
SIXTH EDITION

Business Law

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PREFACE

The sixth edition of *Business Law* provides a working knowledge and understanding of legal principles that affect our daily lives as workers, consumers, and citizens. The text deals with important rules of conduct concerned with earning a living and acquiring goods and services. Underlying these two objectives are a wide variety of legal principles that must be observed and complied with by all producers or consumers.

The new edition of *Business Law* has been heavily revised, updated, and expanded. A new unit has been added, focusing closely on consumer protection and credit. There is also a new chapter on social insurance, and the information on the basic functions of our legal system has been considerably lengthened.

While many of the popular features of previous editions have been retained and improved, a significant number of new features have been incorporated. Each chapter now begins with “You Be The Judge,” two fact-situation case problems, which serve to stimulate interest and provoke discussion about the legal principles to be studied. After reading the chapter, students are asked to review the cases and to think about their earlier decisions in light of their new learning. Correct decisions are provided at the end of the chapter so that students can perform a self-check.

The textual instruction is reinforced by “Problems” and “Examples.” New legal principles are introduced by case problems that are then immediately solved and explained. The explanations are brief but concise, often accompanied by realistic examples that further clarify the points of law under discussion. The textual instruction is also supported by abundant photographs, line drawings, legal forms, and charts.

Each of the 46 chapters in the text contains one of three special boxed features: “Living Under the Law” includes topics of current consumer interest; “Careers in the Law” describes the duties of various careers in the legal field, as well as any personal or educational requirements; and “Law in the News” consists of actual newspaper clippings that deal with current legal concerns.

In addition to the review of “You Be The Judge,” each chapter concludes with four student assignments: “Understanding What You Have Read” reviews the substantive law presented in the textual instruction; “Building Your Legal Vocabulary” reinforces important legal terms in three different exercise formats—matching, multiple-choice, and sentence completion; “Applying Legal Principles” presents hypothetical case problems; and “Analyzing Court Cases” features three actual adjudicated cases from federal and state appellate courts.

A strong focus is placed on mastering basic legal terms and concepts. All the important legal terms given in the text are highlighted for ease of

recognition and carefully defined in simply stated language. In addition to the “Building Your Legal Vocabulary” activity at the end of each chapter, there is an extensive Glossary of almost 700 legal terms at the end of the text.

The sixth edition of *Business Law* is complemented by three supplementary components. The *Student Workbook* contains four different worksheets for every chapter in the text: vocabulary activities (in the form of crossword puzzles), objective questions, short-answer case problems, and applications (such as analyzing newspaper articles and completing legal forms).

The *Teacher’s Manual and Key* includes a full methodology for teaching the program; complete lesson plans with objectives, teaching suggestions, and enrichment activities for each chapter; and an answer key.

Completely new to the program is the *Teacher’s Resource Book*, which features student handouts, additional activities, the testing program (comprising achievement tests for each unit and cumulative review case problems), 44 transparency masters, and a simulation of a trial.

The authors wish to thank all the people who have helped to produce this new edition. We are particularly grateful to Linn Van Meter-Drew, Stewart Cusimano, John True, and our team of consultants. We would also like to express our special appreciation to Neal Saunders, editorial director for business education at Glencoe, Mary Lorenz, and all the staff at Glencoe for their invaluable assistance.

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UNIT 1

LAW AND SOCIETY

CHAPTERS

- 1** Nature and Classification of Law
- 2** Court Systems and Procedures
- 3** Crimes and Criminal Procedures
- 4** Torts and Civil Procedures



LEARNING OBJECTIVES

After you have studied this unit, you should be able to:

- Show how a respect and understanding of the law contribute to smoother personal, family, and work relationships.
- Give reasons why law is essential in maintaining social control.
- List the main sources of law and describe its historical development and classification.
- Identify the proper court to hear and decide a given legal dispute.
- Point out the differences between torts and crimes and the legal consequences of common torts and crimes.

CHAPTER 1

Nature and Classification of Law

YOU BE THE JUDGE

Think about these cases.

If you were the judge, how would you decide each case?

1

Matagorda was being terrorized by the James Gang. A sheriff sent to clean up the town killed one gang member and arrested two others. At the trial, the defense lawyer asked for the release of the captured gang members. He claimed they hadn't known any laws other than their own rules were enforceable in the area. Was his claim correct?

