

THE LEGAL ENVIRONMENT OF BUSINESS

Third Edition



DOUGLAS WHITMAN
JOHN WILLIAM GERGACZ

The Legal Environment of Business

THIRD EDITION

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List of Legal Cases

- Aetna Life Insurance Co. v. Lavoie et al.* (1986) p. 118
Alvis v. Ribar (1982) p. 348
American Federation of State, County, and Municipal Employees v. State of Washington (1985) p. 631
American Textile Manufacturer's Institute v. Donovan (1981) p. 662
AMF Inc. v. Brunswick Corp. (1985) p. 165
A. P. Smith Mfg. Co. v. Barlow (1953) p. 36
Aspen Skiing Co. v. Aspen Highlands Skiing Corp. (1985) p. 454
Averill v. Luttrell (1957) p. 381
- Banco Nacional de Cuba v. Sabbatino* (1964) p. 93
Bates v. Dresser (1920) p. 368
Baxley-DeLamar Monuments v. American Cemetery Association (1988) p. 474
Blankenship v. Cincinnati Milacron Chemicals (1982) p. 345
Board of Trustees of the State University of New York v. Fox (1989) p. 73
Boomer v. Atlantic Cement Co. (1970) p. 655
Bradwell v. The State of Illinois (1872) p. 616
Breckinridge v. Rumsfeld (1976) p. 657
Browning-Ferris Industries of Vermont, Inc. v. Kelco Disposal, Inc. (1989) p. 50
Brune v. Brown Forman Corp. (1988) p. 532
Burroughs v. Metro-Goldwyn-Mayer, Inc. (1981) p. 305
Business Electronics v. Sharp Electronics (1988) p. 471
- California Retail Liquor Dealers Association v. Midcal Aluminum, Inc.* (1980) p. 467
Campbell v. City of Chicago (1987) p. 442
Caplin and Drysdale v. United States (1989) p. 499
Chevron v. Natural Resources Defense Council, Inc. (1984) p. 659
Cipollone v. Liggett Group, Inc. (1986) p. 540
Citizens to Preserve Overton Park v. Volpe (1971) p. 233
City of Oakland v. Oakland Raiders (1982) p. 268
City of Renton v. Playtime Theatres, Inc. (1986) p. 277
County of Champaign v. Hanks (1976) p. 319
Craig v. Boren (1976) p. 68
- DeBartolo Corporation v. Florida Gulf Coast Building and Construction Trades Council* (1988) p. 606
Diamond v. Chakrabarty (1980) p. 206
Diaz v. Pan American World Airways, Inc. (1971) p. 635
Dirks v. Securities and Exchange Commission (1983) p. 417
Dorado Beach Hotel Corporation v. Jernigan (1967) p. 298
- Drayton v. Jiffee Chemical Corp.* (1975) p. 521
- Environmental Protection Agency v. National Crushed Stone Assn.* (1980) p. 666
Ernst & Ernst v. Hochfelder (1976) p. 410
Escott v. BarChris Construction Corp. (1968) p. 402
- Farwell v. Boston and Worcester Railroad* (1842) p. 342
FDIC v. Hughes Development Co., Inc. (1988) p. 552
Federal Crop Insurance Corp. v. Merrill (1947) p. 228
Federal Security Administration v. Quaker Oats Co. (1943) p. 238
Federal Trade Commission v. Colgate-Palmolive Co. (1964) p. 231
Felix v. Hoffman-LaRoche, Inc. (1987) p. 530
First National Bank of Boston v. Bellotti (1978) p. 71
Flagiello v. Pennsylvania Hospital (1965) p. 188
Flip Side Productions, Inc. v. Jam Productions, Inc. (1988) p. 453
Flood v. Kuhn (1971) p. 185
Fontainebleau Hotel Corp. v. Forty-Five Twenty-Five, Inc. (1959) p. 265
Forging Industry Association v. Secretary of Labor (1984) p. 236
Framingham Clinic, Inc. v. Board of Selectmen (1977) p. 278
Fraust v. Swift and Company (1985) p. 534
Frostifresh Corp. v. Reynoso (1966) p. 313
- Ghen v. Rich* (1881) p. 177
Gilling v. Eastern Airlines, Inc. (1988) p. 166
Globe Woolen Co. v. Utica Gas & Electric Co. (1918) p. 373
G. M. Leasing Corp. v. United States (1977) p. 488
- Hackbart v. Cincinnati Bengals, Inc.* (1979) p. 332
Haring v. New York and Erie Railroad (1851) p. 341
Harriss v. Trojan Fireworks Company (1981) p. 380
Helicopteros Nacionales de Colombia, S. A. v. Hall (1984) p. 135
Hishon v. King & Spalding (1984) p. 389
Hoffman v. Red Owl Stores (1965) p. 321
Holzman v. De Escamilla (1948) p. 391
Home Box Office, Inc. v. Federal Communications Commission (1977) p. 239
Hurla v. Capper Publications, Inc. (1939) p. 377
- In the Matter of Cady, Roberts & Co.* (1961), p. 414

