

Rights and the Law

Class activities*

JUSTICE by Alan Price

We all want justice but you got to have the money to buy it
You'd have to be a fool to close your eyes and deny it
There's a lot of poor people who are walking the streets of my town
Too blind to see that justice is used to do them right down

All life from beginning to end
You pay your monthly installments
Next to health is wealth
And only wealth will buy you justice

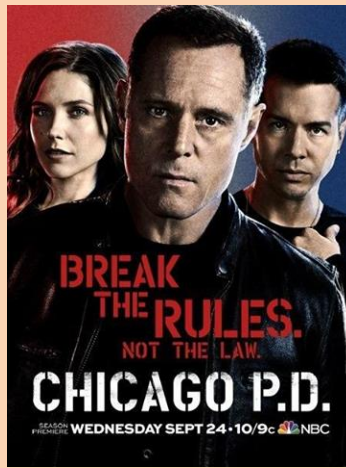
There'll always be a fool who insists on taking his chances
And that is the man who believes in true love romances
He will trust and rely on the foodness of human nature
Now a judge will tell you that's a pathetic creature

All life from beginning to end
You pay your monthly installments
Next to health is wealth
And only wealth will buy you justice

Money, justice
Money and justice
Money, justice

Discussion questions

- What is law?
- What are rights?
- Why do we have rights?
- Where do rights come from? Do all cultures and traditions have rights?
- Does everybody have rights?
- Are rights absolute?
- Are rights a positive and beneficial notion? Should they be abolished?
- Listen to Justice Right by Alan Price. What is the song's main message? Do you agree with this message? Why or why not?
- What does the slogan for the TV show Chicago PD mean?



- Discuss the following picture



Class 2: Law and Rights

Scenarios: Identify the predominant theory of law

1. Americans at the founding of the United States well-accepted the idea that the world, including worldly governments, is governed by laws or principles that dictate how society ought to be structured, in the very same way that such natural laws dictate how buildings ought to be built or how crops ought to be planted.
2. Our Lord is delivering his Sermon on the Mount –Jesus addresses the question of His relationship to the Law of Moses. “Jesus does not want to erase the commandments that the Lord gave through Moses,” explained Pope Francis. “Rather,” he continued, “He desires to bring them to their fulfilment – and He immediately adds that this ‘fulfillment’ of the Law requires a higher justice, a more authentic observance. The Holy Father went on to note the words of Jesus to His disciples: “Unless your righteousness exceeds that of the scribes and Pharisees, you will never enter the kingdom of heaven.” The Pope explained that Jesus does not give importance to rote observance and outward conduct. “He goes to the root of the law, focusing above all on the intention and therefore on the human heart,” which is the source of our actions for good and for evil. Pope Francis said that profound motivations, the expression of a hidden wisdom, of God’s wisdom, are needed in order for us to act well – not merely good rules and legal norms. “The Wisdom of God,” he said, “can be received through the Holy Spirit: and we, through faith in Christ, open ourselves to the action of the Spirit, which enables us to live God's love.” The Holy Father concluded, saying, “In light of this teaching of Christ, every precept reveals its full meaning as a requirement of love, and all [precepts] come together in the greatest commandment: love God with all your heart and love your neighbor as yourself.”
3. Former Supreme Court Justice Sandra Day O'Connor that a "wise man" and a "wise woman" should necessarily reach the same verdict.



4. The law should focus more on how law develops due to the link between law and society rather than an analysis and interpretation of statutes and cases.
5. The principles of society are the laws, which Almighty God has established in the moral world, and made necessary to be observed by mankind; in order to promote their true happiness, in their transactions and intercourse. These laws may be considered as principles, in respect of their fixedness and operation; and as maxims, since by the knowledge of them, we discover those rules of conduct, which direct mankind to the highest perfection, and supreme happiness of their nature. They are as fixed and unchangeable as the laws which operate in the natural world.
6. Austin's model of law is referred to as "command theory:" Law, Austin reasons, has the status of command. Austin then defines 'command' as any signification of a desire by the sovereign. He then defines the sovereign as "the determinate rational being or body that the other rational beings are in the habit of obeying." Each of these further definitions is an attempt to substitute a descriptive analysis of some prescriptive concept. The notion of a 'command', for example, includes a normative element of authority and imperative (as distinct from a presumptive request). Similarly 'sovereign' has a normative element of legitimacy. He tries to define these both away through the notion of shared habits. The rest of the definition of 'command' is important. Austin's analysis of a law is different from a normal command in the sense that a law must be *logically* general. The court makes particular judgments, but the legislation is always general in form. A direct, one-time command to an official is not law. Law is a command to "forbear a whole *class* of acts." There is a further element that Austin thinks is inherent in the notion of law-namely that of punishment. However, 'punishment' also has a normative connotation, namely, of a harm that is "deserved" or results from violation of a valid law. This Austin tries to define away with the words "accompanied by the threat of evil in case he does not."
7. The science of law always generates predictable results.
8. Law is defined as an aggregate or system of norms, as a normative order. Now, what is a norm? A norm is a specific meaning, the meaning that something ought to be, or ought to

be done, although actually it may not be done. There are different kinds of norms, norms of thinking, that is, logical norms, and norms of acting, that is, moral and legal norms. According to a legal norm, men ought to behave under certain conditions in a certain way. That a man ought to behave in a certain way means that this behavior is prescribed or permitted or authorization. Such a norm may be the meaning of an act of will of one individual intentionally directed at the behavior of another individual.

