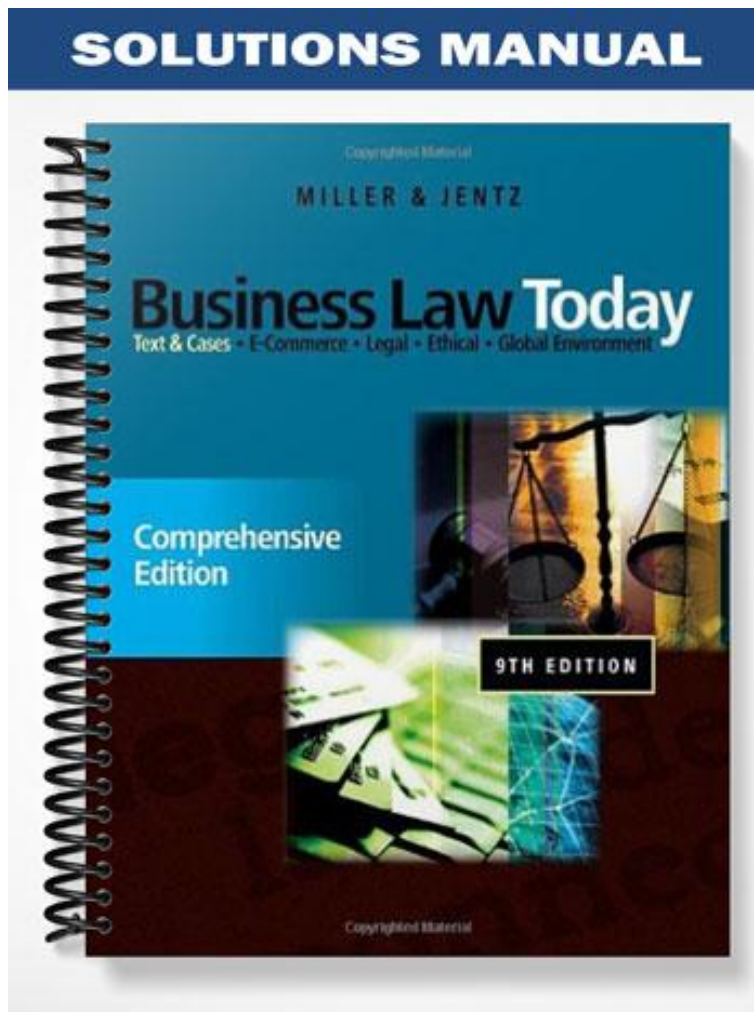


SOLUTIONS MANUAL



Chapter 2

Constitutional Law

+ See Separate Lecture Outline System

INTRODUCTION

retained

delegated

ADDITIONAL RESOURCES –

HHH

VIDEO SUPPLEMENTS

HHH

video supplements

PowerPoint Slides

Business Law Digital Video Library

Business Law Digital Video Library www.cengage.com/blaw/dvl

Drama of the Law

Free Speech: Constitutional Issues

Legal Conflicts in Business

Privacy in Information Sharing

Ask the Instructor

Constitutional Law: Monitoring Employees' E-mail and Internet Usage

CHAPTER OUTLINE

I. The Constitutional Powers of Government

A. A FEDERAL FORM OF GOVERNMENT

B. THE SEPARATION OF POWERS

and balances

checks

ANSWER TO LEARNING OBJECTIVE/FOR REVIEW QUESTION NO. 1

What is the basic structure of the U.S. government?



C. THE COMMERCE CLAUSE

1. The Commerce Clause and the Expansion of National Powers

ANSWER TO LEARNING OBJECTIVE/FOR REVIEW QUESTION NO. 2

(Note that your students can find the answers to the even-numbered For Review questions on this text's Web site at www.cengage.com/blaw/blt.

We repeat these answers here as a convenience to you.)

Which constitutional clause empowers the federal government to regulate commercial activities among the states?

2. The Commerce Power Today

3. The Regulatory Powers of the States

4. The "Dormant" Commerce Clause

CASE SYNOPSIS--

Case 2.1: Family Winemakers of California v. Jenkins

Notes and Questions

Doesn't this allow states to enforce discriminatory liquor regulations?