- International Shoe Co. v. State of Washington* (1945) p. 132
- James S. Baker (Imports) v. United States* (1968) p. 85
- Jenkins by Agyei v. State of Missouri* (1988) p. 111
- Jennings v. Radio Station KSCS* (1986) p. 295
- Johnson v. Transportation Agency, Santa Clara County* (1987) p. 638
- Juras v. Amon Collection Service, Inc.* (1987) p. 559
- Kansas City Royals Baseball Corp. v. Major League Baseball Players Assn.* (1976) p. 157
- Katko v. Briney* (1971) p. 262
- Katzenbach v. McClung* (1964) p. 54
- Klages v. General Ordnance Equipment Corporation* (1976) p. 525
- K.M.C. Co., Inc. v. Irving Trust Co.* (1985) p. 322
- Lennon v. Immigration and Naturalization Service* (1975) p. 209
- Lind v. Schenley Industries, Inc.* (1960) p. 384
- Lochner v. New York* (1905) p. 288
- MacPherson v. Buick Motor Co.* (1916) p. 517
- Mahaffey v. Investor's National Security Co.* (1987) p. 562
- Maine v. Taylor* (1986) p. 58
- Marshall v. Barlow's, Inc.* (1978) p. 227
- Martin v. Republic of South Africa* (1987) p. 91
- Meritor Savings Bank v. Vinson* (1986) p. 642
- Midler v. Ford Motor Company* (1988) p. 352
- Midway Mfg. Co. v. Artic International, Inc.* (1983) p. 257
- Miller v. Central Chinchilla Group, Inc.* (1974) p. 398
- Minton v. Cavaney* (1961) p. 365
- Mitsubishi Motors Corporation v. Soler Chrysler-Plymouth, Inc.* (1985) p. 88
- Moose Lodge No. 107 v. Irvis* (1972) p. 61
- National Labor Relations Board v. Pizza Crust of Pennsylvania, Inc.* (1988) p. 576
- NCAA v. Bd. of Regents of Univ. of Oklahoma* (1984) p. 459
- Nix v. Whiteside* (1986) p. 121
- NLRB v. Exchange Parts Co.* (1964) p. 577
- NLRB v. General Electric Co.* (1970) p. 584
- NLRB v. Mackay Radio & Telegraph Co.* (1938) p. 598
- NLRB v. Retail Store Employee Union, Local 1001* (1980) p. 608
- NLRB v. Schwab Foods, Inc.* (1988) p. 601
- Northeast Women's Center, Inc. v. McMonagle* (1989) p. 502
- Oclander v. First National Bank of Louisville* (1985) p. 553
- Orlando and Berk v. Laird* (1971) p. 218
- Palsgraf v. Long Island R. Co.* (1929) p. 336
- Parker v. Twentieth Century-Fox Film Corp.* (1970) p. 307
- Pattern Makers' League of North America v. NLRB* (1985) p. 594
- Pinner v. Schmidt* (1986) p. 555
- Potomac Electric Power Co. v. Westinghouse Electric Corp.* (1974) p. 315
- Powell v. National Football League* (1988) p. 435
- Price Waterhouse v. Hopkins* (1989) p. 622
- Randall's International, Inc. v. The Hearing Board of the Iowa Beer and Liquor Control Department* (1988) p. 65
- Redman Homes, Inc. v. Employment Division* (1989) p. 12
- Regina v. Dudley & Stephens* (1884) p. 18
- Revco D. S., Inc. (D.C.) v. NLRB* (1987) p. 593
- Riggs v. Palmer* (1889) p. 180
- Rodrigue v. Copeland* (1985) p. 264
- Rose v. Melody Lane of Wilshire* (1952) p. 339
- Rozeboom v. Northwestern Bell Telephone Company* (1984) p. 310
- Schmuck v. United States* (1989) p. 493
- Sease v. Taylor's Pets, Inc.* (1985) p. 536
- Shearson/American Express, Inc. v. McMahon* (1987) p. 159
- Shlensky v. Wrigley et al.* (1968) p. 370
- Sigrol Realty Corp. v. Valcich* (1961) p. 254
- Silkwood v. Kerr-McGee Corporation* (1985) p. 57
- Southern Motor Carriers Rate Conference, Inc. v. United States* (1985) p. 438
- Southwest Forest Industries, Inc. v. NLRB* (1988) p. 583
- Standard Oil Company of Texas v. United States* (1962) p. 506
- State Farm Mutual Automobile Insurance Company v. Department of Transportation* (1982) p. 241
- State by Humphrey v. Ri-Mel, Inc.* (1987), p. 66
- State of Israel v. Adolph Eichmann* (1961) p. 175
- State of New Jersey v. Shack and Tejeras* (1971) p. 260
- Sure-Tan, Inc. v. NLRB* (1984) p. 579
- Sztejn v. J. Henry Schroder Banking Corporation* (1941) p. 82
- Teamsters v. United States* (1977) p. 629
- Tennant Company v. Advance Machine Company* (1984) p. 31
- Toole v. Richardson-Merrell, Inc.* (1967) p. 37
- Trans World Airlines v. Hardison* (1977) p. 632
- TVA v. Hill* (1978) p. 182
- Ulane v. Eastern Airlines, Inc.* (1984) p. 619