9. There seems to have been a consensus over the past century that law is an important component of culture. Law seeks to illuminate the ordering of human society.
10. The focus of law is less on sanctions and enforcement than on the substance of the rule.

Scenarios: Identify the types of rights

1. Any debtor entering into a contract to provide debt-adjusting services shall have a right to cancel the contract until midnight of the fourteenth day after the day on which the debtor signs a contract offer to enter into a contract for debt-adjusting services. (Kentucky Legislature Title XXXI Debtor -Creditor Relations).
2. Every citizen enjoys the rights of free speech, subject to applicable laws.
3. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development (UN Declaration on the Rights of Indigenous Peoples, 2007).
4. Everyone has the right to be free from sexual harassment by their landlord, someone working for their landlord, or someone who lives in the same building (Ontario Human Rights Code).
5. Everyone has the right to be secure against unreasonable search or seizure.
6. God gave the world in common to all mankind. Thus, individuals are under an obligation to respect the rights of others because they are all God's works.
7. Every human being has the rights of life, liberty, and property.
8. In the event of a car accident, the consumer has the right to choose a repair shop, tow operator or vehicle rental company (Ontario Insurance Act)
9. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

10. Every person has the right to be free from unwelcome advances or solicitation in employment (Ontario Human Rights Code).
11. Persons belonging to national or ethnic, religious and linguistic minorities (...) have the right to enjoy their own culture, to profess and practise their own religion and to use their own language, in private and public, freely and without interference or any form of discrimination (UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities).
12. The consumer has the right to get a written contract for transactions that cost more than \$50 if he or she purchases any product or service at home from a door-to-door salesperson (Ontario Consumer Protection Act).
13. The Declaration of Independence (United States) “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government.
14. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised (UN Declaration on the Right to Development, 1986).
15. You lose the right to employment insurance benefits for a period of time if you knowingly lie or don't fulfill your obligations to report income.

Malinowski's Legal Anthropology

Following Malinowski's argument, identify the rules of custom as they function in actual life from the film shown in class.

Class 3: The Rule of Law

Discussion questions

- What is the rule of law? What does it mean that Canada is a country of laws and not of men?
- Give examples of ways that the rule of law has an impact on your life.
- According to the rule of law theory, what is the responsibility of judges when their personal opinions are in conflict with the rule of law in the case before them?
- What is the myth of the rule of law? What is the author's main claim about the rule of law? Why is law predictable? Why is the outcome of cases uniform and predictable?
- When does the law become less predictable? What do judges have in common?
- Think of examples that contradict the rule of law theory.
- Think of examples that support the rule of law theory.
- Discuss the following quotes about the rule of law. Identify what components of the quotes and comments you think are essential to a definition of the rule of law. Consider any important aspects of the rule of law that you do not see reflected in the quotes and comments. What are they?

To make laws that man cannot and will not obey serves to bring all law into contempt. It is very important in a republic that the people should respect the laws, for if we throw them to the winds, what becomes of civil government?
—Elizabeth Cady Stanton (1860)

There can be no free society without law administered through an independent judiciary. If one man can be allowed to determine for himself what is law, every man can. That means first chaos, then tyranny.
—U.S. Supreme Court Justice Felix Frankfurter,
United States v. United Mine Workers (1947)

I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.
—Martin Luther King, Jr.,
“Letter from Birmingham Jail” (1963)

Neither laws nor the procedures used to create or implement them should be secret; and . . . the laws must not be arbitrary.

—U.S. Court of Appeals Judge Diane Wood,
“The Rule of Law in Times of Stress” (2003)

- Do an online search of quotes that reflect your understanding of the rule of law.

Class 4 Oakes Test

Charter of Rights and Freedoms



Apply the Oakes test to the following cases

1. This appeal concerned the constitutional validity of a municipal by-law prohibiting all posterage on public property. The issue was whether the absolute ban on such posterage infringed the Charter guarantee of freedom of expression, and if so whether that infringement was justified under s. 1 of the Charter. The accused advertised upcoming performances of his band on two occasions by affixing posters to hydro poles contrary to a city by-law banning posters on public property. On both occasions, he was charged under the by-law. The accused, while not denying the offences,

took the position that the by-law was unconstitutional because it was inconsistent with the guarantee of freedom of expression in s. 2(b) of the Canadian Charter of Rights and Freedoms. The by-law was adopted for visual and aesthetic purposes. Posters are considered ugly to the sight and they may contribute to litter if left too long.

2. The Criminal Code prohibits a person to stop or communicate with any person for the purpose of prostitution in a public place, or open to public view or motor vehicle. The objective of the law is to avoid the nuisance caused by street solicitation. This law infringes the freedoms of speech and association guaranteed by the Charter.

3. The Tobacco Products Control Act broadly prohibited (with specified exceptions) all advertising and promotion of tobacco products and the sale of a tobacco product unless its package includes prescribed unattributed health warnings and a list of toxic constituents. The Act, except for a prohibition on the distribution of free samples of tobacco products, did not proscribe the sale, distribution or use of tobacco products. A tobacco company sought a declaration that the Act was invalid as an unjustified infringement of freedom of expression guaranteed by s.2.b. of the Canadian Charter of Rights and Freedoms. The objective of the law was to stop the detrimental health effects caused by tobacco consumption.

