

LEGAL FOUNDATIONS NOTES

Contents Page

Statutory Interpretation

- The Modern Approach to Statutory Interpretation
- Method
 1. Jurisdiction
 2. Commencement
 3. Find relevant provision
 4. Interpretation Act
 5. Literal Rule – explain the literal meaning of the rule & consequence.
 6. Interpretive maxims – for ambiguity only.
 7. Purposive approach (in/extrinsic mat)
 1. Explain why extrinsic material is not useful if it isn't.
 8. Golden rule/Mischief rule
 9. Common law presumptions
 10. Conclude
- How to do well
- Delegated Legislation

Case Analysis

1. Analyse the case given
2. Ratio decidendi
3. Material facts
4. Obiter dicta
5. Court hierarchy
6. Legal reasoning
 1. Five types of arguments
7. How to write a judgement

STATUTORY INTERPRETATION

The Modern Approach to Statutory Interpretation

- A court is required to take a purposive interpretation.
- *Kingston v Keprose Pty Ltd*
 - A **purposive** not literal approach now prevails in statutory interpretation.
 - If provision grammatically only has one meaning + context/purpose throws no real doubt on meaning, court must take the grammatical meaning as Parliament's intention.
 - Court cannot depart from meaning if no real doubt in intention, even if produces injustice/anomaly
 - However, if grammatical meaning gives rise to an injustice/anomaly, real doubt usually arises as to whether Parliament *intended* that grammatical meaning to prevail.
 - If grammatical meaning x give effect to purpose of legislation, g.meaning x prevail.
 - Grammatical meaning must give to the a construction that will promote purpose/object of the Act.
- *Bropho v State of Western Australia and Another*
 - Greater emphasis on legislative purpose + reference to extrinsic materials for determining purpose.
 - s 19 IA (WA)

Method

1. Legal issue?

In order to determine if an offence has been committed by [name] under s X of the ____ Act, it must be determined whether [he/she] _____ by _____ .

2. Jurisdiction:

- Where did the event take place?
- Jurisdiction of the Act?
- Does the Act apply?
- The legislation and the act falls within the same jurisdiction
 - The ____ Act ('the Act') applies in the jurisdiction of WA as indicated by the Western Australian Coat of arms at the start of the Act.
 - The alleged act took place at _____. As __[place]__ is in Western Australia, the actions of _____ are governed bby this Act and we must use the Interpretation Act 1984 (WA) ('IA') for interpreting terms if necessary.
 - Since the place where the alleged act took place is not explicitly stated, the actions of _____ can be assumed to have taken place in Western Australia because _____. Therefore, __person__ 's conduct is governed by this Act, and hence we must only use the Interpretation Act 1984 (WA) ('IA') for interpreting any terms.

3. Commencement: has the legislation commenced? Amendments? Repeals?

- When did events occur?
- When did Act commence? (IA s 20(2))
- Was the Act in force when events occurred?

CASE ANALYSIS

1. Analyse the case given

Take note:

- a. What are the legal **issue(s)** to be decided by the court?
 - Or grounds of appeal?
- b. What did the court **decide**? Identify or formulate a statement of the **ratio** (legal rule/principle).
- c. What are the **material facts** of the case and how do they compare with the facts of our case?
- d. What **legal rule/principle** was applied?
 - How was it applied?
 - Consider **inductive reasoning**.
- e. What **authority** does this case have for us? – **applying legal principles** for a new set of facts: **deductive reasoning/** precedent.

Other:

- f. Case name + citation
- g. Court + judges
- h. Procedural history
- i. What were the **orders** made by the court?
- j. Consider **social/cultural context**.
- k. Have you reached a plausible **conclusion**?

