LAW SCHOOL BASICS

An Academic Success Lecture

UBC LAW | AT ALLARD HALL
Today’s Lecture

• Pre-Class: reading, note-taking & briefing
• Engaging in Class
• Post-Class Review
• Time-Management, Balance & Procrastination
• Podcasts
• Print Resources
Pre-Class:
Reading, Note-taking & Briefing

• Active Reading – read for learning now!
• Vocabulary: look up words you don’t understand – online; law library dictionary; Black’s Law Dictionary (pricey! iPhone app - $50)
• Note-taking and Case Briefing
  – Recommended: brief all cases & take notes
  – BUT: methods may change as term progresses
Different Styles of Note Taking

• There are plenty of ways to take notes, and there is no “correct” method.

• Here are three examples of how successful students make reading and in-class notes:
  – Read before class, take extensive notes on computer, and fill in gaps in class (in different colour);
  – Read before class, take no notes / highlight only, and then take extensive class notes;
  – Do not read before class. Attend class, take notes, and then do the readings, supplementing class notes with reading notes.

• Notes can be handwritten or typed—it is a matter of personal preference and effectiveness.
Example: Reading Notes (Contracts)

- **Errington v. Errington and Woods (Eng. 1952)**
- **Facts:** father bought a house for son and daughter-in-law. Father put 250 pounds down, and borrowed the rest, stipulating that the children would pay the mortgage payments and the house would be theirs. Father died, widow sought to eject children even though they had been making payments.
- **Analysis:** The couple never bound themselves to pay the instalments to the building society. Had the children not paid the instalments, the father would not be bound to transfer.
- **Decision:** This is a unilateral contract. It could not be revoked by him once the couple entered performance of the act, but it would cease to bind if left unperformed, which they have not done. The couple have either a contractual or equitable right to remain so long as they paid the instalments. Appeal dismissed.
- **Express promise:** father said house will be yours if mortgage is paid.
- **Implied promise:** so long as they paid instalments, they should remain in possession.
- **The children acted on the promise, and thus nobody can eject them in disregard of it.**
- **Class:**
  - In truth, this is actually a bilateral contract. The contract comes into existence now, but the title would move later. We should see this as bilateral. If one fulfils conditions, certain events will occur. It has obligations that we don’t know will be fulfilled or not.
- **Rule:** In a unilateral contract, once one has started what is necessary to do to accept, (and the other party knows about that) the offeror cannot revoke. It is not a contract remedy. What you get will be contingent on the extent of your reliance (it is restitution remedy).
  - It is a mystery how this is binding. If it is a unilateral contract, there can be no binding obligations.
  - This is probably the law of restitution – a quasi-contractual claim. It is entirely equitable.
  - **The contract law is that you can revoke whenever (Dickinson) but there is another restitutionary doctrine that can operate when there is reliance on a promise.**
  - 1) If they are not allowed to revoke the offer, what happens if you do? 2) Why does it matter that it is a unilateral contract. Why is bilateral exempt? 3) why does knowledge of the revoking party matter?
  - This looks quite a bit like estoppel due to reliance. Then, what relevance is the communication?
Example: Reading Notes (Contracts)

Contracts
Sodd Corp v. Tessim 1977 on CA
pl suicide to plaintiff NM $4,500

Facts
D is account and bankruptcy trustee
D said method to calculate value = double wholesale $ (as valued by 100%)
D says it relied on the rep to make bid in tender fornavigate.
Issues: Could P rely on D's representaitve?