2

A small town called Nogales sits on the border between the United States and Mexico. City police in Nogales arrested a gang of Mexican youths for disturbing the peace, a violation of a United States law. The youths claimed that they should be set free because they had not violated Mexican law. Do you agree?

WHAT IS LAW?

Human beings do not exist independently of other humans. We are drawn by nature toward living in communities, or societies. Those communities thrive only when the people in them are able to get along with one another. If each person in a community had a unique set of rules to live by, conflicts between individuals or between groups of people would continually arise.

Sets of rules have gradually been established to insure peaceful relationships between groups of people. These rules are known as *laws*. **Law** can be defined as the body of principles that governs our conduct with other individuals and with the government.

A **government** is a collection of people or an organization that has been created to serve the government's citizens. That organization is empowered to make and enforce the laws that allow people to coexist peacefully. Because there are many people in any given government, that government is a stronger source of law enforcement than is any individual. Indeed, without government, law enforcement is impossible. Similarly, without law enforcement, laws are rendered useless.

WHY WE HAVE LAWS

The laws that govern our relationships are not intended merely to control the way we, as individuals, behave. They are also intended to control the way we are treated by other individuals, by government, and by businesses. Laws are useful because they guarantee us the freedom to pursue our constitutional rights. They also specify that we must allow the same opportunity to others, both singly and collectively. This means that while we have certain rights and privileges, we also have a responsibility to others not to violate their rights. These rights and protections extend to individuals as well as to society, and they apply to both personal and public property. They are also used to promote social programs that benefit society as a whole.

It's important to know that ignorance of the law is not a legitimate excuse for violating it. Citizens are presumed to be responsible for the law they live under. Using the defense "I didn't know it was illegal" is not acceptable.

HISTORICAL DEVELOPMENT OF OUR LAWS

To help understand how we arrived at the set of laws we use today, let's take a look at the laws used in some earlier societies. The rules established by those societies are important sources of our current law.

The legal systems of the Hebrews, Greeks, and Romans used written laws. The foundation of Hebrew law was the Ten Commandments. The Greek legal system was based on the principles of democracy. Although the Greeks had no trained judges or lawyers, trials were conducted by juries

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chosen by the people. The Romans, however, placed greater emphasis on formal law. The Romans developed a system of written law in the form of codes that are still in use today.

Common Law

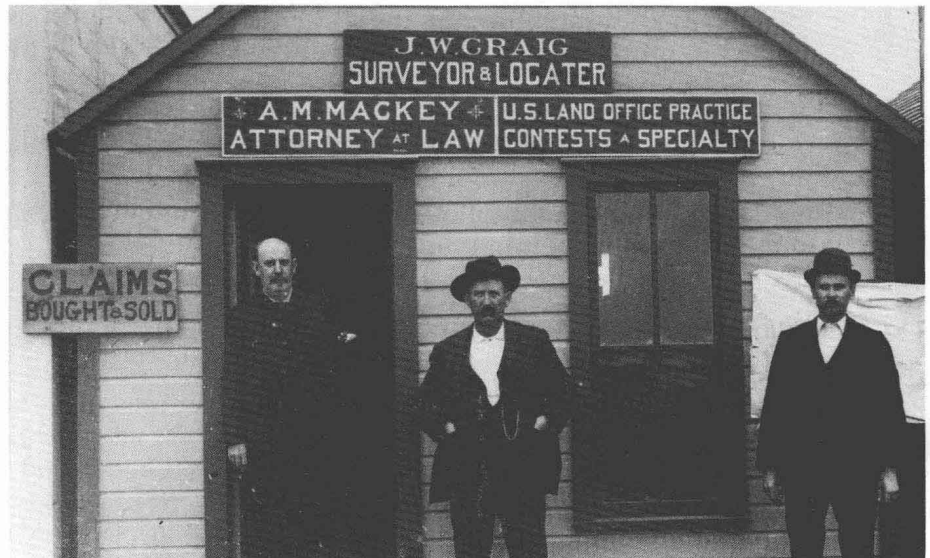
People who moved from one part of Europe to another carried with them the systems of law established in their former communities. When new settlements formed, the groups merged their legal systems and began to practice a composite of those systems. The body of legal rules developed in England is known as the **common law**.