*Union Electric Co. v. Environmental Protection
Agency* (1976) p. 664

*United Automobile, Aerospace and Agricultural Implement
Workers of America v. NLRB* (1987) p. 586

United States v. American Future Systems, Inc. (1984)
p. 557

United States v. Park (1974) p. 504

United States v. Socony-Vacuum Oil Co. (1940) p. 462

United States v. Young (1985) p. 123

United Steelworkers of America v. Weber (1979) p. 204

Village of Belle Terre v. Boraas (1974) p. 275

Vokes v. Arthur Murray, Inc. (1968) p. 301

Wagenseller v. Scottsdale Memorial Hospital (1985) p. 350

Wards Cove Packing Company, Inc. v. Atonio (1989)
p. 626

Wexler v. Greenberg (1960) p. 16

William C. Haas & Co. v. San Francisco (1979) p. 274

Williams v. Weisser (1962) p. 250

Zajac v. Harris (1967) p. 387

Preface

The Legal Environment of Business, Third Edition, integrates the teaching of law into the business school curriculum. For too long business law and legal environment courses have been limited to summarizing an enormous number of legal rules without providing the connection between the principles underlying those rules and *business*. The structure of those courses and texts has been more suited to review for a bar exam than for preparing the student for a professional career in business. Yet the law plays a very important role in providing an understanding of the business system and decision making.

