Entering Law School With Eyes Wide Open

Welcome to the virtual orientation for incoming students in common-law’s English JD program. My name’s Craig Forcese a professor of law at the University of Ottawa where I teach a number of subjects including public international law, international security law, and administrative law. In this virtual orientation we cover many of the issues and ideas that are necessary for you to fully appreciate and understand many of the subjects you will be dealing with in your first year of legal studies. So in the course of the next several podcasts I’ll be interviewing some members of the University of Ottawa’s Teaching faculty, including those who teach in the first year.

Of course, by virtue of the fact that these podcasts are 20 minutes or so in length, we can only grapple with these issues in a succinct and summary fashion. Nevertheless, in this manner we provide you with a table of contents to many aspects of the first year program, and this table of contents allow you to understand “the forest”, before you probe in greater detail, “the trees” of the subjects matters of your first year course. We have set up this album much like someone would set up an album in iTunes, so you can pick and choose those podcasts you wish to listen to at any particular juncture. We have however, tried to order and structure them in a logical framework. So we invite you to follow them in sequence, listen and relisten to them as your time permits.

Now the beginning of each podcast I will provide an overview of the subject dealt with in that podcast, and some sense of its relevance and how it fits into the subject as a greater whole that constitutes this podcast project. In this initial podcast, my intent is to provide an overview, of the first year program. Not only will this help you understand why the materials covered in the podcast are important, but it should help situate the more detailed information that we provide to you during your first few days in the law school itself in September. Let me begin by describing the basic architecture of the first year program. In the first year program you study 9 courses for a total of 34 credits.

Speaking generally, these courses can be divided into 3 broad categories. The first category of courses would be those that constitute Private Law, Private Law being that aspect of the law that governs relationships between individuals, private citizens. Courses in this area include property, torts, and contracts. The second broad category of courses would be the Public Law offerings in the first year law program. Public Law would be the aspect of law that governs relationships between the individual and the state. And so in this area, first year includes Public Law and legislation, Constitutional Law 1, and Criminal Law and procedure. We then offer a thematic course in the second term of first year. Within thematic courses there are a number of subject matters on offer that do change from year to year. You will find primarily Public Law offerings, but there are some Private Law offerings. The third broad category of courses that you take in the first year, are those that are principally skill transference. Dispute reference and professional responsibility, and principals of legal research provide you with core elemental skills of essence to any functioning lawyer. Several of these courses are offered in a large group setting that is you take these courses in a class of 70 to 80 individuals. With our so called small group courses, those courses involve registrations in the order of 20 persons. One of the aspects of our program is that you choose to take either Criminal Law, or torts in a small group setting. In that small group setting you will not just focus on substantive issues associated with Criminal Law or torts, but also you will be instructed in the area of legal writing. Here, we have a mix of both substantive and skilled transference. Also, with the thematic courses those offerings are capped at a 25 person level. In a handful of specific cases, there are thematic courses with as many people as 40 or 45. I want to pause at this point and describe in greater detail the content of some of these courses. I start with the caveat the actual precise coverage will vary between professors, and you will get some detail of that in the course material that is unique to each Professor’s class, which will be available to you prior to registration. Let me begin with contracts, for most of you this is a fairly intuitive concept, but contracts is the study and analysis of the basic principles of contract law, so the topics that are covered include conceptual and historical introduction to contracts, how contracts are formed, the operation of contracts, how one discharged from contacts, remedies, and introduction to the concept of agency. Property is also a concept that should be fairly intuitive to you, but the content can be somewhat surprising. Property focuses on issues of ownership and possession, and the law relating to real property and personal property, and under the heading of personal property instructors will focus on such things as gift and bailment, finders and within real property, concepts such as tenure, a contingent interest estates, future interests, natural resources, water rights, and also in our program, first nations land law. A number of other issues will also be covered, depending on the preoccupation of the professor in question. Torts, which is another Private Law topic, involves liability for interference with the interests with persons may have in their own bodily integrity, their own property, their own reputation, their own economic interests. So torts include such things as intentional torts such as battery, and also concepts like negligence. Moving onto Public Law courses, introduction to Public Law and legislation touches on the formation and purposes of legislation, the structure of the Canadian legal system, the federal legislative process, and statuary interpretation, and basic doctrines associated with Canadian Constitutional Law, a law that is foundational to most of your other legal studies. Also in play is the structure of Canada’s courts and tribunal system, and the role of the courts in overseeing legislative and administrative action.