When it is difficult to predict how the law might be applied—as in cases arising under the dormant commerce clause—what is the best course of conduct for a business?

Suppose that the states had only required the out-of-state wineries to obtain a special license that was readily available. How might this have affected the outcome of the case?

How might the issues related to the purchase of out-of-state wines have

changed as a result of consumers' increased use of the Internet?

The court held that the Massachusetts statute discriminated against out-of-state wineries "by design" (intentionally). How can a court determine legislative intent?

ANSWER TO CRITICAL ANALYSIS QUESTION IN CASE 2.1

Suppose that most "small" wineries, as defined by the 2006 Massachusetts law, existed out of state. How could the law be discriminatory in that situation?

D. THE SUPREMACY CLAUSE

ANSWER TO LEARNING OBJECTIVE/FOR REVIEW QUESTION NO. 3

Which constitutional clause gives laws enacted by the federal government priority over conflicting state laws?

II. Business and the Bill of Rights

ANSWER TO LEARNING OBJECTIVE/FOR REVIEW QUESTION NO. 4

(Note that your students can find the answers to the even-numbered For Review questions on this text's Web site at www.cengage.com/blaw/blt. We repeat these answers here as a convenience to you.)

We repeat these answers here as a convenience to you.)

What is the Bill of Rights? What freedoms does the First Amendment guarantee?

A. LIMITS ON BOTH FEDERAL AND STATE GOVERNMENTAL ACTIONS

ANSWER TO CRITICAL ANALYSIS QUESTION IN THE FEATURE—
BEYOND OUR BORDERS

Should U.S. courts, and particularly the United States Supreme Court look to the other nations' laws for guidance when deciding important issues— including those involving rights granted by the Constitution? If so, what impact might this have on their decisions? Explain.

B. THE FIRST AMENDMENT—FREEDOM OF SPEECH

symbolic speech

1. Reasonable Restrictions

2. Corporate Political Speech

3. Commercial Speech

CASE SYNOPSIS-

Case 2.2: Bad Frog Brewery, Inc. v. New York State Liquor Authority

Notes and Questions

Whose interests are advanced by banning certain ads?
Bad Frog

ANSWER TO "WHAT IF THE FACTS WERE DIFFERENT?" IN CASE 2.2

If Bad Frog had sought to use the label to market toys instead of beer, would the court's ruling likely have been the same?

ADDITIONAL CASES ADDRESSING THIS ISSUE—

constitutionality of government restrictions on
advertising under the commerce clause

Western States Medical Center
County,

This That and Other Gift and Tobacco, Inc. v. Cobb

Thompson v.

Board of Realtors, Inc. v. Inc. Village of Massapequa Park,
Borgner v. Brooks,

Long Island

Genesis Outdoor, Inc. v. Village of Cuyahoga Heights

Collins Entertainment Co.,

Johnson v.

4. Unprotected Speech

5. Online Obscenity

ANSWER TO CRITICAL ANALYSIS QUESTION IN THE FEATURE—
ADAPTING THE LAW TO THE ONLINE ENVIRONMENT

Why should it be illegal to “pander” virtual child pornography when it is not illegal to possess it?

C. FREEDOM OF RELIGION

1. The Establishment Clause

CASE SYNOPSIS—

Case 2.3: In re Episcopal Church Cases

Notes and Questions

Should a secular court ever accept and apply ecclesiastical rules, customs, or laws?

Episcopal

What are the advantages of the "neutral principles of law" approach applied in this case?

ANSWER TO CRITICAL ANALYSIS QUESTION IN CASE 2.3

Should the court have considered whether the Episcopal Church abandoned or departed from the tenets of faith and practice that it held at the time of St. James's affiliation? Why or why not?

2. The Free Exercise Clause

III. Due Process and Equal Protection

A. DUE PROCESS

ANSWER TO LEARNING OBJECTIVE/FOR REVIEW QUESTION NO. 5

Where in the Constitution can the due process clause be found?

