

ABRIDGED VERSION

SOUTH-WESTERN

Law for Business

MIETUS • ADAMSON • CONRY
14TH EDITION



CONTRACT TERMS

AND CONDITIONS

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Law for Business

14TH EDITION

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Preface to Teachers

We are confident that you will find this fourteenth edition of *Law for Business*, with its supplements, to be the most effective instructional package in the field. The pedagogy of the book has been carefully designed to create a comprehensive learning system.

▼ THE LEARNING PACKAGE

This system includes the following features.

Full Color

The textbook is printed in full color for heightened student interest. Photographs and a visually attractive layout increase both student interest and concentration.

Mock Trial

Materials for conducting a mock trial in the classroom are available to use with this learning package. The trial is based on a videotaped incident viewed by witnesses. During the mock trial, issues are raised relating to rules of evidence, biased witnesses, depositions, and physical evidence. Individual students participate as the plaintiff, defendant, witnesses, attorneys, and bailiff. The rest of the class acts as the jury. After rendering its verdict, the class is shown the actual videotaped incident. This exercise teaches both trial procedure and critical thinking. The jurors see how important and difficult it is to make accurate *inferences*—to construct pictures of reality from incomplete information.

Ethics

This edition presents, for the first time, a *complete chapter* on ethics and law. Chapter 2 provides students with concrete methods to use when resolving ethical issues.

Ethics is the study of what is right and wrong conduct. In our society the law is an official statement of what is right and wrong, so a law course is a great place to address ethics. The focus here is on determining what is right and wrong when the law is silent. Every chapter presents ethics questions in the introductory teasers and end-of-chapter activities. These ethics questions are marked by this symbol:



The teacher's manual also contains additional exercises designed to explore ethical issues. This depth of ethics coverage is greater than in any other high school text.

Critical Thinking

This book involves students in studying rules of law and how those rules apply to different factual situations, particularly in the end-of-chapter cases. When students apply the law to facts, they must make reasonable inferences. This is a central skill in critical thinking. These end-of-chapter activities, the teasers and problems presented in each chapter, the mock trial, factual examples of the application of the law, and many homework assignments will build the students' skills in critical thinking.

Chapter Structure

Each chapter incorporates special features that increase attention and foster retention. Three introductory teasers (short scenarios that pose legal questions) appear at the beginning of every chapter. These instantly capture reader interest, stimulate curiosity, and encourage careful reading. In a variation of the Socratic method of teaching, every section heading is expressed in the form of a question. It is followed by a legal problem phrased in understandable language. These challenge the students to think analytically and to check their mastery of the material in the section before proceeding. Thus students form the "connection of interest with materials" that is so important for durable learning. Key vocabulary words appear in the text in **boldface** and are followed by their definitions. All key terms are included in the Glossary at the end of the book for easy reference.

At the end of each chapter the very popular (for students and their parents) Preventing Legal Difficulties feature remains, along with Reviewing Important Points. The matching exercise Strengthening Your Legal Vocabulary reinforces the definitions of key terms introduced in the chapter. The fascinating hypothetical situations in Applying Law to Everyday Life and the carefully selected actual appellate cases in Solving Case Problems challenge students to apply what they have studied, analyze facts, and think critically. The case problems include shortened versions of old classics that are used in our nation's leading law schools, as well as recently decided cases that demonstrate the continuing evolution of the law.

Manual and Tests

Other new features for this edition include individual chapter tests (both printed and computerized) and two transparency masters for each chapter. The manual's Teaching Tools and Tips offers numerous suggestions for en-

riching your presentations by the use of nontraditional learning experiences. Detailed answers to Teasers and the end-of-chapter exercises, ethics questions, and legal cases are provided. Think Tank questions that are designed to stimulate class discussion are also provided. A bibliography provides additional references.

Student Workbook

The workbook is geared toward presenting questions and exercises that facilitate retention. Summary and review exercises are included in the workbook at appropriate intervals. New to this edition, a complete outline of each chapter provides room for the student to take notes.

Varied Pedagogy

This law package incorporates carefully balanced pedagogical approaches. *Interest-heightening* features include four-color print and realistic problems, examples, teasers, and cases. These are keyed to high school students whenever possible. *Review and repetition* is an integral part of the book's structure. The end-of-chapter materials, tests, and workbook exercises review and reinforce in ways which address the same concepts from a different perspective. *Visual and auditory* learning opportunities are provided with overhead transparency masters, the mock trial, and the nontraditional teaching suggestions in Teaching Tools and Tips. *Important points* are emphasized with headings, photographs, figures, and factual illustrations.