Thus, when a student successfully completes the legal environment of business course, the law should be viewed as far more than an unconnected series of rules. The law should, in fact, be seen as providing the foundation for the operation of the economy and an executive's activities as a part of this economy. *The Legal Environment of Business* provides the student with this perspective and understanding. It also provides the background for further courses in business law, either elective or required, that can focus more precisely on other substantive areas (for example, business organizations, contracts, or commercial law). However, without "the big picture" that is provided by this text, such courses can be no more than an unconnected rehash of law school and not appropriate for future business executives, who will be hiring lawyers and who have very special legal educational needs.

Legal studies should be an exciting and dynamic experience, and we believe that this book preserves the excitement and tension that accompany great legal issues. Because tomorrow's business executives undoubtedly will be affected by such issues, today's business students should understand the scope and complexity of legal issues. To that end we have written the third edition of *The Legal Environment of Business*.

CHAPTER HIGHLIGHTS

To provide the necessary overview of the place of law in the world of business, *The Legal Environment of Business* divides the law into six general parts. Part I serves as an introduction to the law and the legal system. The first chapter introduces students to the law. The second chapter deals with a topic closely related to the law—ethics. We placed ethics at the beginning of the text to give students some familiarity with ethics because many legal topics lend themselves to ethical, as well as legal, analysis.

Part II focuses on the foundation of legal systems: the United States Constitution and international law. By covering this material early in the text, students realize that all the laws in the United States must conform to the provisions of the United States Constitution. When business managers deal with companies located in other nations, they need to realize how dealing with foreign firms differs from dealing with domestic companies.

Part III then examines the American legal system. The future business manager needs to understand not only the rules that govern business, but how our system creates, modifies, and implements these rules. These chapters present the American legal system's structure and its actors—judges, lawyers, legislators and administrators—all of whom have as much to do with the law affecting business as do the legal rules presented in this text.

Part IV focuses on the legal foundations of American business and is designed to illustrate the fundamental nature of law to all other areas of study in the business school. Those areas presume a system of property where rights are established, protected, and owned; they presume a system of contract law under which private transfers of those rights occur; they presume a system of tort law whereby costs imposed (injuries in tort) on innocent parties by business will be born by that business. The chapters in this part do not dwell on every legal rule associated with those topics, although basic principles are discussed. Instead, the primary emphasis in Chapters 10-12 is on the development and purposes of the topics and the changes or trends that are occurring in them.

Part V focuses on the legal aspects of the firm and its regulation. This section has two purposes: first, to provide the student with an understanding of the various ways the law permits businesses to be organized and the legal implications of being a part of a certain legal organizational structure (Chapter 13); second, to provide the student with a study in how law acts to regulate organizational power in the capital markets (federal securities law, Chapter 14) and in the competitive environment (antitrust, Chapters 15-16). Additional materials highlight regulation through the criminal process (Chapter 17).

Part VI focuses on the law's regulation of certain types of business activity from liability for the products it sells (Chapter 18), to liability of business to consumers (Chapter 19), to its relationship with its employees (Chapters 20-22) to its effect on the natural environment (Chapter 23). These chapters are illustrative of the explosion of government controls of business that have arisen in the last twenty-five years.

FEATURES OF THE THIRD EDITION

In light of the increased emphasis in business schools and society in general on ethics and international law, we decided to place these topics earlier in the text than in previous editions. As students examine the material that follows later in the text, they will be able to explore the ethical ramifications of certain business decisions discussed in the text as well as any international concerns this material presents.

Due to a continuing increase in the number of suits filed in our legal system, litigants often find themselves unable to resolve their disputes in a fast, efficient manner. We greatly expanded our presentation of the many alternatives to filing suit presently available to aggrieved persons. This material appears in Chapter 6. In light of the great increase in the number of suits filed under the RICO Act, we increased our coverage of this material as well in Chapter 17.

At the same time, the government appears to be changing its position with respect to certain topics. Today, for example, the government places far less emphasis on antitrust law than in the past. For this reason, we substantially reduced our coverage of this material.

