A Short
Introduction

OUTLINING
BRIEFING & OUTLINING

Briefs

- What is a case brief?
  - Distilled version of the case.

- Why write case briefs?
  - Primary reason:
    - Forcing yourself to not just read the case, but to dissect it, analyzing the constituent parts.

  - Secondary reasons:
    - Quick answers to class questions.
    - Easy way to review before and after class.
    - Good for exam review.
AN OUTLINE IS NOT...

- A combined version of your case briefs.
- A prettier version of your class notes.
A structural organization of the course materials.

First:
  Rules

Second:
  Examples (via Facts, Stickies)
WHAT DO I MEAN BY STRUCTURAL ORGANIZATION?

- Not...
  - A list.
  - A chronological ordering of course material.

- An outline should...
  - Make obvious the relationships among the rules (and, therefore, the cases).
D2. The Reason of the Law.

A Lessee for Term of twenty Years, accepts of a Leafe of the same Land, for ten Years, the Term of twenty Years is determined in Law, by the Lessee's Acceptance of the new Leafe. 2 Roll. 469.

Acceptance of Rent is a tacit Acknowledgment of the Tenant's Title, where a Leafe is voidable only, and not void: And by Acceptance of a new Leafe, the Lessee acknowledges the Leffer's Power to make it, and so determines the former.

Acculration.

By the Laws of England, no Man is to Accuse, nor shall he be forced to allege that which makes against him only, but a Criminal may in all Cases plead Not guilty, and put himself upon his Country, who are to find him Guilty, by the Testimony of Witnesses. And by Magna Charta, no Man shall be imprison'd or condemned on any Accusation, without Trial by his Peers, and the Law of the Land. 4 Co. Inst. 9.

As no Person by Law may be his own Judge, either to acquit or condemn, so none is to accuse himself; which would amount to Judgment. And as to Trial of Persons accused, by their Peers; Peers (viz. Equals) are the most proper Judges of Offences of Peers, by Reason they may best make the Case their own.

Additions.

Addition signifies a Title given to a Man, besides his Christian and Sir-name; setting forth his Estate, Degree, Trade or Profession, also his Place of Residence, &c. In Actions where Process

A Lesse
Introduce a primary rule.

1. Define a key term within the primary rule with more detail.

2. Elaborate on one element of a rule.

3. Examples of evidence sufficient/insufficient to prove an element.

4. Provide an exception to the rule.

5. Provide an exception to a single element of the rule.

6. Add a sub-rule.

7. Explain a nuance of applying one element.
To drive or operate any motor vehicle, engine, or train while under the influence.

(VA Code Ann. § 18.2–266).
Driving is a narrow term meaning to put the car in motion.

Operation is a broader term, which includes starting the vehicle or manipulating its mechanical or electrical agencies.

Criminal Law

I. Motor Vehicle Offenses
   A. DUI

1. **Gallagher**
   A. *Driving* is a narrow term meaning to put the car in motion.

   B. *Operation* is a broader term, which includes starting the vehicle or manipulating its mechanical or electrical agencies.

2. **Nelson**
CASEBOOK MAY BE A BAD EXAMPLE
Criminal Law

I. Motor Vehicle Offenses
   A. DUI
      1. Driving or Operating
      2. Motor vehicle, engine or train AND
      3. Under the influence.
Driving is a narrow term meaning to put the car in motion.

Operation is a broader term, which includes starting the vehicle or manipulating its mechanical or electrical agencies.

Criminal Law

I. Motor Vehicle Offenses

A. DUI

1. Driving or Operating
2. Motor vehicle, engine or train AND
3. Under the influence.
DUI: OUTLINE – BUILDING IN GALLAGHER

Criminal Law
I. Motor Vehicle Offenses
   A. DUI
      1. Driving or Operating
         a. Driving
            i. Narrow term for motion (Gallagher)
         b. Operating
            i. Broad term
               ii. Examples: starting vehicle, manipulating mechanical or electrical agencies. (Gallagher)
      2. Motor vehicle, engine or train AND
      3. Under the influence.
Criminal Law

I. Motor Vehicle Offenses

A. DUI

1. Operating
   a. Examples
      i. Driving (putting into motion)
      ii. Starting vehicle
      iii. Manipulating mechanical or electrical agencies.

