American Legal System

Fall 2007

Today’s topics

• Introductions
• Description of course
  – Contents
  – Methods
  – Expectations
• Overview of the American Legal System
• Preliminary discussion of case-based reasoning

Content of Course

• Part I. Creation and development of legal doctrine – legal method
• Part II. Legal doctrine in selected areas of law – substance
  – Constitutional law, Administrative Law, Civil Procedure, Torts and Contracts, Criminal Law and Procedure, ...

Methods of Instruction

• Lecture
• Questions and Discussion
• Written exercises
• Hence, you will have to
  – Read textbooks
  – Read supplementary court opinions or other materials at www.law.asu.edu/kaye
  – Ask and answer questions
  – Short, written exercises
  – Complete final examination or moot court

U.S. Legal System

• Federation of states
• Federal and state governments
• Federal - enumerated powers
• States – all other powers
  – Counties, cities

Sources of Law

• Constitution
• Legislatures
• Executive
• Administrative agencies
• Courts
Role and Nature of Constitutions in the US

• The government derives its authority from the people, and the constitution defines and limits the powers of the government.
• “The constitution is the most basic and highest law of the state and represents the highest degree of authority within the state.”

U.S. Constitution

• Lists separate powers of branches
  – Legislative power: Congress
  – Executive power: President
  – Judicial power: Courts
• Limits powers (Bill of Rights)
  – Freedom of expression and religion (1st Amend.)
  – No unreasonable searches (4th Amendment)
  – Due process (5th Amend.)
  – Right to counsel (6th Amend.)
  – Trial by jury (6th & 7th Amend.)

State Constitutions

• Powers of branches
  – Legislative, Executive, Judicial
• Individual rights

Legislatures in USA

• Congress
  – House of Representatives
  – Senate
• States
• Statutes and Rules

Executive

• U.S. – President
  – Many departments
  – State, Defense, Justice, Health and Human Services, Transportation, …
• States – Governors
  – Similar departments

Administrative Agencies

• Created by legislature
  – Delegated powers
• Regulate certain activities
  – Enact rules
  – Adjudicate
• Federal
  – EPA, FCC, FDA, FTC, INS, NRC, OSHA, SEC
Courts adjudicate disputes

- **Trial courts**
- **Appellate courts**
  - Intermediate
  - Supreme
  - Limited review
- **State & federal**

Civil versus Common Law

- **Civil Law**
  - Inquisitorial
  - Juries find facts
  - Lawyers assist judges
  - Legislative codes
- **Common Law**
  - Adversarial
  - Juries find facts
  - Lawyers are advocates
  - Judges develop law by accretion

Common Law and Statutory Law

- **Historically**
  - Substantive: property, torts, crimes
  - Procedural: evidence
- **Modern**
  - Statutory law + common law
  - No common law of crimes
- **Precedent**
  - Bring a copy of *United States v. Lopez* to class

The Grocer’s Rule

- A grocer explained to her employees that she places produce either in the display case in the window or in the produce section in the middle of the store.
- As a general rule, she explains, she places produce in the window display case if it would have a tendency to draw impulse shoppers into the store.

Precedent

- Employees have witnessed her apply this rule in two cases. In the first case, she arranged a crate of shiny, clean, round, red apples in the window display case.
- In the second case, she placed a crate of unwashed, unpeeled carrots in the produce section in the interior of the store.

The Red Bell Peppers Case

- On Monday morning, the grocer left to attend family business for a day. She instructed employees to promptly display any goods that arrived in her absence.
- On Monday afternoon, a crate of red bell peppers arrived. They were shiny, red, clean and nearly round in shape, slightly taller than wide, and with some ridges.
- Where should the employees place the red bell peppers?