4. Section 43 of the Criminal Code sets forth that “every parent is justified in using force by way of correction toward a child who is under his care, if the force does not exceed what is reasonable under the circumstances.” The objective of section 43 is to limit the intrusion of the Criminal Code into family life. Section 7 of the Charter sets forth that: “everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”

5. The accused, an Alberta high school teacher, was charged under s. 319(2) of the Criminal Code with wilfully promoting hatred against an identifiable group by communicating anti-semitic statements to his students. Section 319 sets forth that: “(2) Every one who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or (b) an offence punishable on summary conviction.” Parliament's objective of

preventing the harm caused by hate propaganda. Section 2 (b) of the Charter prescribes that everyone has the fundamental freedoms of thought, belief, opinion and expression, including freedom of the press and other media of communication.

6. The accused was charged with having the care or control of a motor vehicle while impaired contrary to s. 234 of the Criminal Code. He was found in the driver's seat of his car with his body slumped over the steering wheel. The car was parked along the roadside, the dashboard ignition light was on, the key was in the ignition, but the engine was not running. The defence conceded that the accused's ability to operate the vehicle was impaired by alcohol. At his trial, the accused argued that the statutory presumption contained in s. 237(1)(a) of the *Code* was inconsistent with s. 11(d) of the Canadian Charter of Rights and Freedoms which guarantees the right to be presumed innocent until proven guilty. Section 237(1)(a) provided that in any proceedings under s. 234 or 236, "where it is proved that the accused occupied the seat ordinarily occupied by the driver of a motor vehicle, he shall be deemed to have had the care or control of the vehicle unless he establishes that he did not enter or mount the vehicle for the purpose of setting it in motion". The objective that s. 237(1)(a) is designed to serve--the protection of the public against drunk drivers--is

7. G and his father B are orthodox Sikhs. G believes that his religion requires him to wear a kirpan at all times; a kirpan is a religious object that resembles a dagger and must be made of metal. Wearing a kirpan at the school violated art. 5 of the school's *Code de vie* (code of conduct), which prohibited the carrying of weapons. The policy objective of this norm is to protect the safety of students and staff at school. G and B argued that G's freedom of religion under s. 2(a) of the Canadian Charter of Rights and Freedoms.

8. Section 300 of the Criminal Code of Canada makes it an offence for a newspaper to knowingly publish false information about a person that will have the effect of damaging, or defaming, that person's reputation. A newspaper company argues this infringes their freedom of expression under s.2 (b). The governments' goal is to prevent the publication of false information about a person without facing any consequences.

9. A wool retailer challenged the validity of two sections of the Charter of the French Language, a Quebec provincial statute commonly known as Bill 101. Under Bill 101, public signs, posters,

and commercial advertising must be in French only, unless health and safety are concerned. Moreover, only the French version of a company's name could be used. The retailer challenged the validity of the law on the basis that it infringed upon her freedom of expression as guaranteed by the Canadian Charter of Rights and Freedoms. The goal of Bill 101 is to promote the use of French language in Quebec.

10. Julian does not like when students text in class. Whereas he always encourages students to do online searches, read documents online, and visit academic websites in class to enrich discussions, he has decided to ban the use of all electronic devices in class, including smartphones, laptops, and tablets. Students are not allowed to bring electronic devices to class. If a student brings one, he or she has to leave the classroom immediately. Students who use electronic devices in class get a failing grade in the course.

Comparative Law and Constitutional Rights

1. Choose a European country. Do an online search of some selected constitutional rights and compare them with Canadian Charter rights. Does Canada protect those rights? Which of the two countries affords a stronger protection? How does the protection differ in both countries? How is it similar?
2. Choose a Latin American country. Do an online search of some selected constitutional rights and compare them with Canadian Charter rights. Does Canada protect those rights? Which of the two countries affords a stronger protection? How does the protection differ in both countries? How is it similar?
3. Choose an African country. Do an online search of some selected constitutional rights and compare them with Canadian Charter rights. Does Canada protect those rights? Which of the two countries affords a stronger protection? How does the protection differ in both countries? How is it similar?
4. Choose an Asian country. Do an online search of some selected constitutional rights and compare them with Canadian Charter rights. Does Canada protect those rights? Which of the two countries affords a stronger protection? How does the protection differ in both countries? How is it similar?

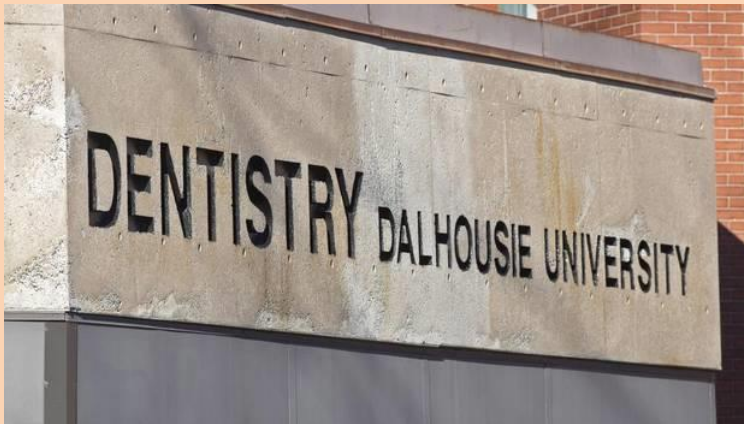
5. Do an online search of some selected constitutional rights in the United States and compare them with Canadian Charter rights. Does Canada protect those rights? Which of the two countries affords a stronger protection? How does the protection differ in both countries? How is it similar?