The total effect is a powerful learning system to support your classroom presentations. With this package, your students will have a sense of accomplishment as they progress through the course.

▼ CONTENT COVERAGE

Experienced teachers know that our laws are made by fifty different states, the federal courts, and administrative agencies. Every law is subject to judicial interpretation and human beings engage in an infinite variety of activities under the law. Therefore, it is impossible to cover every possibility with precision. Exceptions, distinctions, and variations exist in even the simplest rules. Where *important* differences exist, an attempt has been made to present the generally prevailing view, as well as major exceptions. But a textbook of this nature is intended neither to be definitive nor to take the place of professional legal counsel for the resolution of specific legal problems.

Students who conscientiously read this book and successfully do the assigned work will better understand the legal world in which they live. They

will expand their vocabularies and sharpen their abilities to think critically, analytically, and systematically. They will be better equipped to recognize legal problems and to utilize professional counsel.

To those many dedicated teachers who have worked with our book in the past and to those teachers and other friends who have been so generous with suggestions for its continued improvement, we express our sincere gratitude.

Norbert J. Mietus



John E. Adamson



Edward J. Conry

Introduction to Students

You will soon find that business law is one of your most interesting subjects. The problems you will study reflect true situations where business law has a major impact on the lives of young persons, such as you and your friends, as well as on adults and business firms. The learning materials will help you to achieve an understanding of legal principles which will be useful throughout your life. Below is a plan for effectively studying the text material.

▼ HOW TO STUDY BUSINESS LAW

- ① Each chapter is introduced by three questions that you should be able to answer from what you already know or what you think is fair or reasonable. In your mind, answer each question before you read the chapter. Refer back to these three questions after you have completed your study of the chapter and see if your answers have changed.
- ② After you have answered the three introductory questions, scan the topic headings to get a general idea of what is included in the chapter.
- ③ After you have scanned the chapter, read it slowly and carefully. Make notes of the important points. (In the student workbook, there is an outline of every chapter with room to take notes.) Topic headings are stated in the form of a question and problems are presented in each chapter section. Try to answer each question and understand the solution to each problem before you study the next topic. If in doubt, read the topic again and, if necessary, ask someone to help you with it. If you do not know the meaning of a legal word, look it up in the glossary.
- ④ As you read, try to apply the rules to yourself or to your family and friends. Think about situations within your own experience to which the rules apply.
- ⑤ After you have carefully studied the chapter, read the section entitled Reviewing Important Points to refresh your memory and complete the activity entitled Strengthening Your Legal Vocabulary.
- ⑥ Examples of legal problems from real life are included in the section entitled Applying Law to Everyday Life and actual case problems can be solved in the section entitled Solving Case Problems. These appear at the end of each chapter. Each case or problem relates to the law discussed in that chapter. You can sharpen your wits by being the judge and solving them. Make a note of the page on which you think the answer to each is found.

▼ HOW YOU CAN SOLVE LEGAL PROBLEMS

Following each chapter, you will find a number of real-life problems under the heading Applying Law to Everyday Life. You will also find actual cases that have been decided by courts, headed Solving Case Problems. The method of solving is the same for both problems and cases.

To answer the question raised in a problem or case, first read it carefully. Be sure you understand the question. Then analyze the situation, determine the rule of law involved, and reach a decision. You will find it helpful to answer these five questions:

- ❶ What are the facts?
- ❷ What is the disputed point?
- ❸ What rule of law is involved?
- ❹ How does this rule apply to the facts?
- ❺ What is the answer or decision?

▼ A NOTE ON CASE CITATIONS

Law cases are referenced in a way that makes them easy for lawyers to find. There are four parts to a citation. For example, 28 A2d 309 identifies (1) a *series* of law books, (2) one *volume* in that series, and (3) the *page number* where the case begins in that volume.

In the example, A2d identifies the series of books that report the decisions of certain courts. The A stands for *Atlantic Reporter*, a series that reports the cases of appellate courts in the North Atlantic Region of the country. The 2d indicates that the case appears in the second series of the *Atlantic Reporter*. The 28 in this example citation refers to Volume 28 in the series. The case begins on page 309.