Every chapter includes end-of-chapter *review* questions. An instructor may use these questions to review many of the major points covered in each chapter. Using these questions is an excellent way to illustrate each chapter's significant material.

A great deal of time was spent selecting case material for this text. We have chosen what we consider to be the most interesting, readable, and pertinent cases—both classic and more recent—to illustrate the various points of law. They have been edited to a manageable length, but in such a way that the language, context, tone, and meaning of the original case is retained. To enhance readability, cases are clearly distinguished from text material and introduced by the facts of the case in a section separate from a judge's opinion.

A list of cases and an extensive glossary of key legal terms are included. In addition, the appendixes afford the student easy access to the following important information: the Constitution; Warranty Provisions of the Uniform Commercial Code and Unconscionability; Restatement of Torts, Second; National Labor Relations Act; the Sherman Act; and the Clayton Act.

We have prepared an Instructor's Manual. Persons with a limited background in certain areas of the law will find this material enables them to cover every point dealt with in this textbook. The Test Bank was prepared by John McGee of South West Texas State University, San Marcos, Texas and John Gergacz. For the student, a Study Guide has been prepared by Susan E. Grady, University of Massachusetts, Amherst.

In addition to the widely praised supplementary material that accompanies this text, adopters should also consider using the readings book *Readings in Business Law and the Legal Environment of Business*, edited by Douglas Whitman and published by McGraw-Hill in 1991. Leading business law professors throughout America contributed chapters that were written expressly for this book. Professor Whitman selected each contributor on the basis of his or her extensive writings on the law.

Professor Whitman keyed the chapters in the *Readings* book around the most commonly covered material in the typical legal environment text. The large number of excellent chapters enables adopters to pick and choose the topics they wish to emphasize in class.

Each chapter in *Readings* gives the reader some background information about the area of law discussed in that chapter. This material is followed by a discussion of an important case. Thereafter, each article deals with the managerial implications of the law, reinforcing the importance of the relationship between the law and a student's future business career. Helpful case questions and answers as well as relevant references have also been provided by each author.

Readings in Business Law and the Legal Environment of Business can be used in the introductory business law course as a supplement to this or any other business law text.

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Finally, we would like to thank our colleagues at McGraw-Hill for assisting us in the preparation of the third edition.

Douglas Whitman
John William Gergacz

Contents in Brief

List of Legal Cases xix

Preface xxiii

PART ONE:

Introduction to Law and Business

Chapter 1. Introduction to the Law and the Legal Environment of Business 3

Chapter 2. Ethics: Its Relationship with the Legal Environment and Corporate Decision Making 21

PART TWO:

The Foundations of Legal Systems and Business

Chapter 3. The American Legal System: The Constitution and Business 45

Chapter 4. The International Legal Environment of Business 78

PART THREE:

Focus: The American Legal System

Chapter 5. Introduction to Courts 103

Chapter 6. Civil Litigation and Alternative Dispute Resolution 129

Chapter 7. Judicial Reasoning and Decision Making 171

Chapter 8. The Legislature, Legislation, and the Executive Branch 193

Chapter 9. The Administrative Agency 221

PART FOUR:

The Common Law Foundations of Capitalism

Chapter 10. Property Rights and Land Use Regulation 247

Chapter 11. Legal Basis of Enforceable Bargains: Contracts 282

Chapter 12. Assessing External Costs of Doing Business: Tort Liability 327

PART FIVE:

Legal Aspects of the Firm and the Regulation of Its Power

Chapter 13. Corporations, Agency, and Other Forms of Business Organization 359

Chapter 14. Federal Securities Regulation	395
Chapter 15. Introduction to Antitrust	422
Chapter 16. Antitrust Law	447
Chapter 17. White-Collar and Business Crime: Regulation of Business through the Criminal Process	482

PART SIX:

Regulation of Business Activity

Chapter 18. Products Liability	513
Chapter 19. Consumer Law	545
Chapter 20. Labor-Management Relations: The Regulation of Manage- ment	567
Chapter 21. Labor-Management Relations: The Regulation of Union Activity	590
Chapter 22. Employment Discrimination	615
Chapter 23. Environmental Law	648

