Test Bank for Canadian Business and the Law CDN 7th Duplessis

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TRUE/FALSE

1 : The rights and authority of municipal governments are protected by the Constitution Act.
A : true
B : false

Correct Answer : B

2 : The Constitution Act makes the provincial governments subordinate to the federal government in cases of overlapping jurisdiction.
A : true
B : false

Correct Answer : A

3 : Canada’s federal Parliament is composed of the House of Commons and the Senate.
A : true
B : false

Correct Answer : A

4 : Inferior courts are presided over by judges appointed by the provincial government.
A : true
B : false

Correct Answer : A

5 : The new Criminal Code of Newfoundland would be enforced by the courts because it would not be contrary to the Canadian Constitution to do so.
A : true
B : false

Correct Answer : B

6 : Public health and the environment are constitutionally undefined as areas of concurrent jurisdiction shared between the federal and provincial governments.
A : true
B : false

Correct Answer : B

7 : Section 1 of the Charter requires the government to justify why it is infringing a right, as well as to demonstrate that, in doing so, it is restricting the right in question in a reasonably measured, controlled, and appropriate way.
A : true
B : false

Correct Answer : A

8 : Section 33 of the Charter permits the governments to override some of our Charter rights, such as the freedom of expression.
A : true

Access Complete Test Bank for Canadian Business and the Law CDN 7th Duplessis

B : false

Correct Answer : A

9 : The judges in Canada’s higher courts are appointed, and those in the lower courts are elected.
A : true
B : false

Correct Answer : B

10 : There are no limits on the guarantees of rights and freedoms established by the Charter of Rights and Freedoms.
A : true
B : false

Correct Answer : B

11 : Federal and provincial legislatures are constitutionally provided with the authority to appoint judges within specified judicial jurisdictions.
A : true
B : false

Correct Answer : A

12 : The Charter is a powerful constitutional document because it provides protection from improper or oppressive government conduct.
A : true
B : false

Correct Answer : A

13 : A bill put before a legislative body represents a proposed piece of legislation that a political party wants to make into law.
A : true
B : false

Correct Answer : A

14 : The law of equity consists of rules that focus on what is fair.
A : true
B : false

Correct Answer : A

15 : The principle of precedent holds that all precedents are not of equal value, meaning the higher the level of court that created the precedent, the less weight it brings to bear on the common law system.
A : true
B : false

Correct Answer : B

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16 : According to the doctrine of precedent, the Supreme Court of Canada—the highest court in Canada—is entitled to decide a case in any way it sees fit.
A : true
B : false

Correct Answer : A

17 : Private law deals with the regulation of relationships between individuals and government.
A : true
B : false

Correct Answer : B

18 : One of the defining features of the law of equity is that “anything goes, as long as it’s fair.”
A : true
B : false

Correct Answer : B

19 : The Canadian Radio-television and Telecommunications Commission (CRTC) is an example of an administrative tribunal.
A : true
B : false

Correct Answer : A

20 : Eleven treaties between the federal government and Indigenous peoples have been enacted since Canadian Confederation in 1867.
A : true
B : false

Correct Answer : B

SHORT RESPONSE

21 : Briefly describe the benefits to be derived by businesses being aware of government policy and the status of regulations affecting their operations, as well as the consequences of being unaware of the same.

Correct Answer : Businesses need to actively monitor government policy and regulations that affect how businesses are permitted to operate because either may be changed periodically. Awareness allows business to comply with laws and to attempt to influence development of policies and regulations to favour and further business interests. Being unaware of changes would result in noncompliance with regulations, levy of fines, or even closure of a business. Lack of awareness of government policy may also result in a missed opportunity to lobby government to change law or to take advantage of favourable change in law.

22 : Briefly describe the role of administrative bodies in the Canadian legal system and provide examples of particular bodies that impact businesses and their functions.

Correct Answer : It is often difficult to summarize how businesses are subject to administrative

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regulation because the nature and function of these bodies often vary. In some instances, the body or individual carries out purely administrative functions, as when the Canada Employment Insurance Commission processes a claim for benefits; sometimes the body also has judicial functions, such as when the Labour Relations Board settles a dispute between an employer and employee; sometimes the body exercises legislative functions, as when the Canadian Radio-television and Telecommunications Commission (CRTC) passes regulations concerning the amount of Canadian content on radio and TV; and sometimes the body has some combination of these functions.Examples of particular bodies that might impact businesses include municipal licensing tribunals, which issue business permits; development zoning boards, which grant development permits; and labour relations boards, which regulate relationships between unionized workers and their employers.