▼ LEGAL ADVICE

- ❶ Choose a family lawyer.
- ❷ Consult your lawyer if you have any doubts about your rights or duties when your property, life, or liberty is endangered or if significant changes occur in your circumstances.
- ❸ Familiarize yourself with local, state, and federal laws to help avoid violations. Ignorance of the law is normally no excuse.
- ❹ Remember that a minor is generally liable for crimes and torts and may also be bound by contracts.

- 5 If you are involved in a legal dispute, try to learn the other person's version and honestly seek a friendly solution out of court. In every court action at least one person loses—and often both find the costs burdensome.
- 6 If someone injures you or your property, do not rush to sign a statement releasing the person from liability in exchange for some payment of money. The damages may be greater than they appear at first. Consult your attorney immediately.
- 7 Although oral agreements can be legally binding, it is prudent to write out all contracts which involve significant time, money, or detail and to have both parties sign and receive copies.

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UNIT 1

LAW, JUSTICE,
AND YOU



We the People
insure domestic Tranquility, provide for the common Defense,
and our Posterity, do ordain and establish this Constitution.

Article I.
Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Learning Objectives

When you complete this chapter, you will be able to

1. Explain how the U.S. Constitution has contributed to the development of one of the greatest countries in the history of the world.
2. Explain the relationship between the Declaration of Independence and the Constitution.
3. Identify how the Constitution has been a shield against possible violations of basic human rights.
4. Identify the three major parts of the Constitution.
5. Explain how power to govern and make laws is divided between the federal and state governments.
6. Identify the principal human rights protected by the Bill of Rights and by subsequent amendments.
7. Explain how additional amendments improved the Constitution.

CHAPTER 1

THE SHIELD OF THE CONSTITUTION

- ① Each of our fifty states is equal in its sovereign (supreme) governing status within its own borders. However, some states, such as Alaska and Wyoming, are greatly outnumbered in eligible voters by a few very populous states, such as California and New York. How does the U.S. Constitution protect the rights of all states in terms of congressional power?

- ② **ETHICS ISSUE** Nanette and Philo were seriously discussing legal rights and duties. "We are lucky because we have a Bill of Rights that guarantees at least all human rights for our citizens!" said Nanette. "No, no, Nanette," Philo protested, "that's not true!" Who is correct? Does the Bill of Rights, along with other amendments, uphold high standards of ethical conduct?

- ③ At the time of the American Revolution, no American was serving in the British Parliament, yet taxes had been imposed on the colonists. As a result, one rallying cry for revolution was "Taxation without representation is tyranny!" Recently, Jake recalled this historical fact when he received his paycheck. "Look at that," he grumbled. "Deductions for federal income taxes, state income taxes, and social security taxes. And I pay sales taxes and property taxes. What we need is another revolution!" What might you say to calm Jake down?



*[I]ts soul, its climate, its equality, liberty, laws, people, and manners. My God! how little do my countrymen know what precious blessings they are in possession of, and which no other people on earth enjoy!*¹

—Thomas Jefferson

Author of the Declaration of Independence

▼ WHAT MAKES OUR NATION GREAT?

PROBLEM

Students in a high school class had just seen and heard the President of the United States' televised State of the Union message. The President spoke to the Senate and the House of Representatives meeting in a joint session of Congress, along with the nine Justices of the Supreme Court. Also attending were ambassadors from the world's leading countries.

The class period was almost over when the instructor flicked off the television. Then she said, "Thanks to television, we have just witnessed history in the making and law in action. Attending this meeting were key personnel from the three branches of our government: the legislative, the executive, and the judicial. The President spoke as the head of what most people—correctly, I think—regard as the greatest country in the history of the world. So, your special assignment for our next class is to answer this question: If indeed we are 'the greatest,' what one factor or reason best explains this greatness?"

At the next class meeting, students presented the following reasons:

- "Our melting pot of people. In this class we have thirty students. I'll bet our ancestors came from at least fifteen different countries. They brought with them a great variety of useful knowledge, talent, and skills."
- "Our nation's unique combination of cultures—races, religions, customs—all blended into one dynamic AMERICAN culture. There has been friction, but it has encouraged competition and progress."
- "Our natural resources: millions of acres of rich, productive land, both clear and forested; mountains containing needed minerals; an abundance of coal, natural gas, and petroleum; and many freshwater lakes and rivers."

¹Excerpt from a letter to James Monroe, fifth President of the United States, dated June 17, 1785.