Another Public Law topic is Constitutional Law 1. In the University of Ottawa in the JD Program, Constitutional Law is divided into 2 different courses. So you take Constitutional Law 1 in first year, and you will take Constitutional Law 2 in second year. In terms of the content, Constitutional Law 1 focuses on the charter of rights and freedoms. So it examines the framework of the charter and covers fundamental rights and freedoms protected by the charter, as well as dealing with constitutional remedies, and more generally, the sources of Canadian Constitutional Law and the role of the courts in policing that constitutional framework. Criminal law and procedure involves the study of general procedures of Criminal Law, burdens of proof, the physical and mental elements of offenses, the select defenses in Criminal Law, basic elements of criminal procedure, and again, basing on the preoccupations of the professor, the impact of the charter of rights and freedoms on both the substantive and procedural issues in Canadian Criminal Law.

As the title suggests, dispute resolution and professional responsibility focuses on ethics, professional responsibility, legal problem solving, transaction facilitation, and dispute resolution through negotiation, mediation and arbitration. It involves a substantial amount of practical, hands on exercises that put you in the position of actually exercising these skills. And finally, principles of legal research involve an introduction to the fundamentals of legal research, bibliographical sources, and the rules of legal citation.

As you guys already noted, our thematic course offered in winter term involves any number of different subjects, and different courses from which students may select. Courses cover such things as environmental law, technology law, and issues surrounding legal history, and legal theory. There is also the prospect of studying public international law in fact, studying public international law is compulsory for students who are enrolled in the joint JD program with normal Patterson school of international affairs. That in a nutshell, is the first year program.

I want to say a few words now about managing your first year program to maximize your prospects of success. I do so in my personal capacity, as a professor for the past decade. And as the incumbent vice dean at the time of which this podcast was recorded. My views are personal views, they may not be shared, at least in full, by my colleagues, but they reflect my personal reflections over the course of my career. The first point I will make is to temper your expectations. The admissions average for the University of Ottawa JD program is in the A- range. This means that the colleagues that sit with you in your classes have on average, an entry level GPA of 80-83 percentile range. In these circumstances, you will find yourself seated with highly accomplished scholars and students. In the law program, we have guidelines for marking expectations. For most courses, those guidelines situate the average in a course at the 6.0 or B level. The average in any given course should be at a B subject to permissible deviations. On average therefore, a student in the program should expect that their GPA drop the equivalent of 10 percentage points relative to the grades they earned in their undergraduate programs. For many of you, this will be a shock and quite discouraging, this however is the nature of legal studies. You are now in a smaller pool of highly accomplished scholars, marked to rigorous standards. Therefore you should not internalize or take amiss the fact that many of you will exit the first year program with grades on your transcript with grades that you have never seen before. The second observation that I will make is that success in law school may require the deployment of skills that are unusual in your experience. The form of evaluation may be quite unique, relevant to what you have experienced in the past. For example, many law school courses are evaluated by what is called “hypothetical” exams. So, in those hypothetical exams you are told to apply knowledge that you are expected to extract from what is known as the case method of study, and apply that knowledge in unique circumstances that you have not encountered before, to a particular set of facts that are presented to you for the first time on the examination. Let me unpack some of the elements of that particular form of evaluation for you. First note my reference to the case method. In common law studies, the expectation is that students and lawyers should be able to read a case that is a judgment by a court, and discern in that case the key legal conclusions and definings. They are then expected to take those principles of law and apply them, or not, to a unique and highly variable set of different facts, in an effort to arrive at an outcome that favors the interests of your client. In other words, in traditional common law studies you are expected to extract the rules yourself from the jurisprudence, you are not given a large tome that outlines in great detail the rules and how the rules can apply in every set of factual circumstances. Having extracted these rules you are expected to synthesize them and deploy them to new facts, new problem situations. This is a very difficult skill, being able to extract jurisprudence and apply it to new circumstances. Students often struggle with this skill on examinations, especially in the first year program. Those who succeed on these examinations tend to “hack the system”, learn how it is that one can do this efficiently and effectively, and earn the marks associated with this skillset. I have prepared a podcast on writing the law school examinations that you may want to listen to early in your legal studies in order to hone those skills. Now, I hasten to add that not every course will be evaluated with an eye to a standard hypothetical evaluation. In fact, increasing your first year courses will involve all sorts of other forms of evaluation and other skills, being evaluated including your capacity to write effectively in assignments and other forms of work product that you do outside of the classroom, and sometimes in the classroom itself.