1. Procedural Due Process

2. Substantive Due Process

B. EQUAL PROTECTION

1. Strict Scrutiny

2. Intermediate Scrutiny

3. The "Rational Basis" Test

IV. Privacy Rights

A. CONSTITUTIONAL PROTECTION OF PRIVACY RIGHTS

B. FEDERAL STATUTES PROTECTING PRIVACY RIGHTS

ADDITIONAL BACKGROUND—

USA PATRIOT Act Tech Provisions

USA PATRIOT Act

Wiretap Offenses

Voice Mail

ESP Records

Pen Registers, and Trap and Trace Devices

Computer Trespassers

ESP Compensation

ENHANCING YOUR LECTURE—

KK }

CREATING A WEB SITE PRIVACY POLICY

|| KK

PRIVACY POLICY GUIDELINES

DRAFTING A PRIVACY POLICY

CHECKLIST FOR A WEB SITE PRIVACY POLICY

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

TEACHING SUGGESTIONS

- 1.
- 2.

retained granted

3.

Stare decisis

Cyberlaw Link

Why is it then sometimes considered legal for the government to open e-mail between consenting adults?

DISCUSSION QUESTIONS

1. What is the basic structure of the American national government?
2. What is the national government's relation to the states?
3. What is the doctrine of separation of powers and what is its purpose?
4. What is the conflict between the states' police power and the commerce clause?
police power
5. What is preemption?

6. What is the distinction between the degrees of regulation that may be imposed on commercial and noncommercial speech?

7. Should the First Amendment protect all speech?

8. What does it mean that under the establishment clause the government cannot establish any religion or prohibit the free exercise of religious practices?

9. Would a state law imposing a fifteen-year term of imprisonment without allowing a trial on all businesspersons who appear in their own television commercials be a violation of substantive due process? Would it violate procedural due process?

10. What are the tests used to determine whether a law comports with the equal protection clause?

fundamental right

compelling
rational basis

legitimate

substantially related important

ACTIVITY AND RESEARCH ASSIGNMENTS

1.

2. Would the ten amendments in the Bill of Rights be part of the Constitution if it were introduced today?

If not, what rights might they be willing to guarantee?

EXPLANATIONS OF SELECTED FOOTNOTES IN THE TEXT

Footnote 3: Wickard v. Filburn

Gibbons v. Ogden

Footnote 7:

Granholm v. Heald,

Doesn't this allow states to enforce discriminatory liquor regulations?

Suppose that the state had only required the out-of-state wineries to obtain a special license that was readily available. How might this have affected the result in this case? Explain.

Footnote 15:

Morse v. Frederick,

Did—or should—the Court rule that Frederick's speech can be proscribed because it is “plainly offensive”?

4. Applying this standard, or test, is the helmet statute constitutional? Why or why not?

HIH

EXAMPREP-

HIH

ISSUE SPOTTERS

HIH

1. Can a state, in the interest of energy conservation, ban all advertising by power utilities if conservation could be accomplished by less restrictive means? Why or why not?

2. Would it be a violation of equal protection for a state to impose a higher tax on out-of-state companies doing business in the state than it imposes on in-state companies if the only reason for the tax is to protect the local firms from out-of-state competition? Explain.

HIH



End of
Unit Two
Pedagogy



Unit 2

Contracts

ANSWERS TO QUESTIONS FOR ANALYSIS IN THE EXTENDED CASE STUDY

Suggested answers to these questions are included in the Answers to Questions and Case Problems to Accompany Business Law Today: Comprehensive Edition. We repeat these questions and answers here as a convenience to you.

1. Law

What did the majority conclude on the issue before the court in this case? What reasoning supported this conclusion? Braddock

2. Law

On what important point did the dissent disagree with the majority, and why?

3. Ethics

How do you view David's statements and John's actions? Did David take unethical advantage of his cousin, luring him in bad faith? Was John too willing to rely on assurances that he should have known from experience would not occur? Discuss.

4. Economic Dimensions

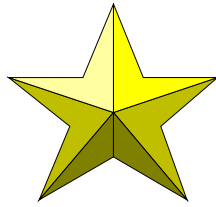
What does this case indicate about employment and employment contracts?

5. Implications for the Investor

Why would an investor like Warburg Pincus not want someone like John in an executive role in an enterprise for which the investor was providing significant capital?