Presentation activities

- Identify good and bad characteristics of the presentations just shown in class:
- Prepare a micro-presentation (5-minute) on any legal topic. The focus should be on the format of the presentation rather than the content. The rest of the class will give you feedback.

Charter Legal Rights

Dalhousie Scandal: Discussion Questions



Read the articles on the Dalhousie scandal and discuss the following questions

- 1) What happened in the School of Dentistry?
- 2) Why did this happen? What do you think that led to the Facebook postings?
- 3) Do students have a right to do what some students from the Class of 2015 did? Did these students harm anyone? If so, whom did they harm? How?
- 4) What powers do the police have to seize the screen shots? Do the police have other powers to investigate? Can the police investigate without having the screen shots?

- 5) Is there any violation of a Charter right in Dalhousie University's handing the screen shots over to the police? Why or why not?
- 6) Mark Mercer argues that students acted within their right of free speech and that their Facebook postings should be protected? Explain Mercer's arguments. You can read his full arguments from his blog post: <http://www.ccepa.ca/blog/>
- 7) Do you agree with Mercer's arguments? Why or why not?
- 8) If you were the president of Dalhousie University, what would you do to deal with this situation in a way that is respectful of everyone's rights?

Class 5: Charter legal rights

1. Alex has had a huge crush on Jennifer Lopez. Last weekend, Alex travelled to Winnipeg, where Jennifer Lopez was shooting some scenes on the street for a new movie. When she had a break, Alex jumped over a gate and shouted that he loved her. A police officer came and arrested Alex. Visibly mad, Alex asked why he was arrested and the police officer said to him: "shut the f* up and come with me. I am the only one that asks questions here." Alex, who knows his Charter legal rights, replied that he wanted to see a lawyer. The police officer ignored him and asked him why he shouted at Ms. Lopez. Alex replied "because she's hot". The police officer did not like his reply and thought that Alex was trying to be smart. So, the officer arrested and booked him. A few days later, Alex was formally charged with an indictable offence by a judge who was a good friend of the police officer's. In his bail hearing, the presiding judge denied bail. Alex complained and asked why. The judge simply replied: "because it is obvious that you are guilty." While still detained, Alex received a notification to testify as a witness in R. v. Alex. The trial was scheduled for August 22, 2019.
2. Wal-Mart adopted a new employee policy. Now all employees are searched. The Store Manager must conduct a body search before they leave the store premises after finishing their shift. Also, the store manager may at his/her discretion search all employees personal bags. Kathryn, a Sault Ste. Marie employee, believes that this policy infringes

her Charter rights against unreasonable searches and decides to bring a claim before the Courts.

3. A police officer stopped a car randomly to make sure that the driver was not impaired. When the police officer asked him to provide his driver's license, the officer noticed that the driver had a prohibited firearm on the back seat. The police conducted a search of the driver and the car. He also seized the firearm.
4. George had been released on bail. He had to appear before the court on May 7 for an assault charge. When intoxicated in a bar, he had punched a friend who was talking to George's girlfriend. George skipped out and failed to appear in court. He was subsequently arrested for a different crime (theft under \$5000), a relatively minor crime. He is denied bail and detained pending trial.
5. Paul was arrested for theft under \$ 5000, for he stole a smartphone . It is his first offence. He studies at a community college during the day and works at a bar at night. Bail was set at \$ 5000. Paul does not have \$5000.
6. John was arrested for 1st degree murder of his wife. He threatened to kill 100 people at random. Because he was deemed a danger to society, he was denied bail. He was detained in a solitary confinement. He was given food once a day. The confinement did not have a bathroom. He was allowed to use the bathroom for 5 minutes twice a day.
7. A police officer is walking down Wellington St. He smells marijuana. He goes onto private property and peers into windows while attempting to detect odours of marijuana.
8. A police officer sees two people fighting on the street. He takes a picture of the fight. And then he proceeds to arrest them.
9. Fred is arrested for a crime related to prostitution. At the time of the commission this crime was sanctioned with a maximum term of 1 year in prison. Before Fred is sentenced, Parliament reduced the maximum term to 6 months. The judge sentences Fred to 4 months in prison. A few days later, while Fred is serving time in prison, Parliament abolishes this crime. Fred asks the court to be released because his conduct does not constitute a crime any more.
10. Yao was born and raised in China. He immigrated to Canada at the age of 25 to pursue graduate studies. He finished his master's program in Political Science at the University of Toronto with very good grades. He even wrote a thesis in English. After finishing his

program, Yao has been employed by the Ontario government to conduct policy research. Yao is 30 years old now. Last month he was arrested for drunk driving. He requests the court to have a Chinese language interpreter. The court refuses because Yao speaks English very well.

11. Fred was at the airport to travel from Toronto to Montreal. He was selected at random for a full body scan, which consists of a visual search by the screening officer to look for any unusual objects and a physical search by the screening officer using touch (back of their hands) to check for items that could be hidden under a person's clothes. Fred refused to the search. He was not permitted to pass beyond the pre-board screening checkpoint. Fred insisted that he had a mobility right to go from Toronto to Montreal and that he had a right against unreasonable search and seizure. He was arrested for disorderly conduct at the airport.

