

Legal Principles: Lecture Summary Notes

Topic One: Law in Practise

Six key aspects thinking like a lawyer:

1. Non- assumptive thinking:
 - Resisting jumping to conclusions or making assumptions
2. Facts over emotions:
 - Detach personal opinions what's right or wrong, look at facts objectively
3. Tolerance of ambiguity:
 - Able handle fact there is no black and white answer
4. Ability to make connections between facts, documents and law:
 - Use past knowledge to source a connection to a case
5. Verbal mapping:
 - Structure thoughts express them orally manner of written sense
6. Automatic Devil's Advocacy:
 - No position is fixed, all arguable

Inductive V deductive Reasoning:

Inductive:

- Using specific examples to create generalisation
- Eg. Apples rot, pears rot, therefore all fruit rot

Deductive:

- Using general theory to test specific facts
- Eg. All dogs bark, Rufus is a dog, therefore Rufus barks

Threshold learning outcomes: TLO

- Refer to page 9-10 in text book

Priestley 11 requirement:

Subjects that every law student has to pass

- Constitutional law
- Administrative Law
- Criminal Law and Procedure
- Torts
- Contracts
- Professional Conduct
- Equity and Trusts
- Corporate Law
- Civil procedure and professional conduct

Topic Two: Sources of Law and legal institutions:

Separation of Powers:

- Legislature; person whom makes law
- Executive: administers law
- Judiciary: interoperates law

Representative Gove:

- Members of parliament elected by citizens of Aust.
- Senate and house of representatives composed members for each state/
Territory chosen by people of that region

Rule of Law:

- Government must find lawful authority for every action takes place
- Authority found in common law
- Absent authority from either sources government presented taking action

Responsible government:

- Executive branch government accountable to legislature
- Minister comprises executive elected from parliament
- Key feature:
 - Westminster style government
 - Demonstrate government modelled off UK, series of procedures for operating legislation

Parliamentary Sovereignty:

- Parliament holds supreme law making powers
- Parliament can create new legislation, repeal legislation and delegate authority to make legislation

Sources Of Law:

Primary: legislation delegated legislation case law

Secondary: international law law reform commission academic commentary

Legislative Authority:

- Each nine parliaments of Australia (vic, NSW etc.) has authority pass legislation
- Authority comes from Australian Constitution

Statute:	Delegated Legislation:
Made by parliament Commonwealth parliament State parliament Legislative assemblies (act & NT)	Made body/ office holder delegated law making by parliament Governor general Governor Minister to crown Statutory body (vic roads) Multiple Councils