Analysis: Hedley Byrne need a special relationship (less the fiduciary)
Mutual life assurance can be special skill + competence
Esso Petroleum - pre-K NM is ok.
Also constitutes collateral warranty. So test/k distinction irrelevant
Bodys promise depreny D at exempition
Decision: appeal dis missed
Example: Reading Notes

Facts
- Offering was units of a citrus grove development coupled with a contract for cultivating, marketing, and remitting the net proceeds to the investor
- *service contract is not necessary to take, but it is emphasized in the offering
- Land sales contract provides for a uniform purchase price per acre
- Service contract gives Howley a leasehold interest, 10 year duration without option of cancellation
- *company is given full discretion and authority over the harvesting of the oranges
- Purchaser cannot enter land to pick fruit, so the offer is for the net profits only
- People investing of not have the skills necessary for the care and cultivation of citrus trees, just want substantial profits
- *was represented that you could make 10% annual return over 10 years

Issue: Whether the land sales contract, warranty deed, and service contract together constitute an investment contract within the meaning of the securities act [1(l)] of the BC securities act

Holding: These are investment contracts, and thus the orange company failed disclosure agreements

Ratio: Majority - Murphy
- If the answer is yes, then there must have been registration of the securities in the manner mandated by the act
- *if no then this is just a real estate contract with an added term that the real estate will be managed for the buyer
- The court notes that in American jurisprudence the term has been interpreted to provide the public the full measure of protection, with the court disregarding the form of the transaction in favour of the substance
- *investment contract = the placing of capital or laying out of money in a way intended to secure income or profit from its employment
- Doesn’t matter whether the shares in the enterprise are evidenced by formal certificates or by nominal interests in the physical assets employed in the enterprise
**Example: Reading Notes**

- *R v Handy*- General inadmissibility of bad character evidence
- **HELD:** General propensity evidence is presumptively inadmissible. It is excluded notwithstanding the general rule that all relevant evidence is admissible.
- Bad character evidence can confuse the jury in two ways:
  1) Reasoning prejudice: put more weight than is logically justified
  2) Moral prejudice: convict the accused for being a bad person
- **POLICY:** Potential for prejudice, distraction and time consumption is great, such disadvantages will almost always outweigh probative value; Also might encourage police just to round up “the usual suspects”. It is inconsistent with the goal of rehabilitation if we assume people can’t change
Engaging with Class

• **ATTEND CLASS**: 98% of all exam issues come from classroom discussion

• Prior to class, **REVIEW**:
  • Notes from readings and notes from last class
  • Syllabus or table of contents to understand how class topic fits into course overall

• Avoid Zoning Out; Actively **ENGAGE** with Class
  • Sit near front; stay offline; ask questions

• Hand write notes or use laptop?

• Always write down: prof’s hypothetical, conclusions, and legal tests/steps to analysis
Lecture 2 – Introduction to Contracts, part two

• There are multiple systems of law functioning at the same time.
• Codification provides certainty, but it is inflexible. Self-defeating to make all rules broad.
• Common law systems:
  1. Common Law
     • Court 1: King’s bench
     • Court 2: Common pleas – jury developed here. The judge is a referee, but jury decided.
• Common law saw the world as something parties themselves did. The court does not give or take away right, but it decides on what you did or did not do. It is stark – black and white (seen in contract law).
• Common law cannot be abolished; others can be abolished, but CL cannot.
  2. Equity
• Based on fairness – this injected contingency and discretion. Known as Court of Chancery.
• Chancellor was basically prime minister. Always bishops, thus trained in canon law. Canon was top-down, discretionary. Surrounding circumstances, flexible. Equity is good at modifying things, but not creative. First decide what CL would say – is there a contract? – then modify. If you want specific performance, go here. If you want contract to go away, go here. Equity always prevails. Equity follows the CL, but if equity reaches different result, equity prevails.
  3. Mercantile
• They dealt with specific things – obligations on paper developed here. There were many implicit rules.
• It became very important – it might become more important than the other systems. Thus, CL just adopted mercantile law. Negotiable instruments, etc. have lots of implied terms.
  4. Statute
• Court of Parliament. Its decision is an Act. It is most discretionary.
• Statute prevails over all others.
Example: Class Notes (Constitutional)

- The issue is what constitutes conflict? Look to case law.
- There is a continuum.
- More narrow definition of conflict (from the individual's perspective) to the federal intent (focus on the intent/purpose) to the federal presence in the field.

1. Occupation of the field (negative implication)
   - Fed. Reg. must be the only regulator in that field.
   - Wide definition of conflict.