23 : Briefly describe the circumstances under which the guarantee of Canadians' rights and freedoms provided under the Canadian Charter of Rights and Freedoms is permitted to be limited.

Correct Answer : Limitation of the guarantee of Canada's Charter rights and freedoms is allowed when the limitation is demonstrated to be justified under section 1 and by the use of the notwithstanding clause contained in section 33 of the Charter.

24 : Briefly describe the system of courts in Canada.

Correct Answer : Each provincial and territorial system of courts has three basic levels: trial, intermediate appeal, and final appeal. Trial courts are of two types: inferior and superior. An inferior court is presided over by a judge appointed by the provincial government. These courts are organized by type of case, such as criminal, family, and civil. The civil court, sometimes called small claims court, handles disputes involving smaller amounts of money. Superior courts, whose judges are appointed by the federal government, have the jurisdiction to handle claims involving an unlimited monetary amount. In addition, they are the entry level for the more serious criminal matters. Provincial courts of appeal hear appeals from these lower courts, and from there cases go to the Supreme Court of Canada. In most commercial cases, litigation tends to end in provincial courts of appeal because appeal to the Supreme Court of Canada is available only after permission or "leave" to appeal is granted by the Supreme Court itself. Ordinarily, the Supreme Court of Canada will hear only appeals that involve questions of national concern or significance.

25 : The application of precedent in a common law system is subject to a number of rules. Outline the rules judges must apply when considering how much weight to give a precedent case.

Correct Answer : The rules governing the application of precedent to a particular case include the following:• A lower court must follow a relevant precedent created by a higher court within the same jurisdiction.• Not all precedents are of equal value—the higher the court that created the precedent, the more valued the decision is.• The Supreme Court of Canada—the highest court in Canada—is entitled to decide a case in any way it sees fit.

26 : Briefly describe the origins of the common law system and the civil law system as they exist in Canada and the comparable and contrasting characteristics of each system of law.

Correct Answer : The Quebec civil law system originated from the French legal system and was brought to Quebec by the French when they colonized the region. The Canadian common law system is rooted in England's legal system, which was established in all provinces excluding Quebec by the British when they conquered and colonized the Canadian regions of North

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America.The key principle of common law is that laws are interpreted and applied in decisions of the court known as judgments. Judgments become precedents, which form the body of case law that must be referred to and applied by every judge hearing a similar matter when making a legal determination in a similar dispute involving the same laws.The key principle of the civil law system is that the Quebec legislature makes civil law, and those laws are codified or compiled in one source known as the Civil Code. The judges' task in the civil code system is to find the specific provision in the code that applies to the case at hand, and to apply it to resolve the dispute. Civil code judges do not refer to past decisions at all.Both systems are designed to deliver constant, consistent justice.

27 : Briefly describe the history of treaty rights of Indigenous peoples in Canada.

Correct Answer : Treaty rights derive from treaties dating back to the early 18th century as well as eleven numbered Treaties following Canadian Confederation in 1867. The Nisga'a Treaty which came into force in 2000 is described as British Columbia's first modern treaty. As of 2016, there were 26 modern day treaties, dealing with such matters as land title, self-government rights, fishing and trapping, financial compensation, and other social and economic benefits. Section 35 of the Canada Act, 1867 expressly protects the treaty rights of Indigenous peoples.

MULTIPLE CHOICE

28 : Why is it important for businesses to monitor government policy?
A : Rules and regulations are periodically revised.
B : It is the machinery that regulates government.
C : It provides rulings that resolve existing disputes.
D : It can be overwhelming and very technical.

Correct Answer : A

29 : Which statement best reflects the high value Canadians place on the political philosophy of liberalism?
A : Canada regulates privacy with laws restricting government access to persons and property.
B : Canadians have elected more majority Liberal governments than NDP or Conservative.
C : Public outcry forced the Green Party leader's acceptance in federal election debates.
D : Governments willingly and promptly comply with access to information requests.

Correct Answer : A

30 : Why is constitutional law described as the 'supreme law' of Canada?
A : It protects individual freedom.
B : It contains laws that impact all legal disputes.
C : It cannot be overridden by the executive or legislative branch.
D : It places limits on the exercise of power by the branches of government.

Correct Answer : D

31 : What is the legal status of the office of prime minister in Canada?
A : The office of prime minister is an example of a constitutional convention.
B : The office of prime minister does not really exist.
C : The office of prime minister is set out in the *Constitution Act, 1867*.