Braddock

Braddock



FOR YOUR CONVENIENCE

Answers Manual Business Law
Today: Comprehensive Edition

- ❖ Learning Objectives/ For Review
Questions
- ❖ Critical Analysis Questions
 In-Chapter Feature
- ❖ Critical Analysis Questions
 In-Chapter Case
- ❖ Questions and Case
Problems
- ❖ Video Questions

CHAPTER 2

CONSTITUTIONAL LAW

ANSWERS TO LEARNING OBJECTIVES/ FOR REVIEW QUESTIONS
AT THE BEGINNING AND
THE END OF THE CHAPTER

Note that your students can find the answers to the even-numbered For Review questions on this text's Web site at www.cengage.com/blaw/blt. We repeat these answers here as a convenience to you.

1A Structure of the government

2A Commercial activities

3A Priority of laws

10

4A Bill of Rights

5A Due process clause

ANSWERS TO CRITICAL ANALYSIS QUESTIONS IN THE FEATURES

BEYOND OUR BORDERS—FOR CRITICAL ANALYSIS (PAGE 37)

Should U.S. courts, and particularly the United States Supreme Court look to the other nations' laws for guidance when deciding important issues— including those involving rights granted by the Constitution? If so, what impact might this have on their decisions? Explain.

ADAPTING THE LAW TO THE ONLINE ENVIRONMENT—FOR CRITICAL ANALYSIS (PAGE 41)

Why should it be illegal to “pander” virtual child pornography when it is not illegal to possess it?

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ANSWERS TO CRITICAL ANALYSIS
QUESTIONS IN THE CASES

CASE 2.1—FOR CRITICAL ANALYSIS (PAGE 35)

Legal Consideration Suppose that most "small" wineries, as defined by the 2006 Massachusetts law, existed out of state. How could the law be discriminatory in that situation?

CASE 2.2—WHAT IF THE FACTS WERE DIFFERENT? (PAGE 39)

If Bad Frog had sought to use the offensive label to market toys instead of beer, would the court's ruling likely have been the same?

CASE 2.3—FOR CRITICAL ANALYSIS (PAGE 43)

Political Consideration Should the court have considered whether the _____ abandoned or departed from the tenets of faith and practice that it held at the time of St. James's

affiliation? Why or why not?

ANSWERS TO QUESTIONS IN THE REVIEWING FEATURE
AT THE END OF THE CHAPTER

1A. Equal protection

2A. Levels of scrutiny

3A. Standard

4A. Application

ANSWERS TO ISSUE SPOTTERS IN THE EXAMPREP FEATURE AT
THE END OF THE CHAPTER

1A Can a state, in the interest of energy conservation, ban all advertising by power utilities if conservation could be accomplished by less restrictive means? Why or why not?

2A Would it be a violation of equal protection for a state to impose a higher tax on out-of-state companies doing business in the state than it imposes on in-state companies if the only reason for the tax is to protect the local firms from out-of-state competition? Explain.

ANSWERS TO QUESTIONS AND CASE PROBLEMS
AT THE END OF THE CHAPTER

HYPOTHETICAL SCENARIOS AND CASE PROBLEMS

2-1A Freedom of speech
(BLTC page 39)

Los Angeles City Council v. Taxpayers
for Vincent

2-2A HYPOTHETICAL QUESTION WITH SAMPLE ANSWER

16

2-3A Commerce clause
(BLTC page 34)

2-4A Equal protection
(BLTC pages 45-46)

2-5A CASE PROBLEM WITH SAMPLE ANSWER

2-6A Supremacy clause
 (BLTC page 35)

2-7A Freedom of speech
 (BLTC pages 37-38)

2-8A Due process
 (BLTC page 44)

2-9A Commerce clause
 (BLTC page 33)

Lopez

Lopez Lopez

2-10A A QUESTION OF ETHICS
1

Balboa

CRITICAL THINKING AND WRITING ASSIGNMENTS

2-11A CRITICAL LEGAL THINKING

2-12A CRITICAL THINKING AND WRITING ASSIGNMENT FOR BUSINESS

UNIT 2

CONTRACTS

ANSWERS TO QUESTIONS FOR ANALYSIS
IN THE EXTENDED CASE STUDY

1A. Law
 Braddock

2A. Law

3A. Ethics

4A. Economic dimensions

5A. Implications for the investor

Braddock

Braddock