Common law is based on accepted customs and traditions of the English people. An outstanding characteristic of common law is the practice of deciding cases by following **precedent** (a previous decision). This is done by preserving the legal principles developed by early English courts and applying those same principles when disputes of a similar nature arise.

A particular kind of common law, known as the **law merchant**, was established among traders and merchants during the Middle Ages. The English adopted the law merchant as the part of their common law that governs business transactions.

It was natural for England's American colonies to adopt the laws to which the colonists had been accustomed in England. Even after gaining independence from England, early American settlers continued to use the common law to govern themselves. With one exception, all of our states today make common law the basis of their laws. Louisiana, formerly part of the French empire, bases its laws on the Code Napoléon. This is a codification of French laws completed during the rule of Napoleon Bonaparte.

When law was first introduced to the United States, it was based on English common law.





LIVING UNDER THE LAW

Differences Between Civil Law and Common Law

Law is often classified by source as *civil law*, from the Roman civil law, and as *common law*, which is based on the English common law. It is significant that Roman civil law is the basis of law in all western European countries *except* Great Britain. The British may have developed their own legal system based on the feudal law of medieval England because of their isolation from the continent. While civil law countries codified their laws, English and American common law follows precedents that stem almost entirely from the decisions of judges in actual trials.

Besides this fundamental difference between the two legal systems, there are several important substantive and procedural differences. For example, while the common law makes a sharp distinction between real and personal property, the civil law regards property as either personal or real, without distinction. Also, for a contract to be valid, the common law requires that promises be supported by a valuable consideration. Under the civil law, however, there is no need for consid-

eration to make a contract enforceable. More important, while the Bill of Rights in our Constitution is recognized as a guarantee of an individual's fundamental rights, such rights don't exist under civil law.

The jury system is required under the United States Constitution for both civil and criminal cases. After the French Revolution, most European countries adopted a modified jury system, but only for criminal cases. Under the European system, a majority vote is sufficient for conviction or acquittal. Judges vote with the jury. If a victim demands money compensation from a convicted criminal, a judge alone may decide on the amount of compensation.

It's difficult to say which of the two legal systems is superior. Both are outstanding examples of a great achievement in the development of human beings. It is quite possible that some day, in a united world, a general law might evolve that would incorporate the best features of both systems.

Equity Law

At common law, the only compensation or relief (known as a **remedy**) available to injured parties was the payment of money. In some cases, however, an injured party could be fairly compensated only by means of some nonmonetary relief. Because of cases such as these, **courts of equity**

arose. Judges in these courts made their decisions solely on the basis of what was fair and just in the particular cases before them. Those decisions became precedents, and the collection of precedents from courts of equity constitutes today's **equity law**.

One important principle of equity law is known as **specific performance**. This principle requires that an agreement be carried out under its original terms if there is no other way to compensate the victim fairly.



Mueller signed a contract to sell a Van Gogh painting to Sorenson. After accepting Sorenson's check, Mueller changed his mind and returned the money. Sorenson sued to force Mueller to sell her the painting. The return of her money couldn't compensate her for the loss of ownership of the painting. The court granted Sorenson the specific performance she had requested.

UNITED STATES LAW TODAY

When our nation's founders wrote the Declaration of Independence, they established a system based on the rights of human beings rather than on the rights of British subjects. This concept—that the rights of the individual exist without regard to will or authority of any kind—was a new concept in building a foundation for government. Since the establishment of our country, its citizens have continued to try to define the “rights of human beings.”



In the 1950s and 1960s, a civil rights movement took place in this country. This movement resulted in the Civil Rights Act of 1964, which prohibits discrimination against people because of their race, color, religion, or national origin. Since its enactment, the Civil Rights Act has changed the level of opportunity for many people.

The concept of human rights has changed considerably since the Declaration of Independence and the establishment of the Constitution. Law is an expression of constantly changing social forces. As such, it is a living, fluid entity that is influenced by the world in which it functions. It has been argued that the greatest single feature of the United States Constitution is that it includes a provision for change based on the pressures of events. The Constitution can be amended to respond to changes in politics, technology, moral standards, international relations,

economics, and other circumstances. The only underlying requirement for constitutional change is that any changes made must maintain the dignity and freedom of human life.