APPENDIXES

Appendix A. The Constitution of the United States of America	671
Appendix B. Warranty Provisions of the Uniform Commercial Code and Unconscionability	682
Appendix C. Restatement of Torts, Second (excerpts)	684
Appendix D. National Labor Relations Act (excerpts)	685
Appendix E. The Sherman Act (excerpts)	691
Appendix F. Clayton Act (excerpts)	692

Glossary 695

Index 703

Contents

List of Legal Cases xix

Preface xxiii

Part One: INTRODUCTION TO LAW AND BUSINESS

Chapter 1. Introduction to the Law and the Legal Environment of Business 3

Law in Business and Society 4

Limits of Law 4

How Law Affects Business 6

Recurring Themes in the Study of the American Legal Environment of Business 7

Historical and Social Movements and the Development of Law: From Slavery to Employment Discrimination 8

The Law and Its Efforts to Control Concentrations of Power: Drug Testing in the Workplace 10

The Law as a Means of Adjusting Claims of Rights 13

Sources of Rights 13 / *Limitations on Rights* 15

Summary 19

Review Questions 19

Notes 20

Chapter 2. Ethics: Its Relationship with the Legal Environment and Corporate Decision Making 21

What Is Corporate Social Responsibility? 23

Definitions of the Term 23 / *Should a Simple Definition of the Term Be Sought?* 25

Why Should a Corporation Seek to Act Ethically? 27

Ethical Expectations for the Modern Corporation 27 / *The Role of Ethics in the Legal Environment* 28

An Analytical Framework for Corporate Social Responsibility 32

Emphasis on Obeying Rules 32

Emphasis on a Thinking Process 33 / *Reflection* 33 /

Effect on Surrounding Environment: Identifying Areas of Responsibility 34

Summary 40

Review Questions 40

Notes 42

Part Two: THE FOUNDATION OF LEGAL SYSTEMS AND BUSINESS

Chapter 3. The American Legal System: The Constitution and Business 45

- Constitutional Law and Business Behavior 46
- The United States Constitution 47
- Judicial Review 48
 - Punitive Damage Awards* 49
- Structure and Organization of the Government 51
 - Separation of Powers* 51
- Federal Power to Regulate Business 52
 - Foreign Commerce* 52 / *Commerce among the States* 52
- State Power to Regulate Business 56
- Limitations on Governmental Power 60
 - State Action Requirement* 60 / *Due Process Clause* 63 /
 - Equal Protection Clause* / 66
- The First Amendment and Business 69
 - What Is "Freedom of Speech"?* 69 / *Business and Free Speech* 71 / *Commercial Speech and the Right to Receive Information* 72 / *Commercial Speech by Professionals* 74
- Summary 75
- Review Questions 75

Chapter 4. The International Legal Environment of Business 78

- International Law and Business Behavior 79
- Problems Associated with Selling Goods in an International Environment 80
 - Documentary Credits* 80 / *General Agreement on Tariffs and Trade (GATT)* 83 / *Dumping* 84 /
 - Countervailing Duties* 84 / *Escape Clause* 86 / *Tariffs* 84 / *Nontariff Trade Barriers* 86
- Activities by American Companies Overseas 87
 - Contractual Problems* 86 / *Antiboycott Laws* 87 /
 - Arbitration* 87 / *Joint Ventures* 90
- Legal Disputes with Foreign States 90
 - Sovereign Immunity Doctrine* 90 / *Act of State Doctrine* 92 / *Expropriation* 94 / *Settlement of Disputes* 94
- Developing a Sales Organization Abroad 94
 - Foreign Agents and Distributors* 94 / *Sale of Data, Patents, and Know-How Abroad—Licensing* 95
- Extraterritorial Application of U.S. Laws 96
 - Antitrust* 96 / *Foreign Corrupt Practices Act* 96
- Summary 98
- Review Questions 98

