
COURSE:	LAWS 2501C - Law, State and Constitution
TERM:	Fall 2014
PREREQUISITES:	1.0 credit from LAWS 1000[1.0], PAPRM 1000[1.0], PSCI 1000[1.0], PSCI 1001, PSCI 1002
CLASS:	Day & Time: Friday - 11:25 a.m. – 2:25 p.m. Room: TBA (See Carleton Central)
INSTRUCTOR:	Dr. Roger R. Rickwood, LL.M., LL.B.
CONTACT:	Dept. Office: Room C473 Loeb and 613-520-3690 – e-mail: law@carleton.ca Office: B442 Loeb – Contract Instructors' Office Office Hrs: Fridays, 10:00 – 11:00 a.m. or by appointment Email: rickwood@connect.carleton.ca OR rogerrickwood@aol.com

Academic Accommodations

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn

from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at:

<http://www.carleton.ca/studentaffairs/academic-integrity/>

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://www.carleton.ca/law/student-resources/department-policies/>

COURSE DESCRIPTION

The course examines the law relating to the state and the Constitution, focusing on the historical framework, federalism and constitutional reform in Canada. The course examines the development of the Canadian state from its origins within the British and French empires, examining the growth of constitutionalism as a democratic control mechanism on state action. Canada has had various constitutional frameworks, beginning in colonial times, through to the *British North America Act of 1867*, until the latest formulation of the Canadian Constitution in 1982. The Canadian Constitution is a combination of written legal constitutional instruments, styled the Constitution of Canada, and of informal constitutional conventions around the Westminster model of responsible government. The constitutional documents and the underlying forces responsible for their creation, interpretation, and application will be examined. The role played by early decisions by the JCPC and the SCC in bringing about constitutional change will be focused on as well as more recent SCC decisions since it became Canada's highest appeal court and since the inception of the *Constitution Act, 1982*. Disputes over executive accountability, the rights of individuals and groups, and the division of powers between the federal and provincial governments have been the subject of continuous political negotiations and litigation since Canada achieved internal self-government in 1867 and independence in 1931. Recent and current proposals for constitutional reform will be canvassed and evaluated

REQUIRED TEXTS

Monahan, Patrick and Byron Shaw, *Constitutional Law*, 4th edition (Toronto: EMP, 2013).

Russell, Peter *et al*, eds., *The Courts and the Constitution* (Toronto: EMP), 2008.

Elliott, David, *Introduction to Public Law: Source Book*, 7th edition (Captus: Concord, Ontario), 2010.

Additional materials to be distributed in class or posted on cuLearn site for Laws 2501D

Highlights of the Canadian Constitution (on line at igreene @ yorcu.ca home page)

Law and Legal Studies Department, Legal Style Guide as posted on Departmental Home Page.

Universal Declaration of Human Rights (UN General Assembly Resolution 1948) (www.un.org)

Royal Proclamation of 1763(UK) (On line)

Constitution of Canada (Dept. of Justice Canada website) in Schedule to *Canada Act, 1982(UK)*

Canadian Bill of Rights (Statutes of Canada, 1960) (Dept. of Justice Canada website)

Supplementary Texts (Not required but optional)

Dodek, Adam, *The Canadian Constitution*, (Toronto); Dundurn Press, 2013)
 Hogg, Peter, *Constitutional Law*, Student Edition 2014 (Aurora: Carswell, 2014)

EVALUATION**N.B. All components must be completed in order to get a passing grade**

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Dean.

Mid-Term	30%	(MC & T/F Quiz plus Essay-1 out of 5 choices) – October 10
Case Study	20%	(Analysis of a constitutional case) - Due Nov. 14
Class participation	10%	Mandatory registration sign-in at each class
Final Exam	40%	(MC & T/F Quiz plus Essay-1 out of 5 choices) December TBA
Total	100%	

There will be a late penalty of 2 per cent per day and no case study report will be accepted after Nov. 21. Exam preparation can benefit from reviewing statutes, notes and materials on 2501C cuLearn site. Supreme Court of Canada and Dept. of Justice websites can be accessed on line via cuLearn site. Citation Style Guide on cuLearn site and Department home page.