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D : The office of prime minister is set out in the *Canadian Charter of Rights and Freedoms.*

Correct Answer : A

32 : Which legislative body (or bodies) in Canada is (are) generally the most involved with creating laws that regulate business activity?
A : the judiciary
B : provincial legislatures and municipalities
C : the House of Commons and Senate
D : the Parliament of Canada

Correct Answer : B

33 : Which of the following is an example of a function typically performed by cabinet?
A : enacting regulations
B : providing independent overview of commercial disputes
C : approval of statutes
D : regulating property rights

Correct Answer : A

34 : Why are provincial governments unable to pass criminal laws?
A : Criminal laws are part of the Constitution and cannot be modified by the legislative branch.
B : The doctrine of paramountcy dictates that the federal government law making power overrides provincially enacted laws.
C : Criminal laws can only be enacted jointly by the federal and provincial legislative branches of government.
D : Criminal law falls under federal jurisdiction.

Correct Answer : D

35 : Which outcome is dictated by the doctrine of paramountcy in circumstances where conflicting federal and provincial laws cannot be reconciled?
A : The federal law prevails, except in Quebec.
B : The superior law prevails.
C : Concurrent provincial law prevails.
D : The provincial law prevails.

Correct Answer : B

36 : Which of the following is a key feature of the judicial branch of government?
A : The judiciary is to be independent from the legislative and executive branches of government.
B : The judiciary is composed of judges who are elected.
C : The judiciary has jurisdiction over criminal law, including the power to define new crimes.
D : The judiciary executes government policy and reforms statutory law.

Correct Answer : A

37 : Which of the following is a required element in the procedure for passing federal legislation through Parliament?
A : a majority vote by Commons committee and approval by Senate
B : a quorum vote in the House of Commons and by the Senate
C : a majority vote of the members in the House of Commons and in the Senate
D : an approval by the House of Commons and by the Senate committee

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Correct Answer : C

38 : Which of the following is a feature of the superior courts?
A : The judges are appointed by provincial governments.
B : Their processes are designed to be simpler, quicker, and less expensive, and parties often appear in this court without a lawyer.
C : They are available only after permission or “leave” to appeal is granted.
D : They have the jurisdiction to handle claims involving an unlimited monetary amount and are the entry level for the more serious criminal matters.

Correct Answer : D

39 : In which areas is the federal government given exclusive jurisdiction to make law by the Canadian Constitution?
A : currency, trade, national defence
B : administration of justice, trade, national defence
C : interprovincial trade and commerce, highway regulation, licensing
D : criminal law, administration of justice, hospitals

Correct Answer : A

40 : Vape Industries Inc. plans to take legal action if the government attempts to pass legislation restricting the advertising of water tobacco products. On what basis might Vape Industries Inc. take legal action should such legislation be enacted?
A : The legislation interferes with its equality rights contained in section 15 of the *Canadian Charter of Rights and Freedoms.*
B : The legislation interferes with the fundamental freedom of expression contained in section 2 (b) of the *Canadian Charter of Rights and Freedoms.*
C : The legislation is beyond the jurisdiction of the legislative branch of government.
D : The sale of water tobacco products is an area of private law not public law.

Correct Answer : B

41 : To which level of government would a business make an application for a property zoning variance, and why?
A : municipal government; direct constitutional jurisdiction
B : municipal government; concurrent constitutional jurisdiction
C : municipal government; provincial constitutional delegation of authority
D : federal government; exclusive jurisdiction to regulate zoning

Correct Answer : C

42 : What is a distinguishing characteristic of a treaty?
A : A treaty is the sole law governing relations between nations.
B : A treaty is a set of coded laws to regulate relations.
C : A treaty governs relationships between Canada’s provinces.
D : A treaty can exist between nations governed by international law.

Correct Answer : D

43 : Which level of government should Nantucket Sleigh Rides, Inc. lobby for regulated roadway access to sell horse-drawn sleigh rides to patrons of downtown business establishments from

Access Complete Test Bank for Canadian Business and the Law CDN 7th Duplessis

December through February?
A : provincial government
B : federal government
C : municipal government
D : federal and provincial governments

Correct Answer : C

44 : The government has failed to enact new legislation requiring appropriate warnings on water tobacco. Which statement best describes the legal obligation of the Canadian government to enact such legislation?
A : The government has a constitutional obligation to enact legislation to protect the health of Canadians.
B : A new law would help fulfill Canada's international treaty obligations.
C : A new law cannot be enacted because it would interfere with freedom of expression, which is protected under section 2 (b) of the *Canadian Charter of Rights and Freedoms*.
D : The government has no legal right to control how businesses choose to display a legal product, because such matters are private law, not public law.