Part Three: FOCUS: THE AMERICAN LEGAL SYSTEM

Chapter 5. Introduction to Courts 103

Structure of the Court System 104

The Federal and State Systems 104 / Trial and Appellate Courts 107

Personnel in the Judicial System 109

The Judge 109 / Lawyers 119

Summary 126

Review Questions 127

Note 128

Chapter 6. Civil Litigation and Alternative Dispute Resolution 129

Civil Litigation 129

In General 129 / The Adversary System 130 / Alternatives to Trying a Case 130 / Jurisdiction and Venue 131 / Petition 137 / Summons 137 / Answer 137 / Motion to Dismiss 138 / Judgment on the Pleadings 140 / Motion for Summary Judgment 140 / Statute of Limitations 141 / Discovery 141

Trial Procedure 143

Pretrial Conference 143 / United States Constitution 143 / Types of Juries 144 / Selection of a Jury 145 / Opening Statement 150 / Motions 151 / Rules of Evidence 151 / Cross Examination 152 / Closing Arguments 152 / Instructions to the Jury 153 / Jury Deliberations 154 / The Verdict 154 / Post-Trial Motions 155

The Appeal 155

Alternative Dispute Resolution Procedures 156

Settlement 156 / Arbitration 156 / Court-Annexed Arbitration 161 / Mediation 161 / Minitrial 161 / Summary Jury Trial 161 / Settlement Conferences 162 / Expert Fact Finding 162 / Private Judging 162 / Private Panels 162 / Small Claims Court 162 / Advantages to Using Alternative Dispute Resolution Procedures 163 / Disadvantages to Using Alternative Dispute Resolution Procedures 164 / Enforcement 164

Summary 167

Review Questions 168

Chapter 7. Judicial Reasoning and Decision Making 171

The Judge as a Person: The Personality Factor 172

Factors in Judicial Decision Making 176

History and Custom 177 / Balance of Interests 178 / Doing "What Is Right" 179 / Deferring to Other Branches of Government 181 / Use of Social Science Data 183 / Precedent: The Doctrine of Stare Decisis 184

Summary 190

Review Questions 191

Note 192

Chapter 8. The Legislature, Legislation, and the Executive Branch 193

A Comparison of Lawmaking by the Courts and the Legislature 193

Context in Which the Lawmaking Occurs 193 /

Relationship to the Past of Any Newly Made Law 194

The Legislature and Lawmakers 196

Historical Development of Legislation 196 / *Functions of*

Legislators 196 / *The Legislative Process* 197

Statutory Construction 200

Statutory Construction in General 201 / *Sources of*

Statutory Ambiguity 202 / *Legislative History* 203 /

Construing the Meaning of the Words Themselves 205 /

The Spirit or Purpose of the Statute 208

The Executive Branch 211

Lawmaking Powers of the Executive 213 / *General Issues*

Involving the Executive Branch 217

Summary 219

Review Questions 219

Chapter 9. The Administrative Agency 221

Administrative Agencies and Administrative Law 222

Importance of Agencies 222 / *Agencies: Created by the*
Legislature 222

Functions of Administrative Agencies 226

Function of the Executive 226 / *Function of the Judiciary*

230 / Function of the Legislature 234

Summary 242

Review Questions 243

Note 244

Part Four: THE COMMON LAW FOUNDATIONS OF CAPITALISM

Chapter 10. Property Rights and Land Use Regulation 247

The Nature of Property 248

Property as a Relationship 248 / *Property and Government*
249

Where Does a Rule of Property Come From? 251

Classification of Types of Property 252 / *Real and Personal*

Property 253 / *Intangible Personal Property: Intellectual*

Property and Its Growing Importance to Business 256

The Use of Property: Scope and Regulation 258

Conflict between Property Rights and Individual Rights

258 / Conflicting Uses of Property 263

Government Regulation of Land Use: Eminent Domain and
Zoning 266