Class 7: Consumer Protection Rights

Group discussion

- What are consumer rights?
- Why is it important to protect consumers?
- Do consumers have responsibilities? If so, what are these responsibilities?
- Think of a situation that you have experienced or witnessed that shows injustice to the consumer.
- Think of a situation that you have experienced or witnessed that shows the consumer has acted irresponsibly.
- Do an online search of Ralph Nader's Unsafe at Any Speed book. What is his main thesis? What do you think of this thesis? Who is Ralph Nader? Discuss some of his consumer advocacy causes.
- What is the value of consumers' online reviews? Do you find them useful? Can companies fake online reviews? What about authentic but paid reviews, i.e., where the reviewer actually reviews the product for a fee? Are all paid reviews "fake"?

- Read the article “How libel chill is quashing negative online reviews”. What do you think of this practice? What is the implication? Should online reviews be regulated? Why or why not? If so, how?

How libel chill is quashing negative online reviews

By Mark Gollom, [CBC News](#)

Online review sites like Google, Yelp, and TripAdvisor can have a profound impact on business, meaning companies are becoming much more proactive about who is talking about them. The aggressive action taken by some businesses against those who post negative reviews online about their product or service is having a chilling effect on some reviewers who fear being sued, observers say. "It's a tremendous issue. We're running into that all over. It's cheap to threaten and expensive to defend," said Paul Alan Levy, a lawyer who specializes in free speech issues related to the internet for the Washington, D.C.- based Public Citizen Litigation Group. "So yes, many people become very quiet when they're faced with the realistic possibility that they're going to have to defend against a libel claim even if what they said is true. Because it's all very well to defend, but if it costs \$10,000 to defend a true comment, well you're out \$10,000. How much is it worth?" "Certainly businesses are counting on the fear reaction," Levy said.

Some companies in the U.S. have taken it a step further and are including “non-disparagement” clauses into contracts, which prevent customers from writing anything negative about the company. Unlike a libel claim, which is only actionable over a false statement of fact, a non-disparagement clause can be enforced even if the comments are found to be true. (California recently passed legislation that makes such clauses illegal. A similar bill is currently making its way through the U.S. Congress.) Levy acknowledged that some reviewers do post comments out of spite, and that there should be a way for businesses to deal with them, but that a balance needs to be struck.

Scenarios

- 1) One day, Thomas' whole family had what they thought was the flu. While sick in bed, Thomas was watching the news and saw that all spinach had been recalled from the grocery stores because it was contaminated with E. Coli. His family had eaten a spinach salad with dinner the night before.
- 2) Jenaya bought herself a new outfit on sale without trying it on first. The outfit consisted of a shirt and matching pants. Jenaya looked at the tag *attached to the shirt. It was her size*. When she tried it on at home, the pants were too big. She looked at the tag attached to the pants, and sure enough, the pants were a size bigger than the shirt. When she tried to return it, she was told she couldn't because the outfit was bought on sale.
- 3) Damon has not been feeling well for a week. He goes to the doctor and finds out he has strep throat. He then goes to the pharmacy to pick up his prescription. The pharmacist asks Damon if he would like to go over the drug information with him. Damon responds no, as he would rather go to bed than stand there any longer. The pharmacist tells him to please read the enclosed pamphlet about the drug when he gets home. Damon does not. He then becomes very nauseous and after a few days, he goes to the doctor again. The doctor tells him it is because he did not take the prescription on a full stomach, as the pamphlet told him to.
- 4) Ashley witnessed an employee act in a very rude manner to the customer in line ahead of her at the sub shop. This behaviour upset Ashley, but she chose to not say anything to anyone.
- 5) Metro advertises your favorite spaghetti sauce at half off. When you get there, the store tells you it ran out and you're out of luck.
- 6) After telling a salesperson that you needed a washing machine that can handle 15-pound loads, you bought the one he recommended, only to discover later that it can't. Now the store won't take it back.
- 7) Café Natura offers free samples of vegan carob cake. You are vegan and you like it. So, you buy one whole cake. When you eat it at home, you realize it has milk and eggs.
- 8) You buy software to edit pictures online at \$ 99. You download the product but a window pops up saying that you must buy an update at \$ 15. Without the update, the product does not work.

- 9) Kirsty often uses her computer to check and send emails, check her Facebook account and surf the internet. One day after school she received an email from an unknown sender. She opened and read the email! She couldn't believe it! She was being offered a brand new Wii for only \$150. Kirsty had just received her first credit card in the mail a couple days prior, so she thought this would be the perfect first purchase. She clicked the link, went to the website and ordered it. She waited not so patiently for the Wii to arrive, and 4 weeks later when she received her credit card statement, Kirsty noticed this company had charged her the \$150 3 times, and still no Wii has arrived at her house.
- 10) Graham wanted to buy a car. The first place he went to, he found a car that he liked, but he was unsure and wanted to think about it. The salesman told him the car wouldn't last on the lot for even the day; it was such a great deal. The salesman went to 'talk to his manager' and got him an extra \$1000 off. Graham again said he wanted to think about it. The salesman said that he was making a huge mistake and he would never find a car like this for a price like this again.
- 11) Ariel talked her dad into buying a boogie board on sale in the winter. In the summer, she got a few of her friends together and her dad took them out to the beach for a day of boogie boarding. Two of her friends got very hurt. Afterwards, Ariel's dad looked at the packaging the boogie boards came in, and no warnings about safety had been included.
- 12) On a supermarket shelf, there are Tylenol and Advil tablets for colds and headaches. There are also store brand tables in between Tylenol and Advil. Mike bought the store tables for his headache. The tablets did not help him with his headache. He read the box carefully and he realized that they were non-medicinal candy.
- 13) The supermarket flyer advertises a box of shrimps and sauce at \$9.99. John bought a box for \$ 9.99. When he opened the box at home, he noticed that the sauce was not inside. He went back to the supermarket and complained. He was informed that the sauce is extra and costs \$ 4.99.
- 14) Julie is a fan of The Middle. She bought seasons 1 to 4 on DVD from Amazon.ca. When Season 5 was released, Amazon sent the DVD to Julie, which she had not ordered. Amazon charged \$19.99 to Julie's credit card which was on file.