Correct Answer : B

45 : The city of Riverside is considering enacting a bylaw to criminalize solicitation for the purposes of prostitution. What legal challenge might the city face if it proceeds with this course of action?
A : The law is unconstitutional as it interferes with the *Charter* right to freedom from arbitrary detention.
B : The law is invalid as it interferes with a provincial power.
C : The law is unconstitutional because it interferes with the federal government's exclusive jurisdiction over criminal law.
D : The law is unconstitutional as it violates the right to equality.

Correct Answer : C

46 : Which statement best describes the executive branch of government?
A : The executive branch of government consists of the prime minister and the premiers of the provinces and territories.
B : The executive branch of government provides rulings to resolve existing legal conflicts.
C : The executive branch of government passes laws that impact business operations.
D : The executive branch of government includes the formal executive and the political executive.

Correct Answer : D

47 : Which statement best describes the common law system of private law?
A : It is used in all provinces, including Quebec.
B : It includes constitutional and administrative law.
C : It is based on the interpretation and application of statutes which must be applied in all cases.
D : It bases its private law on judicial decisions that, if relevant and binding, must be applied to the case at issue.

Correct Answer : D

48 : What is the judicial branch of government in Canada composed of?
A : the system of various levels of courts in Canada
B : the judiciary and the system of various levels of courts
C : a judiciary appointed by the governor general
D : the judiciary and federal and provincial prosecutors

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Correct Answer : B

49 : How are the decisions of the Supreme Court of Canada best described?
A : as binding on all other courts in all Canadian jurisdictions
B : as limited to constitutional matters
C : as binding only on the government
D : as appeals from the Federal Court of Canada

Correct Answer : A

50 : In what way does a civil law system differ from a common law system?
A : In a civil law system, provinces have jurisdiction to appoint judges to superior courts.
B : Judges in a civil law system must apply a relevant provision of the *Civil Code*, even if doing so would produce an unjust outcome.
C : Judges in a civil law system are not bound by how other judges have interpreted the *Civil Code.*
D : In a civil law system, tort and contract laws are established by precedent.

Correct Answer : C

51 : What are the basic levels of courts that make up the Canadian court system?
A : trial, informal appeal, and final appeal courts
B : trial, intermediate appeal, and final court of appeal
C : informal trial, formal trial, and final appeal courts
D : pretrial, trial, and appeal courts

Correct Answer : B

52 : Which of the following functions is most likely to be carried out by an administrative body?
A : hearing licensing and zoning applications
B : collection of revenue for government operation
C : enforcement of traffic laws
D : reviewing applications for leave to appeal

Correct Answer : A

53 : What is a possible legal justification for upholding a provincial law that prohibits the display of tobacco products in retail outlets?
A : If the government can show that the law reduces the incidence of smoking, the law may constitute a reasonable limit on freedom of expression.
B : The provincial government has sole jurisdiction over business activity.
C : The provincial governments have delegated jurisdiction.
D : The new tobacco law is constitutional because it protects health, and health concerns always override business concerns.

Correct Answer : A

54 : Who determines whether legislation is permissible?
A : the Parliament of Canada
B : the judicial branch
C : the prime minister
D : the federal government

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Correct Answer : B

55 : A province wants to challenge an appeal court's decision regarding the prevention of continued ground water contamination now posing a significant health risk to people, wildlife, and plants living in the ecosystem to the Supreme Court. Which of the following would immediately signify the Supreme Court's agreement to hear the challenge, and why it would consider this appeal?
A : leave to appeal; significant or national concern
B : consent to appeal; provincial challenges
C : consent to appeal; jurisdiction
D : permission to appeal; national public concern

Correct Answer : A

56 : What is a distinguishing characteristic of the principle of precedent law?
A : It is based on a Civil Code.
B : It applies only in Quebec courts.
C : Individual freedoms are valued.
D : Like cases should be treated alike.

Correct Answer : D

57 : A recent decision of the Supreme Court of Canada established that the equality provision contained in section 15(1) of the Charter of Rights and Freedoms applies to unequal treatment on the basis of sexual orientation. Which statement best describes the effect the decision will have on provincial governments?
A : Provincial governments will not be bound because the *Charter of Rights and Freedoms* is only binding on the federal government.
B : The decision applies only to cases outside of the province of Quebec.
C : Provincial governments will be bound because the *Charter of Rights and Freedoms* is binding on all levels of government.
D : The decision will be binding on provincial governments because they are required to follow decisions of the Supreme Court of Canada under the division of powers.

