves."



Bartley A. Brennan is a Professor of Legal Studies at Bowling Green State University. He is a graduate of the School of Foreign Service, Georgetown University (B.S. International Economics); the College of Law, State University of New York at Buffalo (J.D.); and Memphis State University (M.A. Economics). He was a volunteer in the United States Peace Corps, was employed by the Office of Opinions and Review of the Federal Communications Commission, and worked in the general counsel's office of a private international corporation. He has received appointments as a visiting associate professor, the Wharton School, University of Pennsylvania, and as a Research Fellow, Ethics Resource Center, Washington, D.C. He is the author of articles dealing with the Foreign Corrupt Practices Act of 1977, as Amended; the business judgment rule; law and economics; and business ethics. He has published numerous articles in such journals as the *American Business Law Journal*, *University of North Carolina Journal of International Law*, and the *Notre Dame University Journal of Legislation*. He is a co-author of *Modern Business Law* (third edition). He has testified on amending the Foreign Corrupt Practices Act before the Sub-Committee on International Economics and Finance of the House Commerce, Energy, and Telecommunications Committee.

His teaching goals include the following:

1. to assist students in developing an understanding of the role of law in managerial decision making
2. to help develop students' critical thinking skills that can assist them for their total lives, inclusive of careers
3. to help develop communication skills that can assist students throughout their careers
4. to help students develop an understanding of the international dimensions of law and ethics in making management and personal decisions.



M. Neil Browne is a Distinguished Teaching Professor of Economics at Bowling Green State University. He received a J.D. from the University of Toledo and a Ph.D. from the University of Texas. He is the co-author of seven books and more than one hundred research articles in professional journals. One of his books, *Asking the Right Questions: A Guide to Critical Thinking*, fifth edition, is a leading text in the field of critical thinking. His most recent book, *Striving for Excellence in College: Tips for Active Learning*, provides learners with practical ideas for expanding the power and effectiveness of their thinking. Professor Browne has been asked by dozens of colleges and universities to aid their faculty in developing critical thinking skills on their respective campuses. He also serves on the editorial board of the *Korean Journal of Critical Thinking*. In 1989, he was a silver medalist in the Council for the Advancement and Support of Education's National Professor of the Year award. Also in 1989, he was named the Ohio Professor of the Year. He has won numerous teaching awards on both a local and national level.

"When students come into contact with conflicting claims, they can react in several fashions; my task is to enable them to evaluate these persuasive attempts. I try to provide them with a broad range of criteria and attitudes that reasonable people tend to use as they think their way through a conversation. In addition, I urge them to use productive questions as a stimulus to deep discussion, a looking below the surface of an argument for the assumptions underlying the visible component of the reasoning. The eventual objectives are to enable them to be highly selective in their choice of beliefs and to provide them with the greater sense of meaning that stems from knowing that they have used their own minds to separate sense from relative nonsense."

B R I E F C O N T E N T S

PART ONE

An Introduction to the Law and the Legal Environment
of Business 1

CHAPTER 1

CRITICAL THINKING AND LEGAL REASONING 3

CHAPTER 2

INTRODUCTION TO LAW AND THE LEGAL ENVIRONMENT
OF BUSINESS 16

CHAPTER 3

THE INTERNATIONAL LEGAL ENVIRONMENT OF BUSINESS 32

CHAPTER 4

CONSTITUTIONAL PRINCIPLES 62

CHAPTER 5

THE AMERICAN LEGAL SYSTEM 84

CHAPTER 6

ALTERNATIVE TOOLS OF DISPUTE RESOLUTION 115

CHAPTER 7

WHITE COLLAR CRIME AND THE BUSINESS COMMUNITY 139

CHAPTER 8

ETHICS, SOCIAL RESPONSIBILITY, AND THE BUSINESS
MANAGER 171

PART TWO

Private Law and the Legal Environment of Business 187

CHAPTER 9

THE LAW OF CONTRACTS AND SALES—I 189

CHAPTER 10

THE LAW OF CONTRACTS AND SALES—II 215

CHAPTER 11

THE LAW OF TORTS 229

CHAPTER 12

PRODUCT AND SERVICE LIABILITY LAW 258

CHAPTER 13
LAW OF PROPERTY: REAL, PERSONAL,
AND INTELLECTUAL 285

CHAPTER 14
AGENCY LAW 314

CHAPTER 15
LAW AND BUSINESS ASSOCIATIONS 333

PART THREE
Public Law and the Legal Environment of Business 363

CHAPTER 16
THE LAW OF ADMINISTRATIVE AGENCIES 365

CHAPTER 17
THE EMPLOYMENT RELATIONSHIP 388

CHAPTER 18
LAWS GOVERNING LABOR-MANAGEMENT RELATIONS 410

CHAPTER 19
EMPLOYMENT DISCRIMINATION 439

CHAPTER 20
ENVIRONMENTAL LAW 478

CHAPTER 21
RULES GOVERNING THE ISSUANCE AND TRADING
OF SECURITIES 507

CHAPTER 22
ANTITRUST LAWS 548

CHAPTER 23
LAWS OF DEBTOR-CREDITOR RELATIONS AND CONSUMER
PROTECTION 584

GLOSSARY 615

INDEX 625

C O N T E N T S

PREFACE *xxi*
ABOUT THE AUTHORS *xxvii*

PART ONE
An Introduction to the Law and the Legal Environment
of Business 1

CHAPTER 1
CRITICAL THINKING AND LEGAL REASONING 3
The Importance of Critical Thinking 4
A Critical Thinking Model 5
*Cook v. Rhode Island Department of Mental Health, Retardation
and Hospitals 5*

