**PART ONE**

**THE LEGAL SYSTEM AND THE**

**LEGAL ENVIRONMENT OF BUSINESS**

**Teaching Suggestions**

1. Have the students visit an actual civil courtroom trial. Talk to the lawyers for the plaintiff and the defendant and to the judge, if possible, about the courtroom procedures.

2. Put on a mock trial. Appoint a judge, plaintiff, defendant, attorneys for the plaintiff and the defendant, bailiff, clerk, and jury panel. Then go through a mock trial starting from the filing of the petition by the plaintiff.

3. Discuss what government regulations have affected the students in their school or employment experiences.

4. Have the students attend an administrative hearing. Then discuss, in class, what happened and why, and what effect the hearing will probably have on the party involved.

1. Visit a state or federal courthouse. Go through an actual courtroom to see how it is set up—where the judge, attorneys for the parties, jury and court employees sit during a trial.
2. Ask the students to interview local businesspeople about their experiences with torts or crimes against their businesses.

# **Group Projects**

1. Divide the class into groups and assign each group to research a federal or state agency. Have each group report to the class on what the agency does, how and why it was set up, and what businesses are affected by the agency.
2. Assign groups of students to research how a constitution, federal or a state was written. Ask them to find out how long it took, how many people were involved, and what the major arguments among different parties were in writing the constitution. Then have the groups present an example of a meeting of the group that fashioned the constitution.

**CHAPTER 1**

**INTRODUCTION TO LAW**

**Answers to Learning Objectives**

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1. Law is the system of rules of conduct issued by a sovereign state commanding what is right and prohibiting what is wrong.

2. We have laws to provide a stable framework to keep society operating as smoothly and justly as possible.

3. Four sources of law are judicial decisions, constitutions, statutes, and administrative agency orders.

4. Crimes are offenses against society as a whole. Ethics is the study of the morality of conduct, its motives and duties.

**Lesson Outline**

1. Law is a rule of civil conduct, commanding what is right and prohibiting what is wrong.

2. Business law is concerned primarily with those rules of conduct prescribed by government for the performance of business transactions.

3. a. The common law is that system of judge-made law which was developed in England and brought to this country.

b. Most of the common law was made statutory law by the colonies and later by the states.

4. Equity is a system of law developed through judicial decisions based upon what the courts considered right and just, not upon some statutory law. These decisions constitute equity law.

5. Law by judicial decision consists of the interpretation of constitutions and statutory laws which courts have rendered in specific cases. These decisions become precedents.

6. Our laws are derived from judicial decisions, constitutions, statutes, and administrative agency regulations.

7. Constitutional law defines the relationships of the parts of the government to each other and the relationship of the government to its citizens. The U.S. Constitution is the supreme law of the land and the U.S. Supreme Court is the final arbiter. The Commerce Clause is the basis for most laws regulation business. The Bill of Rights is an addition to the U.S. Constitution designed to protect individual liberty. States also have constitutions, and they must not contradict the U.S. Constitution.

8. Statutory laws are formal enactments of organized legislative bodies:

a. The Congress of the United States

b. State legislatures

c. City councils

9. Administrative law consists of the rulings of administrative agencies. These agencies are set up by our legislative bodies. Agencies issue orders and decrees that have the force of law.

10. Law is civil or criminal. Civil law deals with the enforcement or protection of private rights.

11. Criminal law is that branch of law that has to do with crimes and the punishment of wrong-doers. Crimes are classified as:

a. Felonies, or offenses of a serious nature

b. Misdemeanors, or offenses of less serious nature

c. Infractions (or violations), or minor offenses.

12. Tort law concerns private or civil wrongs or injuries, other than breaches of contracts.

13. Ethics is the study of the morality of conduct, its motives, and duties.

14. Ethical judgments are based on personal values developed from religious beliefs, experience, cultural background, and scientific knowledge.

15. Ethical principles apply to law when there are serious consequences. They reflect the view of the majority, impose a higher standard of behavior, and change over time.

16. Ethical standards help determine business practices. Some standards are legally enforceable and others are voluntary. It is good business to be ethical.

*Note:* Many variations occur from state to state in the laws on every subject. The text gives the general principles that are the same and reports on laws that most states have in common. In some cases it reports principles only a few states adhere to if they appear to be a trend.

**Comments on Cases**

(p. 3) This is a clear example of our current law being based on common law. The Florida statute stated, “The common law of England in relation to crimes, except so far as the same relates to the modes and degrees of punishment, shall be of full force in this state where there is no existing provision by statute on the subject.” *State v. Egan*, 287 So.2d 1 (Fla.)

(p. 5) The court noted that it would not overturn precedent decisions lightly, because the doctrine of *stare decisis* promotes the “predictable and consistent development of legal principles” and “fosters reliance on the judicial process.” *Michigan v. Bay Mills Indian Community*, 134 S.Ct. 2024 (U.S.)

(p. 6) This case did not involve a written rule of an agency, but a decision regarding the interpretation of the governing law. Whenever the action of an agency conflicts with its governing law, the law supersedes the agency action. *Auringer v. Department of Bldgs. of City of New York*, 805 N.Y.S.2d 344 (NY)

(p. 7) The sentence imposed for an offense is the key to determining whether it is a felony or a misdemeanor. Although petty theft may normally be a misdemeanor, in this case the sentence resulted in its classification as a felony. Since Terry then had three felony convictions he was subject to the three strikes law. *People v. Terry*, 54 Cal.Rptr.2d 769 (Cal.)

(p. 8) In deciding whether the reduced charge of a violation was criminal in nature, the court considered factors such as the potential penalty arising from a conviction, stigma attached to a conviction and the role of pretrial arrest and detention. *State v. Benoit*, 311 P.3d 874 (Or.)

## Answers to Questions

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1. Business law is that class of laws that are concerned primarily with rules of conduct prescribed by government for the performance of business transactions.

2. The normal penalty for a breach of a civil wrong is the payment of a sum of money called damages.

3. Courts of equity provided relief other than money damages, such as specific performance and preventative action to protect individuals from harm.

4. Our legal system is based heavily on the English legal system of common law and equity although other legal systems have influenced our laws.

5. Courts generally adhere to the judicial precedents set by earlier decisions for legal stability and so that we can know our rights before we undertake a transaction.

6. The Bill of Rights was enacted to protect the civil rights and liberties of the citizens and the states.

7. An action in civil law is concerned with private or purely personal rights, whereas a criminal law deals with offenses that injure society as a whole and the punishment of wrongdoers.

8. The section of the Constitution that is the basis for most laws governing business transactions is called the Commerce Clause. It gives the Congress the power to regulate commerce “among the several states.”

9. The sentence imposed determines whether an offense is a felony or a misdemeanor. In some states there are offenses less serious than misdemeanors and they are called violations or infractions.

10. Principles such as 1) the seriousness of consequences, 2) consensus of the majority, and 3) changes in ethical standards determine how ethics relate to our laws.