2. Ratio decidendi

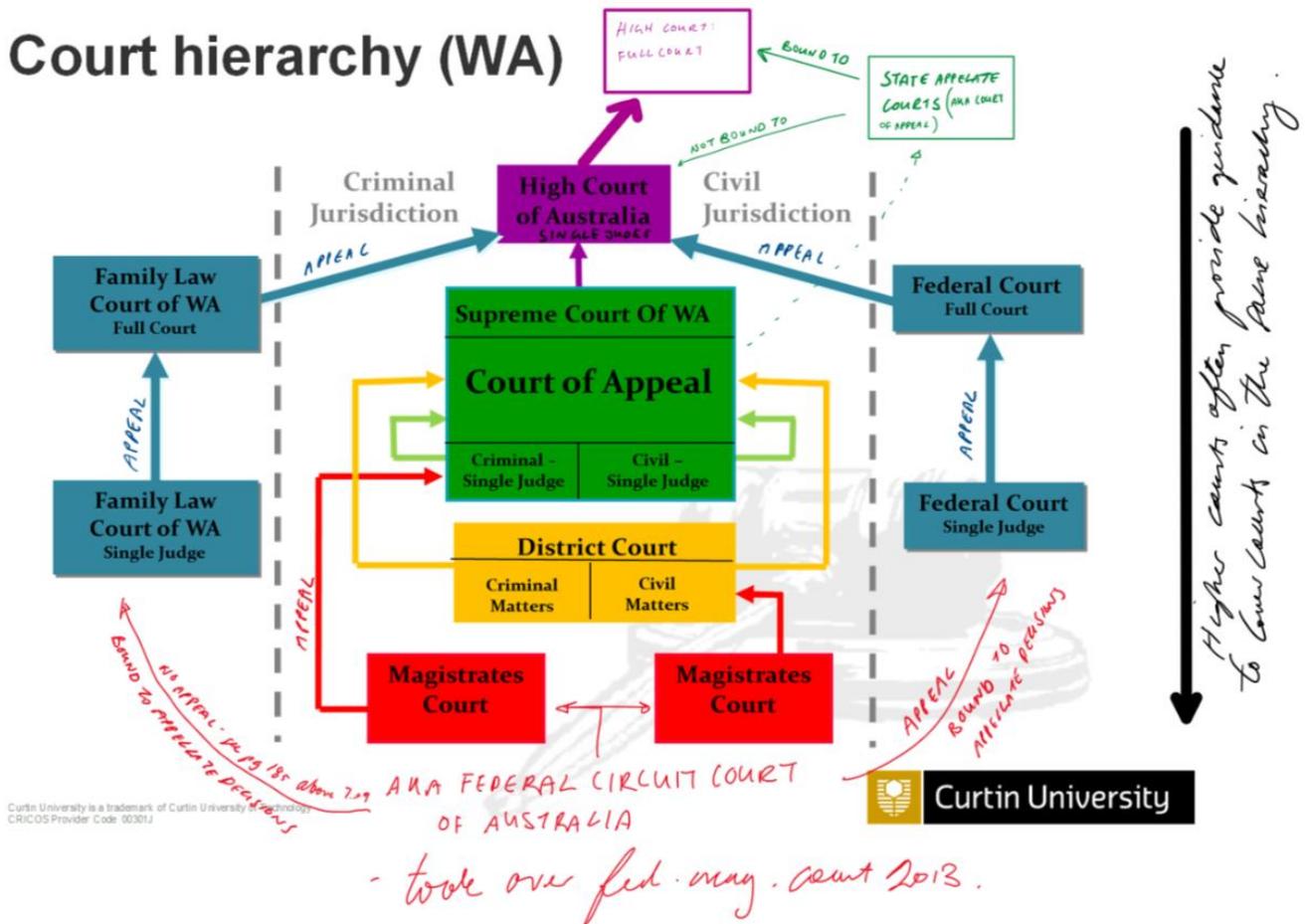
The reason for deciding

- a. To find ratio you need to identify the legal issues and material facts
- b. A **ratio** is the key legal principle for which a case stands
- c. Links material facts of case to underlying legal principle.
- d. Is the only **legally binding** aspect of a case.
- e. A ratio is preferred to be more **general** – to be applied to more scenarios/facts
- f. Functions:
 1. Decides the particular dispute before the court
 2. Lays down the legal principle to be applied to later cases.

3. Material facts

- a. **Material facts** are the facts that are central to the outcome of a particular case; if it was removed or was different, the decision would be altered.
- b. Mat facts determine the ratio.
- c. Each material fact must be proven by evidence.
 - Civil: court must be satisfied that the facts were more probable than not, balance of probabilities = standard of proof
 - Criminal: court must believe in facts beyond reasonable doubt.

Court hierarchy (WA)



- a. **Standing:** the legal right to commence an action seeking to challenge a government decision.
- No everyone can challenge government decisions – only those affected in some way.
 - *Australian Conservation Foundation Incorporated v Commonwealth of Australia and Others* (1980)
 - Must have special interest in the subject matter
 - Grievance must not be mere ‘intellectual, philosophical and emotional concern’.
 - They must prove that the decision will affect them adversely at an extent greater than the general public
 - The advantage gained if successful must be ‘other than the satisfaction of righting a wrong, upholding a principle or winning a contest’
 - They would suffer a detriment if unsuccessful to a greater extent that received by the public, and this must be other than ‘a sense of grievance or a debt for costs’.
 - *Onus and Another v Alcoa of Australia Limited* (1981)
 - Distinguished from *ACF* case: a person who has special interest is likely to be strongly intellectual/emotional about the subject matter, therefore, intellectual/emotional concern does not disqualify someone from having standing
 - *ACF case* – no ‘rule of thumb’ application for determining standing – must assess the importance of P’s concern and the closeness of P’s relationship w/the subject matter.