15) Jennifer buys a smartphone online. The seller provides Jennifer with a written agreement. Jennifer receives the phone by mail 10 days after her purchase. She does not like it. She wants to return. Can she do it?

16) Jennifer buys a smartphone online. The seller does not provide Jennifer with a written agreement. Jennifer receives the phone by mail 10 days after her purchase. She does not like it. She wants to return. Can she do it?

Class 8: Reading activity

Franz Kafka's Before the Law.



- Who is Franz Kafka?
- What is the story about? What does the author want to show with this story? What purpose does he seek?
- What is your interpretation of the story?
- What is the notion of rights, if any, in the story? What is the notion of law, if any, in the story?
- What are the main symbols in the story? What do the gate, the gatekeeper, and the man symbolize?
- What would you have done if you were the man before the law?
- Suppose you are lawyer representing the man's heirs. You file a lawsuit against the gatekeeper for having denied you the right to access to the law. Outline your legal arguments. Be as specific as possible.

- Suppose you are a lawyer representing the man's heirs. You file a lawsuit against the gatekeeper for having denied access to the law. Outline your legal arguments. Be as specific as possible.

Before the Law By Frank Kafka

BEFORE THE LAW stands a doorkeeper on guard. To this doorkeeper there comes a man from the country and prays for admittance to the Law. But the doorkeeper says that he cannot grant admittance at the moment. The man thinks it over and then asks if he will be allowed in later. "It is possible," says the doorkeeper, "but not at the moment." Since the gate stands open, as usual, and the doorkeeper steps to one side, the man stoops to peer through the gateway into the interior. Observing that, the doorkeeper laughs and says: "If you are so drawn to it, just try to go in despite my veto. But take note: I am powerful. And I am only the least of the doorkeepers. From hall to hall there is one doorkeeper after another, each more powerful than the last. The third doorkeeper is already so terrible that even I cannot bear to look at him." These are difficulties the man from the country has not expected; the Law, he thinks, should surely be accessible at all times and to everyone, but as he now takes a closer look at the doorkeeper in his fur coat, with his big sharp nose and long, thin, black Tartar beard, he decides that it is better to wait until he gets permission to enter. The doorkeeper gives him a stool and lets him sit down at one side of the door. There he sits for days and years. He makes many attempts to be admitted, and wears the doorkeeper by his importunity. The doorkeeper frequently has little interviews with him, asking him questions about his home and many other things, but the questions are put indifferently, as great lords put them, and always finish with the statement that he cannot be let in yet. The man, who has furnished himself with many things for his journey, sacrifices all he has, however valuable, to bribe the doorkeeper. The doorkeeper accepts everything, but always with the remark: "I am only taking it to keep you from thinking you have omitted anything." During these many years the man fixes his attention almost continuously on the doorkeeper. He forgets the other doorkeepers, and this first one seems to him the sole obstacle preventing access to the Law. He curses his bad luck, in his early years boldly and loudly; later, as he grows old,

he only grumbles to himself. He becomes childish, and since in his yearlong contemplation of the doorkeeper he has come to know even the fleas in his fur collar, he begs the fleas as well to help him and to change the doorkeeper's mind. At length his eyesight begins to fail, and he does not know whether the world is really darker or whether his eyes are only deceiving him. Yet in his darkness, he is now aware of a radiance that streams inextinguishably from the gateway of the Law. Now he has not very long to live. Before he dies, all his experiences in these long years gather themselves in his head to one point, a question he has not yet asked the doorkeeper. He waves him nearer, since he can no longer raise his stiffening body. The doorkeeper has to bend low towards him, for the difference in height between them has altered much to the man's disadvantage. "What do you want to know now?" asks the doorkeeper; "you are insatiable." "Everyone strives to reach the Law," says the man, "so how does it happen that for all these many years no one but myself has ever begged for admittance?" The doorkeeper recognizes that the man has reached his end, and to let his failing senses catch the words, roars in his ear: "No one else could ever be admitted here, since this gate was made only for you. I am now going to shut it."

Class 9: Air Passengers' rights

SUMMARY OF THE RIGHTS OF AIR PASSENGERS

UPON PURCHASE OF TICKET AND UPON ARRIVAL AT THE AIRPORT
Based on Joint DOTC-DTI Admin. Order No. 01 or the Air Passenger Bill of Rights

Major Rights of an Air Passenger

- i** Right to be provided with accurate information before purchase
- 🎁** Right to receive the full value of the service purchased
- 🏠** Right to compensation

Discussion questions

- 1) What is overbooking? Why does it happen?
- 2) What is the impact of denied boarding on passengers? What could authorities do to improve this impact?
- 3) Why do airlines like to classify passengers into different categories? Why do airlines neglect non-frequent passenger?
- 4) What does “no-show passenger” mean? Why would a passenger who already paid a ticket not show up at the airport to fly?
- 5) Do an online search of US and European compensation rules for denied boarding due to overbooking? Discuss these rules.
- 6) Are there any international norms or guidelines? If so, discuss them.
- 7) Is overbooking common in other industries?
- 8) Are there any reasons to deny boarding other than overbooking?
- 9) Look for videos or news articles discussing denied boarding due to overbooking. Comment them.

