

LESSON 1: INTRODUCTION TO THE LAW OF CONTRACTS

SUMMARY OF THIS LESSON

Society depends upon individuals fulfilling the promises they make to one another. Through promises, people establish social, legal, and economic relationships. Some promises are enforceable by the civil government, and others are not. This is the primary reason for the existence of contract law. Essentially, a contract is a promise that the law will enforce. The purpose of this course in contracts is to teach students to recognize the existence of a contract and to know the rules for enforcing the terms of a contract. This first lesson will cover various philosophical foundations of contract law (which should be compared to the Biblical foundation of contract law) and will introduce some basic contractual principles which are important for students to understand as they progress through subsequent lessons.

The reading assigned for this lesson gives an overview of several important contractual principles and theories. By studying the materials assigned throughout the Syllabus, students will gain an understanding of what is necessary for the formation of a contract (offer, acceptance, and consideration) and will become familiar with what constitutes a breach of contract and what are appropriate remedies. Principles of contract law are derived from the common law (developed through court cases) and from statutes (*e.g.*, the Uniform Commercial Code).

OBJECTIVES

- Become familiar with the historical and philosophical foundations of contract law.
- Identify the major sources of contract law.
- Learn the major classifications of contracts.

ASSIGNMENTS FOR THIS LESSON

- Read and outline CALAMARI & PERILLO, CONTRACTS ch. 1, §§ 1.1–1.11.
- Read GILBERT LAW SUMMARY—CONTRACTS pages I–VII.
- Read SELECTIONS FOR CONTRACTS, U.C.C. § 1; Restatement (Second) of Contracts § 1.

A BIBLICAL PERSPECTIVE

As we begin to view the subject of contracts from a Biblical perspective, valuable insight may be gained by considering the importance that God places upon the spoken word.

In the beginning, God created the heaven and the earth by His spoken word. However, God did not create man by speaking him into existence, but by forming him out of the dust of the earth. God then breathed into the nostrils of man the breath of life and man became a living soul. (See Genesis 2:7.) Genesis 1:26–27 tells us that God created man in His own image and part of that image is the creative ability of the spoken word. We cannot create *ex nihilo*, but we can create binding relationships through the words we speak.

The potential of what we say is confirmed throughout Scripture. “Death and life are in the power of the tongue.” (Proverbs 18:21). James says that the tongue is a little member of our body, but that it is a fire, a world of iniquity. (See James 3:5–6.) Jesus warned against trying to bolster the truthfulness of our words by swearing. Rather, He said, “But let your communication be, Yea, yea; Nay, nay: for whatsoever is more than these cometh of evil” (Matthew 5:37). God’s standard with respect to promises is also clear from Scripture: “God is not a man, that he should lie; neither the son of man, that he should repent: hath he said, and shall he not do it? or hath he spoken, and shall he not make it good?” (Numbers 23:19).

In the Bible we see how men have bound themselves by the words they spoke. Some of those words were spoken as a voluntary promise to God and are called vows (e.g., Jacob—Genesis 28:20; Nazarites—Numbers 6). The Scriptures clearly say that if we make such a vow to God we must keep it. (See Ecclesiastes 5:4–5; Deuteronomy 23:21–23; Numbers 30:2; Malachi 1:14; Proverbs 20:25.)

On other occasions in Scripture we see that men have bound themselves to other men and have solidified their promise with an oath to God. For example, Abraham swore to Abimelech that he would not deal falsely with him. Also, Jacob made a covenant coupled with an oath when he left Laban. (See Genesis 31:44–55.) An oath is an appeal to God to witness the truthfulness of a statement or the binding character of a promise. It is essentially an appeal to God to execute judgment upon one who fails to keep his promise or does not tell the truth (as with judicial oaths). (See Leviticus 19:12 and Exodus 20:7.)

- Upon which of the Ten Commandments is the law of contracts based? (See Exodus 20:3–17.)

BLACKSTONE COMMENTARIES

A contract, which usually conveys an interest merely in action, is thus defined: “an agreement, upon sufficient consideration, to do or not do a particular thing.” From which definition there arise three points to be contemplated in all contracts; 1. The *agreement*: 2. The *consideration*: and 3. The *thing* to be done or omitted, or the different species of contracts.

—2 WILLIAM BLACKSTONE, COMMENTARIES *442.

SCRIPTURE MEMORY AND MEDITATION

Psalm 15

“LORD, who shall abide in thy tabernacle? who shall dwell in thy holy hill? He that walketh uprightly, and worketh righteousness, and speaketh the truth in his heart. He that backbiteth not with his tongue, nor doeth evil to his neighbour, nor taketh up a reproach against his neighbour. In whose eyes a vile person is contemned; but he honoureth them that fear the LORD. He that sweareth to his own hurt, and changeth not. He that putteth not out his money to usury, nor taketh reward against the innocent. He that doeth these things shall never be moved.”