2. Motor vehicle, engine or train AND

3. Under the influence.
Turning the ignition to the position that allowed the radio to operate while the engine was not running is sufficient to convict because the electrical equipment had been manipulated.

Criminal Law

I. Motor Vehicle Offenses

   A. DUI

      1. Driving or Operating
         a. Driving
            i. Narrow term for forward motion
         b. Operating
            i. Broad term
               ii. Examples: starting vehicle, manipulating mechanical or electrical agencies.

      2. Motor vehicle, engine or train AND

      3. Under the influence.
A. DUI

1. Driving or Operating
   a. Driving
      i. Narrow term for forward motion
   b. Operating
      i. Broad term
      ii. Examples of Operating
         aa. Starting vehicle,
         bb. Manipulating mechanical agencies
         cc. Manipulating electrical agencies.
         1. Radio alone is enough.

2. Motor vehicle, engine or train AND

3. Under the influence.
Proof that the person alleged to be operating was in **actual physical control** of the automobile is necessary to convict.

(VA Code Ann. § 46.2–100).
A. DUI

1. Driving or Operating
   a. Driving
      i. Narrow term for forward motion
   b. Operating
      i. Broad term
      ii. Examples of Operating
         aa. Starting vehicle,
         bb. Manipulating mechanical agencies
         cc. Manipulating electrical agencies.

2. Motor vehicle, engine or train AND

3. Under the influence.
A. DUI

1. Driving or Operating
   a. Driving
      i. Narrow term for forward motion
   b. Operating
      i. Broad term
         aa. But proof of actual, physical control
      ii. Examples of Operating
         aa. Start vehicle,
         bb. Manipulate mechanical agencies
         cc. Manipulate electrical agencies.
            1. Radio alone is enough.
Evidence that the accused was found outside a wrecked/parked automobile and the engine was not running is insufficient to prove operation.

A. DUI

1. Driving or Operating
   a. Driving
      i. Narrow term for forward motion
   b. Operating
      i. Broad term
         aa. But proof of actual, physical control
            1. Example: Proximity to parked/wrecked car not enough if car not operating.
      ii. Examples of Operating
         aa. Start vehicle,
         bb. Manipulate mechanical agencies
         cc. Manipulate electrical agencies.
            1. Radio alone is enough.
UTILIZING OTHER SPATIAL STRUCTURES
FLOW CHARTS

Estate Now?

Yes? Present Estates

Life only?

Yes? Life Estate

No? 4 Categories

Full & No Conditions?

Yes?

FSA

Conditions? Present Estates

Does it terminate by taking of 3rd party?

Yes?

POR

No?

FSSEL + EI

Yes - FSD + POR

No - FSSCS

Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Does it immediately follow a life estate?

Yes?

Remainder Interest

No?

Yes - Vested Subject to Divestment

No?

Contingent remainder

No?

No - Vested

No?

No - Shifting

Yes?

No - Shifting

No?

Yes - RORE

No - Executory Interest

Yes?

FSA Conditions?

No? Future Interests

Does O hold it?

Yes?

Reversion.

No - Does it terminate automatically?

Yes?

Does it follow FSD?

No?

Does it follow FSSCS?

Yes?

POR

No?

RORE

No - Do not follow FSSCS?

Yes - POR

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - Full & No Conditions?

No?

Yes - Full & No Conditions?

No - Does it terminate by taking of 3rd party?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?

Yes - Vested Subject to Divestment

No?

No - Vested

No?

No - Shifting

Yes?

Yes - RORE

No - Executory Interest

No - FSSCS

Takes immediately on LE's death?

Yes?

Yes - FSA Conditions?

No?

Yes - FSA Conditions?

No - Does it terminate automatically?

Yes?

Yes - Springing

No?

No - Springing

Does it divest O?

Yes?
Present Estates

- Fee Simple Absolute
- Fee Simple Subject to an Executory Limitation
- Fee Simple Subject to a Condition Subsequent
- Life Estate
- Fee Simple Determinable

- Executory Interest
- Right of Re-Entry
- Reversion (Held by grantor/estate of grantor)
- Remainder (Held by Third party)
- Possibility of Reverter
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D. Fee Tail
E. Life Estate
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LENGTH OF AN OUTLINE
TOO MUCH / TOO LITTLE

- The “attack” outline?
WHEN TO BEGIN OUTLINING
NOT NOVEMBER