Scenarios

- 1) John, a passenger who lives in Wawa, purchased an airline ticket from Air Canada to fly from Sault Ste. Marie to Toronto and then to Montreal. The flight from the Sault is scheduled to depart on Monday at 5.40 am. He is expected to arrive in Montreal at 2 pm. On Saturday evening, Air Canada learns that the only aircraft that is available to fly from the Sault to Toronto will be available to depart at 1 pm. When John gets to SSM airport from Wawa at 3.40 am, he reads on the screen that the flight is delayed and will depart at 1 pm. All other Air Canada flights that day have also been delayed. The Air Canada check-in counter is closed. Air Canada personnel arrive at 10 am. John receives his rescheduled boarding passes. He arrives in Montreal at 9 pm. His luggage is delayed and it is delivered to his hotel on Monday morning.
- 2) John, a passenger who lives in Wawa, purchased an airline ticket from Air Canada to fly from Sault Ste. Marie to Toronto and then to Montreal. The flight from the Sault is scheduled to depart on Monday at 5.40 am. He is expected to arrive in Montreal at 2 pm. There is a snow storm on Saturday and Sunday. Air Canada learns that the earliest flight will be able to depart from the Sault to Toronto at 1 pm on Sunday. When John gets to SSM airport from Wawa at 3.40 am, he reads on the screen that the flight is delayed and will depart at 1 pm. All other Air Canada flights that day have also been delayed due to the snow storm. The Air Canada check-in counter is closed. Air Canada personnel arrive at 10 am. John receives his boarding passes. He arrives in Montreal at 9 pm.
- 3) Homer purchases a flight from Toronto to Ottawa on Porter Airlines to fly on Monday at 8 am to attend a Nuclear Plant convention that begins at 10 am and finishes at 5 pm. Porter Airlines has overbooked the flight. Porter offers Homer to fly at 12 pm and arrive in Ottawa at 1 pm. Since he will miss most of the Convention, he decides not to accept the new flight and demands his money back plus the taxi to and from the airport and the loss wage for that day. Porter Airlines insists that he should take the 12 pm flight and refuses to pay him any sum of money.
- 4) Homer lives in Sault Ste. Marie. He is scheduled to fly from the Sault to Toronto at 8.45 pm. He arrives at the airport and is informed that the flight has been cancelled. He is checked in to fly on a flight departing at 5.40 am the following morning. Homer demands

to be sent to a hotel and to be paid for a meal, and the taxi transfers to and from the hotel. The airline refuses to do so.

- 5) Homer lives in Calgary. He is scheduled to fly from the Sault to Toronto at 8.45 pm. He arrives at the airport and is informed that the flight has been cancelled. He is checked in to fly on a flight departing at 5.40 am the following morning. Homer demands to be sent to a hotel and to be paid for a meal, and the taxi transfers to and from the hotel. The airline refuses to do so.
- 6) Homer lives in Sault Ste. Marie. He is scheduled to fly from the Sault to Toronto at 5.45 pm on Sunday. He arrives at the airport and is informed that the flight has been cancelled. He is checked in to fly on a flight departing at 10.40 pm that day. Homer demands a meal voucher, but the airline refuses because the only store that sells food in the airport is closed.
- 7) Homer, who lives in Toronto, travels from Toronto to Sault Ste. Marie on Monday and arrives on time at 9.48 am. His luggage is lost. He complains. The airline asks Homer for an address to deliver his luggage once it finds it. Homer explains that he will go hunting and will sleep outside in a bush. He will not have a fixed address. There is no phone or internet access in the bush. The airline offers to deliver his luggage to his home in Toronto when it finds it. Homer is very upset.
- 8) Homer is flying from Toronto to Halifax. The flight arrives on time at 6 pm. However, due to a thunderstorm, passengers are not allowed to disembark, as it is not safe for them and for airport workers. After waiting for 2 hours for the storm to end, Homer asks a flight attendant for food and drinks. The flight attendant tells Homer that they ran out of drinks and snacks. Homer is very upset.
- 9) Homer purchased a ticket to fly from Sault Ste. Marie to Toronto at 4 pm. Since the flight is almost empty, Porter decides to cancel this flight. Homer is offered a seat on the following flight that departs at 6 pm. Homer refuses and demands full refund of the air fare.
- 10) Passenger Rich paid an extra \$35 for an exit row seat, expecting to travel from Toronto to Sault Ste. Marie with more room than a normal economy seat. But he found himself seated beside an obese man. The flight was full, so he could not change seats. He

complained to the airline and demanded a full refund of the extra \$35. The airline refused to refund Rich.

11) Do an online search and find 5 different complaints by airline passengers. Discuss them.

Draft a Canadian airline passenger bill of rights

Class 10: Speluncean Explorers

Read the facts of the case of the Speluncean Explorers from Chief Justice Truepenny.

Write 3 opinions on the case according to each of the legal perspectives discussed in class.