2. Incompatibility with federal intent
   - Focus on the intent/purpose.

3. Impossibility of dual compliance (express conflict)
   - Case: Ross v Registrar, 1975
     - Court moves away from t=1 toward t=2 (new rule isn’t solidified).
     - Federal law reg. the field, provincial law is allowed to stay.
     - Court does not validity inquiries.
     - Decides there is no conflict.
     - Not going to read into the law that federal intended to cover the field.
     - Loosely codified: when you will find a conflict less conflict.

4. Multiple Access, 1982 (t=2)
   - Clearly shows the SCC covering the field tested.
   - Even when the reg. are almost identical.
Example: Class Notes (Contracts)

Howie, Supreme Court of the US

-Florida real estate game - units of an orchard and a service contract were offered to potential investors
  *service contract was not mandatory
-If the plot was successful, you didn’t get the fruit but you get share of net profits
-SEC says that prospectus agreement should have been filed
-Lower courts say that the contracts are separate
-SCUS says that it’s an investment contract - say its “a scheme where one invests money in an enterprise with the expectation of profits that derives solely from the effort of others”
  *here there was an expectation of profits, and there was no expectation for the investor to be involved in the enterprise, and that in fact the enterprise made all of the returns separate from the individual
WITNESSES:

- Threshold for witnesses to be able to testify:
  1) **COMPETENCE**: certain thresholds that must be met for a witness to be able to testify
  2) **COMPELLABILITY**: ex: are they in Australia?

- ✔️ **Most people are both these things; err on the side of low threshold for both**

- **Why**: the search for the truth! Assume that people are able to contribute.

- One of the only people who is considered competent, but not compellable is the accused, who is capable of making a decision NOT to testify

- Any other parties are all potentially compellable witnesses

- Per NH: Only in very exceptional cases where they admit they won’t have to come forward and testify

- Requirement to put witnesses under oath: must be brought home to the witness how solemn the occasion is, and how different it is [ex: no exaggerations; the oath may have an impact of making sure their testimony is making sure their testimony is more credible and reliable].
Post-Class Review

• Review regularly to cultivate long-term memory

• Fill in missing information by:
  • Chatting with classmates; form a study group!
  • Reviewing textbooks, secondary sources
  • Meeting with professor
  • Re-reading cases

• Start CANing—compile class notes, and case reading notes into a CAN (more info in October Academic Success Lecture)
Time Management & Procrastination

• Create a set schedule of study and downtime in order to be successful and remain caught up

• Consider where and when you study best

• Give yourself permission to procrastinate at set times

• Unwire yourself. Various programs allow you to customize the amount of time they block access to the outside world:

  **Freedom** – simple productivity application that blocks all internet access for set periods of time. Mac or Windows. By Fred Stutzman – Free but not open source. http://macfreedom.com


  **Concentrate** – allows sites, launches and quits apps, and more (but you can disable it) by Rocket Software. Mac only. Free to try, then costs, and not open source. http://getconcentrating.com

  **RescueTime** – scheduler, timetracker, etc. Free plan, but full features are $/mo. Not open source. Will block distractions and remind user of commitment to undistracted time. Mac or Windows. http://www.rescuetime.com
Podcasts

By Professor Herb Ramy, guru of academic support in the US:

• To access the podcast open up iTunes and then search for "Suffolk University Law School." One of the folder options should be "Law School Academic Support Program".

• Example of available podcasts:
  • Succeeding in Law School
  • How Reading Strategies affect Law School Grades
  • Creating a Course Outline
  • Successfully Writing an Exam
  • The Inside Scoop on Study Groups
Print Resources

Books (copies in office of Assistant Dean, Students)

- A.J. McClurg, *1L of a Ride: A Well-Traveled Professor’s Road Map to Success in First Year Law*
- H.N. Ramy, *Succeeding in Law School*

Handouts

- *Law School Basics*
- *Legal Vocabulary*
- *Resource Materials for First Year Courses*