SCHEDULE

Sept.5 – Class 1 - Introduction to the Course; Course Outline & Evaluation
Elements of Public Law, the State and the Constitution, Purposes of a Constitution and Definitions of Key Working Concepts

- Elliott, Source Book (SB), ch. 1 & 2 (today's readings continued on next page)
- Monahan, ch.1 & 2
- *Universal Declaration of Human Rights; Magna Carta 1215; Bill of Rights 1689; Act of Settlement 1701; Treaty of Paris 1763; Act of Union 1840.*
- *Royal Proclamation of 1763; Quebec Act 1774; Constitutional Act 1791; Act of Union 1840*

Sept. 12 – Class 2 - Origins and Structure of the *Constitution Act 1867* - Government Branches & Roles - Macdonald's Vision

- Elliott (SB), chs. 3 and pp.59-67 of ch. 4
- Monahan, chs.3 and 4
- Highlights of the Constitution (on CU Learn) (handout)

Sept. 17 LAST DAY TO REGISTER/CHANGE COURSES

Sept. 19 – Class 3 - Parliament and Executive Authority

- Elliott (SB) pp. 180-206 of ch.8

Sept. 26 – Class 4 - Judiciary, JCPC, Early Federalism and Limited Judicial Review

- *Colonial Laws Validity Act 1865; Statute of Westminster 1931*
- Elliott (SB), chs. 4 & pp. 198-206 of ch.5
- Russell – Introduction (pp.1-30)
- Monahan, ch. 7

- Privy Council Legacy on Constitutional Division of Powers and Change

- Russell, ch.1 pp.33-80
- *Edwards v. A.G. for Canada* (Persons Case) (JCPC) in Russell, pp. 473-477

Sept. 30 LAST DATE TO DROP COURSE WITHOUT FINANCIAL PENALTY**Oct. 3 – Class 5 - Canadian Independence, Constitutional Overlap and Co-operative Federalism & the SCC since 1949**

- Russell, ch. 1 (pp.81-158 and pp. 478-482)
- Elliott (SB), chs. 6 and 7
- Monahan, chs. 8 & 9
- *Statute of Westminster*

- Mid Term Exam Review

Oct.10 - Class 6 - MID-TERM EXAM – In Class - Closed Book - 2 hours - worth 30% of total course grade – quiz plus essay of equal value - 30 MC & true/false quiz questions plus one essay out of five options

Oct. 13- Thanksgiving - Statutory Holiday.

Oct. 17 - Class 7 - Trudeau’s Vision and the *Constitution Act 1982*: Origins, Basic Structures and Constitutional Amendments

- Elliott (SB), ch.9 and ch.10 (amending procedures), pp.246-249
- Russell, ch.2 (pp. 161-181), ch. 8 (pp.483-540)
- Monahan chs. 5 and 13
- *Canadian Bill of Rights; Senate Reference Case ; Reference Re: Patriation*

Oct. 24 - Class 8 - Special Aspects of the *Constitution Act, 1982* and Expanded Judicial Review

- Elliott (SB), ch. 10
- Monahan, ch. 13
- Russell, pp.194-408

- CONSTITUTIONAL CASE STUDY HANDED OUT - DUE NOV. 14**- Projected date for return of mid term test**

Oct. 31 - FALL BREAK - NO CLASS – NO OFFICE HOURS

Nov. 7 - Class 9 - Criminal Law. Federalism and the *Charter*

- Monahan, ch.11 & pp. 458-461 of ch.13

Nov.7 Final Date to Apply for Final Exam at Paul Menton Centre

Nov. 14 - Class 10 - Aboriginal Rights and Self-Government

- *Royal Proclamation of 1763*
- *Part II Constitution Act 1982, Rights of the Aboriginal Peoples*
- *Report of the Royal Commission on Aboriginal Peoples*
- Elliott (SB), pp. 244-246, pp. 250-252
- Monahan, ch.14
- Russell, ch.4 (pp.441-477)

- CONSTITUTIONAL CASE STUDY DUE (NO PAPER ACCEPTED AFTER NOV. 21)

Nov. 21 - Class 11 - Formal & Informal Constitutional Change (Meech, Charlottetown & Beyond)

- Elliott, ch. 11

Nov.28 - Class 13 - Constitutional Struggle for Unity and Diversity vs. Threat of Secession

- Secession Reference Case
- Elliott (SB), Chs. 8 and 12
- Monahan, chs. 6 & 15
- Russell, ch.4 (pp. 441-477)

Dec. 5 – Class 13 – LAST CLASS - Evaluation; Overview and Examination Review

Dec. 5 - Last Day for All Classes – Final Term Work Receipt Day for Approved Deferrals – Last Day to Withdraw from Course without grade being assigned.

Dec. 10-23 - Exam Period - Final Exam TBA in Formal Examination Period according to on-line Schedule posted on Oct. 10 by Registrar. No final exam will be deferred without Registrar approval. No earlier exam date will be granted without Registrar approval.

Final exam will be a 2 hour closed book exam based on materials since mid-term. It is closed book. It will consist of a quiz and an essay portion Each part equals 50% of exam grade. The quiz will consist of 30 questions and the essay part will consist of one essay out of at least five options.