TRUEPENNY, C. J. The four defendants are members of the Speluncean Society, an organization of amateurs interested in the exploration of caves. Early in May of 4299 they, in the company of Roger Whetmore, then also a member of the Society, penetrated into the interior of a limestone cavern of the type found in the Central Plateau of this Commonwealth. While they were in a position remote from the entrance to the cave, a landslide occurred. Heavy boulders fell in such a manner as to block completely the only known opening to the cave. When the men discovered their predicament they settled themselves near the obstructed entrance to wait until a rescue party should remove the detritus that prevented them from leaving their underground prison. On the failure of Whetmore and the defendants to return to their homes, the Secretary of the Society was notified by their families. It appears that the explorers had left indications at the headquarters of the Society concerning the location of the cave they proposed to visit. A rescue party was promptly dispatched to the spot.

The task of rescue proved one of overwhelming difficulty. It was necessary to supplement the forces of the original party by repeated increments of men and machines, which had to be conveyed at great expense to the remote and isolated region in which the cave was located. A huge temporary camp of workmen, engineers, geologists, and other experts was established. The work of removing the obstruction was several times frustrated by fresh landslides. In one of these, ten of the workmen engaged in clearing the entrance were killed. The treasury of the

Speluncean Society was soon exhausted in the rescue effort, and the sum of eight hundred thousand frelars, raised partly by popular subscription and partly by legislative grant, was expended before the imprisoned men were rescued. Success was finally achieved on the thirty-second day after the men entered the cave.

Since it was known that the explorers had carried with them only scant provisions, and since it was also known that there was no animal or vegetable matter within the cave on which they might subsist, anxiety was early felt that they might meet death by starvation before access to them could be obtained. On the twentieth day of their imprisonment it was learned for the first time that they had taken with them into the cave a portable wireless machine capable of both sending and receiving messages. A similar machine was promptly installed in the rescue camp and oral communication established with the unfortunate men within the mountain. They asked to be informed how long a time would be required to release them. The engineers in charge of the project answered that at least ten days would be required even if no new landslides occurred. The explorers then asked if any physicians were present, and were placed in communication with a committee of medical experts. The imprisoned men described their condition and the rations they had taken with them, and asked for a medical opinion whether they would be likely to live without food for ten days longer. The chairman of the committee of physicians told them that there was little possibility of this. The wireless machine within the cave then remained silent for eight hours. When communication was re-established the men asked to speak again with the physicians. The chairman of the physicians' committee was placed before the apparatus, and Whetmore, speaking on behalf of himself and the defendants, asked whether they would be able to survive for ten days longer if they consumed the flesh of one of their number. The physicians' chairman reluctantly answered this question in the affirmative. Whetmore asked whether it would be advisable for them to cast lots to determine which of them should be eaten. None of the physicians present was willing to answer the question. Whetmore then asked if there were among the party a judge or other official of the government who would answer this question. None of those attached to the rescue camp was willing to assume the role of advisor in this matter. He then asked if any minister or priest would answer their question, and none was found who would do so. Thereafter no further messages were received from within the cave, and it was assumed (erroneously, it later appeared) that the electric batteries of the explorers' wireless machine had

become exhausted. When the imprisoned men were finally released it was learned that on the twenty-third day after their entrance into the cave Whetmore had been killed and eaten by his companions.

From the testimony of the defendants, which was accepted by the jury, it appears that it was Whetmore who first proposed that they might find the nutriment without which survival was impossible in the flesh of one of their own number. It was also Whetmore who first proposed the use of some method of casting lots, calling the attention of the defendants to a pair of dice he happened to have with him. The defendants were at first reluctant to adopt so desperate a procedure, but after the conversations by wireless related above, they finally agreed on the plan proposed by Whetmore. After much discussion of the mathematical problems involved, agreement was finally reached on a method of determining the issue by the use of the dice.

Before the dice were cast, however, Whetmore declared that he withdrew from the arrangement, as he had decided on reflection to wait for another week before embracing an expedient so frightful and odious. The others charged him with a breach of faith and proceeded to cast the dice. When it came Whetmore's turn, the dice were cast for him by one of the defendants, and he was asked to declare any objections he might have to the fairness of the throw. He stated that he had no such objections. The throw went against him, and he was then put to death and eaten by his companions.

After the rescue of the defendants, and after they had completed a stay in a hospital where they underwent a course of treatment for malnutrition and shock, they were indicted for the murder of Roger Whetmore. At the trial, after the testimony had been concluded, the foreman of the jury (a lawyer by profession) inquired of the court whether the jury might not find a special verdict, leaving it to the court to say whether on the facts as found the defendants were guilty. After some discussion, both the Prosecutor and counsel for the defendants indicated their acceptance of this procedure, and it was adopted by the court. In a lengthy special verdict the jury found the facts as I have related them above, and found further that if on these facts the defendants were guilty of the crime charged against them, then they found the defendants guilty. On the basis of this verdict, the trial judge ruled that the defendants were guilty of murdering Roger Whetmore. The judge then sentenced them to be hanged, the law of our Commonwealth permitting him no

discretion with respect to the penalty to be imposed. After the release of the jury, its members joined in a communication to the Chief Executive asking that the sentence be commuted to an imprisonment of six months. The trial judge addressed a similar communication to the Chief Executive. As yet no action with respect to these pleas has been taken, as the Chief Executive is apparently awaiting our disposition of this petition of error.

*Except for newspaper articles and court cases, all class activities are hypothetical and fictitious. Any resemblance to actual persons, institutions, or events is purely coincidental. All activities are meant to facilitate the discussion and study of Law. They are not meant to advocate for or promote any crime or unlawful action.