The Critical Thinking Steps 7
Facts 7
Issue 7
Reasons and Conclusion 7
Rules of Law 8
Ambiguity 8
Ethical Norms 8
Analogies 9
Missing Information 9
Using Critical Thinking to Make Legal Reasoning Come Alive 10
Legal Reasoning 11
Applying the Critical Thinking Approach 15

CHAPTER 2
INTRODUCTION TO LAW AND THE LEGAL ENVIRONMENT
OF BUSINESS 16
Definition of the Legal Environment of Business 18
Definition of Law and Jurisprudence 19
Natural Law School 19
Positivist School 20
Sociological School 21
American Realist School 21
Critical Legal Studies School 21
Feminist School 22
Law and Economics School 22
Sources of Law 22
The Legislature as a Source of Statutory Law 22
The Judicial Branch as a Source of Case Law 25

*Cases highlighted in magenta type indicate cases that are followed by Critical Thinking about the Law material.

The Executive Branch as a Source of Law	25
Administrative Agencies as a Source of Law	26
Classifications of Law	26
Criminal Law and Civil Law	26
Public and Private Law	27
International Dimensions of the Legal Environment of Business	27
Summary	28
Review Questions	28
Review Problems	28
Case Problems	29
 CHAPTER 3	
THE INTERNATIONAL LEGAL ENVIRONMENT OF BUSINESS	32
Dimensions of the International Environment of Business	33
Political Dimensions	33
Economic Dimensions	36
Cultural Dimensions	36
Legal Dimensions	38
Methods of Engaging in International Business	40
Trade	40
International Licensing and Franchising	41
Foreign Direct Investment	41
<i>In Re Union Carbide Corporation Gas Plant Disaster at Bhopal, India</i>	
<i>in December, 1984 v. Union Carbide Corporation</i>	42
Risks of Engaging in International Business	44
Expropriation of Private Property	44
Sovereign Immunity Doctrine	44
<i>Republic of Argentina v. Weltover, Inc. et al.</i>	45
Act-of-State Doctrine	46
<i>Republic of the Philippines v. Ferdinand E. Marcos</i>	46
Export and Import Controls	47
Currency Controls and Fluctuations in Currency Values	49
Legal and Economic Integration as a Means of Encouraging	
International Business Activity	50
The World Trade Organization	50
The European Union	53
Impact	55
North American Free Trade Agreement	55
International Dispute Resolution	57
Arbitration	57
<i>Republic of Nicaragua v. Standard Fruit Company</i>	
<i>and Steamship Company</i>	57
Litigation	58
Summary	58
Review Questions	59
Review Problems	59
Case Problems	60
 CHAPTER 4	
CONSTITUTIONAL PRINCIPLES	62
The Constitution	63
Federalism	63
Supremacy Clause	64
Federal Preemption	64
Separation of Powers	64
<i>William Jefferson Clinton v. Paula Corbin Jones</i>	65
The Impact of the Commerce Clause on Business	67
The Commerce Clause as a Source of Federal Authority	67
<i>James Jefferson McLain et al. v. Real Estate Board of New Orleans, Inc.</i>	68
The Commerce Clause as a Restriction on State Authority	69

<i>Oregon Waste Systems, Inc. v. Department of Environmental Quality of the State of Oregon</i>	70
The Impact of the Amendments on Business	72
The First Amendment	72
<i>Central Hudson Gas & Electric Corporation v. Public Service Commission of New York</i>	73
The Fourth Amendment	76
The Fifth Amendment	76
<i>David Lucas v. South Carolina Coastal Commission</i>	78
Fourteenth Amendment	80
Summary	80
Review Questions	81
Review Problems	81
Case Problems	82

CHAPTER 5

THE AMERICAN LEGAL SYSTEM 84

Jurisdiction	85
Original versus Appellate Jurisdiction	85
Jurisdiction over Persons and Property	85
<i>World-Wide Volkswagen Corporation v. Woodson, District Judge of Creek County</i>	86
Subject Matter Jurisdiction	88
<i>Gafford v. General Electric Company</i>	90
Venue	91
The Structure of the Court System	92
The Federal Court System	92
State Court Systems	95
The Actors in the Legal System and Their Relationship to the Business Community	95
The Attorney	95
The Judge	96
The Jury	98
The Adversary Process	99
Criticisms of the Adversary System	99
Steps in Civil Litigation and the Role of Businesspersons	100
The Pretrial Stage	100
The Trial	105
<i>J.E.B. v. Alabama Ex Rel. T.B.</i>	106
Appellate Procedure	110
International Dimensions of the American Legal System	111
Summary	111
Review Questions	112
Review Problems	112
Case Problems	113

CHAPTER 6

ALTERNATIVE TOOLS OF DISPUTE RESOLUTION 115

Negotiation and Settlement	117
Arbitration	117
<i>United Steelworkers of America v. Enterprise Wheel & Car Corporation</i>	118
Methods of Securing Arbitration	119
<i>Southland Corporation v. Keating</i>	120
Selection of an Arbitrator	123
Common Uses of Arbitration	124
<i>Gilmer v. Interstate/Johnson Lane Corporation</i>	125
Problems with Arbitration	127
Mediation	127
Selection of a Mediator	128
Common Uses of Mediation	129