CLASSIFICATION OF TODAY'S LAW

Let's look at some of the ways in which our laws are classified. The most basic classification is by source (origin).

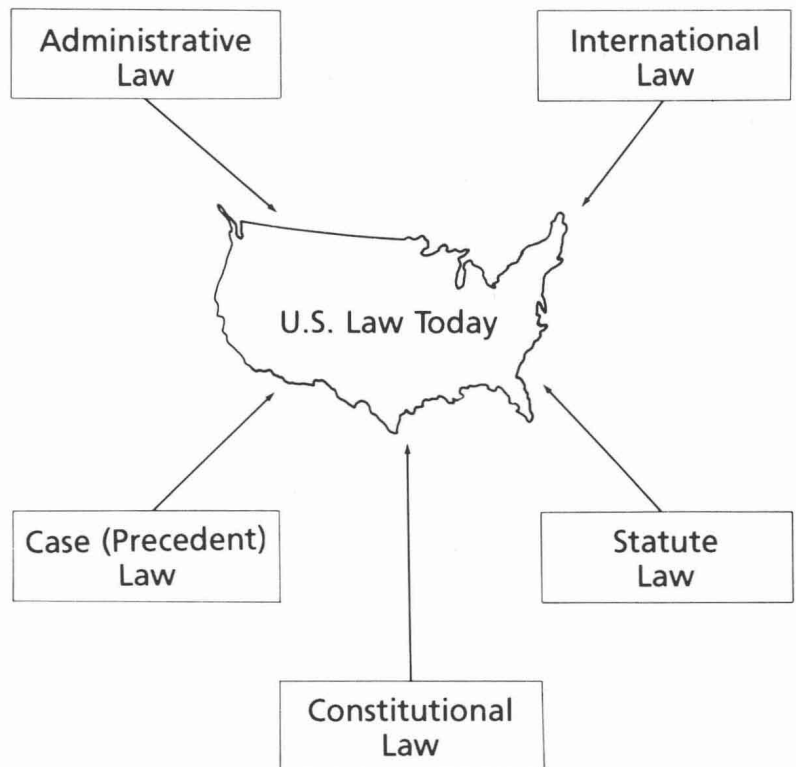
Classification by Source

Figure 1.1 illustrates the five primary sources of today's laws: constitutional law, statute law, case law, administrative law, and international law.

Constitutional Law

The United States Constitution defines the powers and limitations of the federal government by means of **constitutional law**. This is the basic law of the land. States also have constitutions that define the powers and limitations of state government. No state constitution, however, may conflict with

Figure 1.1
Sources of Today's Law



the federal constitution or with any proper federal law. The federal constitution and all state constitutions must respect the rights of all persons.

Powers not specifically granted to the federal government belong to the states. The states, on the one hand, have exclusive power to regulate **intrastate commerce** (commerce within their borders) or to punish crimes committed within their borders. The federal government, on the other hand, has exclusive power to regulate **interstate commerce** (commerce between states), to control foreign affairs, and to coin money.



Ng is arrested in Nevada for leaving the state of California while on bail for a statutory crime. Because Ng crossed state boundaries, his trial for the offense of leaving the state while on bail would be held in a federal court. F7S

Statute Law

Statute law refers to laws passed by legislative bodies to keep pace with economic and social changes. These laws work within the framework of federal and state constitutions. They may be enacted by the United States Congress, by state legislatures, by local bodies such as city or town councils, or by county boards of supervisors.



The city of Santa Fe, New Mexico, has a statute requiring all pets to be restrained. Cats are exempt from this regulation because of the nature of their behavior.

One important feature of statute law is that any time a particular common law conflicts with an established statute law, the statute law always supersedes, or replaces, the common law.

Statute laws passed by local bodies are known as **ordinances**, or local laws. Ordinances are enforceable if they are not in violation of federal or state constitutions.

Because of major differences among the laws of the various states, especially laws concerning business transactions, most states have adopted **uniform laws**. These laws are uniform, or the same, from state to state. They aim to define the rights and duties of business people who deal across state lines. At present, almost all of the states have adopted the **Uniform Commercial Code (UCC)**. The UCC replaces some of the more important uniform statutes governing business transactions.