Correct Answer : C

58 : Judges are bound to apply relevant legislation enacted by the three levels of government. Which of the following represents an exception to this rule?
A : laws that violate the Constitution do not have to be followed and may be declared of no legal effect
B : common law always prevails over statutory law
C : the Supreme Court of Canada may ignore legislation, even if it has been validly enacted
D : equity law always prevails over legislation

Correct Answer : A

59 : What classification of law would a provincial statute restricting the display of tobacco products in retail outlets fall under?
A : private law
B : public and domestic law
C : common law and private law
D : procedural law

Correct Answer : B

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60 : What attribute distinguishes substantive law from other forms of law?
A : It defines rights, duties, and liabilities.
B : It defines international legal status.
C : It defines the relationship between governments.
D : It defines procedures under the *Charter*.

Correct Answer : A

61 : What is the defining characteristic of procedural law?
A : It is a set of laws defining individual rights, duties, and liabilities.
B : It regulates the relationship between persons and governments.
C : It governs procedure for the enforcement of rights, duties, and liabilities.
D : It governs procedure for the enforcement of the *Civil Code*.

Correct Answer : C

62 : Which statement best describes the defining characteristics of public law?
A : It regulates relationships between governments and individuals.
B : It provides rules concerning rights and obligations of business.
C : It focuses on fairness according to strict rules of common law.
D : It contains the rules of law in the *Civil Code of Quebec*.

Correct Answer : A

63 : Quest Electrical Engineers Inc. contractually committed to provide specialized services to a construction project with specified deadlines for completion. Quest has to meet deadlines or face penalties. What type of law governs the relationship and conduct of the parties to this contract?
A : common law
B : corporate law
C : public law
D : private law

Correct Answer : D

64 : Which of the following is an example of the law of equity?
A : the “clean hands” principle
B : the “*decidendi”* principle
C : the “*stare decisis”* doctrine
D : the “judicial discretion” principle

Correct Answer : A

65 : A hospital board of directors granted absolute authority to physicians to arbitrarily withdraw life support from patients. The board’s authority to grant such power was quickly challenged and overturned in the courts. What type of law had to be applied to constrain the hospital board’s authority?
A : criminal law
B : constitutional law
C : administrative law
D : equity law

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Correct Answer : C

66 : Which of the following is an example of a federal administrative body that plays a role in regulating activity?
A : the Securities Commission
B : the Board of Health
C : the Canadian Radio-television and Telecommunications Commission (CRTC)
D : the Liquor Control Board

Correct Answer : C

67 : Which statement best describes the status of Aboriginal or Indigenous rights within Canada?
A : They were created by treaties entered into after Europeans settled across Canada.
B : They have survived British and French assertions of sovereignty and continue to exist in a free-standing way today.
C : European settlement terminated the pre-Confederation interests of Aboriginal peoples.
D : They were affirmed by the *Constitution Act, 1867*.

Correct Answer : B

68 : Which statement best characterizes Aboriginal rights where treaties have not been negotiated?
A : They were ceded upon Confederation.
B : They continue to exist.
C : They have been reinstated by the federal government.
D : They are limited to fishing and hunting rights.

Correct Answer : B

69 : Which statement best describes the effect of section 35 of the Constitution Act, 1982?
A : It confirms Indigenous peoples the right to self-government
B : It affirms existing aboriginal and treaty rights of the Indigenous peoples of Canada
C : It confirms the surrender and capitulation of Indigenous rights to sovereignty
D : It recognizes legislative powers of the federal government with respect to Indigenous peoples

Correct Answer : B

70 : Which statement best describes the Indian Act?
A : It empowers band councils to pass bylaws governing the reserve community in such areas as, for example, health, law and order, and the residence of band members.
B : It confirms the right to hunt and fish on lands subject to aboriginal title.
C : It has been struck down as unconstitutional.
D : It affirms existing treaty rights.

Correct Answer : A

71 : According to section 35 of the Constitution Act, 1867, which group is included in the term ‘Aboriginal peoples’?
A : Métis and Indian peoples
B : members of First Nations’ bands
C : the Indian, Inuit, and Métis
D : all individuals of Indigenous heritage

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Correct Answer : C

72 : Which of the following is NOT a source of law in Canada?
A : common law
B : public opinion
C : *Civil Code*
D : royal prerogative

Correct Answer : B

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