This leads to a third observation. The coin to the realm is often a capacity to write effectively, efficiently, and with verve. Learning how to write well is one key aspect of performing well as a lawyer. If you find yourself struggling to write effectively and cogently, you should look to those programs offered within the law school designed to assist you with your legal writings aptitude.

A fourth observation I will make is that Law School is a lot of work. It can consume every waking moment, if you allow it to. You can spend endless amounts of times understanding the peculiarities of whatever particular case you are asked to read. Be wary however, of the law of diminishing returns. There will come a point where further studying offers very little in the way of supplemental understanding. Don’t lose yourself in law school by spending every waking moment in the library, struggling with matters of incidental importance. One of the virtues of law school is the ability to involve yourself in all manner of extracurricular activities, which help balance and round your experience and give you an opportunity to engage in matters of public importance, and public debate. Take advantage of these opportunities; do not let this time go by without experiencing some of the fascinating extracurricular activities that you can involve yourself in.

Let me end this introductory podcast with some words on career development. One of the things you will soon turn your mind to, if you are a typical law student, is what will happen after law school. Most of you are probably speaking familiar with the process of being admitted to the bar. Many of you have that aspiration. I will begin by saying that not every law student comes to law school with the intent of being a practicing lawyer. Many do come with policy objectives, in an effort to upgrade their credentials to work in some other dimension of life with a profound understanding of how the law works. The law degree can be a door opener to those sorts of professions. For those who are inclined to practice law, the route from law school involves writing Bar examinations, and at the time of this recording, apprenticing, or as the term goes, articling with an articling principal, often in the employ of a law firm, or in some cases as a law clerk assigned to a judge.

Getting an articling job becomes a core preoccupation to law students relatively early in their legal studies. We have resources in the law school designed to assist in this articling job search process in the form of our student services office. They hold frequent job searching sessions and job information sessions throughout the course of the academic year. You are strongly encouraged to attend those sessions, and to tap into the expertise of the student services office. As you enter your legal studies, there is a fair amount of debate on the future of the profession, and how it will regulate itself or possibly be regulated by others. At this junction in your legal studies, there is little benefit to worrying excessively about where the profession may go in the future. Your job is to do as well as you can in law, to experience the virtues and benefits of your presence in law school, and to develop the skills and aptitudes that will allow you to succeed in your chosen profession. There is a lot of information and misinformation about the future of the profession, and what you should do to improve your chances, my only advice on this is to speak to those who know what they are talking about, and not to fall prey to every rumor that circulates on social media. We have seats in our law program for one out of every 13 persons who apply to it. You have been given a tremendous opportunity to develop skills, aptitude, interests, and to perform public service for members of society. Enjoy our time in law school, and take advantage of the virtues it brings. On that note, let me close this particular podcast. In our next podcast we will turn our focus to the substantive issues that this virtual orientation aims to address.