

TABL 1710 - Business & The Law Final Exam Notes

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CONTRACT LAW

“An agreement concerning **promises** made between two or more parties with **intention** to create certain legal **rights & obligations** upon the parties to that agreement which is enforceable in a court of law.”

Ratio Decidendi: the rationale/reason for the decision.

Obiter Dictum: not the rationale for the case but influencing observations of persuasive authority

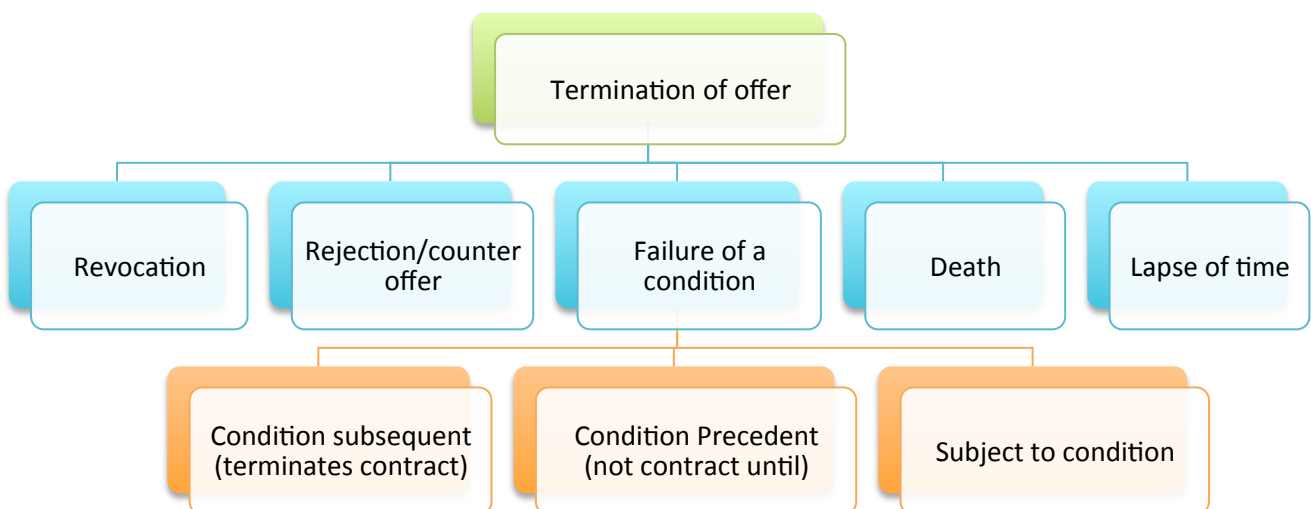
1. The Offer

- **Intention**
 - *Case: (Clarke v Earl of Dunraven)*
 - Case concerning yacht club, competitors had entered into contract with the yacht club by participation bound by common set of rules have willingness to be bound whether or not to each other
- **Firm promise**
 - *Case: Azzi v Volvo car*
 - No definitive point of offer and acceptance however binding contract was encapsulated by conduct of continuous agreements
- **Communication**
 - Specific person or to whole world
 - *Case: Carlill v Carbolic Smoke Ball*
 - Newspaper communication of offer to the world at large, to anyone who performed the conditions, intention to be bound
 - **Orally or by conduct**
 - **Notice of Offer (Carlill v Carbolic Smoke Ball)**
 - **Invitation to treat:**
 - Offer to make offer can not be accepted as there is no offer
 - Includes: auctions, advertisement, catalogues, announcement, displayed goods
 - *Case: Pharmaceutical Society of Great Britain v Boots*
 - Goods on shelf are offer to make offer, offer is at payment and acceptance is when cashier accepts payment at transaction
 - *Case: Partridge v Crittenden:*
 - Advertisement was invitation to treat, no reference to number
 - **Counter-Offers:**
 - A rejection of the original offer

- *Case: Hyde v Wrench*
 - Bargaining is not accepting the agreement and rejects contract
- **Tenders**
 - Tenders are a process parties use to establish parameters of an eventual contract
 - *Case: Spencer v Harding*
 - No promise to sell just an indication they were open to offers
- **Requests for Information:**
 - Not a firm promise or offer, does not destroy the offer as it is only an attempt to gain information
 - *Case: Harvey v Facey*
 - When acceptance to buy is actually the first offer of a contract

Termination of an offer pp. 148-9

- Revocation (withdrawal) of offer
- Offeror must make sure offeree knows offer has been withdrawn BEFORE there is acceptance:
 - *Case: Dickinson v Dodd*
 - Valid revocation of offer before acceptance
 - *Case Byrne & Co v Leon Van Tienhoven & Co*
 - Withdrawal of offer was ineffective because acceptance had occurred



2. The Acceptance

1. **Strict accordance and response to offer**
 - a. Any conditions must be fulfilled(R v Clarke)
2. **Reliance/response to the Offer: intend to accept offer**