

Course Outline

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<b>COURSE:</b>	<b>LAWS 3500A – Constitutional Law</b>
<b>TERM:</b>	<b>Winter 2015</b>
<b>PREREQUISITES:</b>	<b>LAWS 2501 or PSCI 2003</b>
<b>CLASS:</b>	<b>Day &amp; Time: Monday 2:35-5:25</b> <b>Room: Please check with Carleton Central to confirm current room location</b>
<b>INSTRUCTOR:</b> <b>(CONTRACT)</b>	<b>Anna Purkey</b> (Contract Instructor)
<b>CONTACT:</b>	<b>Office: B442 Loeb (contract instructors' office)</b> <b>Office Hrs: By appointment</b> <b>Telephone: (514) 564-7834</b> <b>Email: <a href="mailto:anna_purkey@carleton.ca">anna_purkey@carleton.ca</a></b> <b>After the term begins, please direct all email contact through cuLearn</b>

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**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](mailto: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/>

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**COURSE DESCRIPTION**

This course seeks to introduce students to the basic elements of Canadian Constitutional law and to the fundamental principles that guide the interpretation and application of constitutional provisions in legal practice. This course will be substantially case-based and so we will seek to understand the Canadian Constitution by looking at decisions of the Supreme Court of Canada.

Given the breadth and complexity of Canadian Constitutional Law, our investigation will necessarily be incomplete. As a result, the course will be divided into three parts. In part 1, we will examine the sources and nature of the Constitution, the concept of federalism and the procedures for amending the constitution. In part 2, we will explore the division of legislative powers and, by looking at relevant cases, the general principles of constitutional interpretation. Lastly, part 3 will be devoted to a study of the rights and freedoms protected by the Canadian Constitution, in particular those guaranteed by the *Canadian Charter of Rights and Freedoms*.

Students are expected to have completed the necessary prerequisites and thus to have a basic understanding of the Canadian constitutional system. In order to succeed in this class, it will be very important for students to complete all of the assigned readings. Reading Supreme Court decisions can be very challenging at first and students should be prepared for this.

**REQUIRED TEXTS**

Students must bring to class a copy of the *Constitution Act, 1867* and a copy of the *Constitution Act 1982*. These are available online at: [http://laws-lois.justice.gc.ca/eng/Const/Const\\_index.html](http://laws-lois.justice.gc.ca/eng/Const/Const_index.html)

All cases required for this course can be found online at <http://scc-csc.lexum.com/scc-csc/en/nav.do>. Additionally, students are required to have access to as recent an edition as possible of one of the following textbooks:  
Patrick, J. Monahan, *Constitutional Law* (Toronto: Irwin Law)

Peter W. Hogg, *Constitutional Law of Canada* (Toronto: Carswell)

Copies of recent editions of both textbooks are on reserve in the library. Monahan is available through the Carleton Bookstore. Students who have taken LAWS 2501 may already have a copy of the Monahan text (used copies may also be available for purchase). While both textbooks cover basically the same topics, Hogg is substantially more detailed and exhaustive.

Additional readings may be placed on e-reserves (Ares) or posted on cuLearn.

## **SUPPLEMENTARY TEXTS**

Links to additional resources will be posted on cuLearn.

## **EVALUATION**

**(All components must be completed in order to get a passing grade)**

**1. Participation and preparedness (15%)**

The participation grade will be determined based on attendance which will be recorded at the beginning of each class, the student's engagement in the class (asking and answering questions, etc.) and occasional in-class quizzes based on the assigned readings.

**2. Take-home midterm (20%)**

Week of **February 9<sup>th</sup>**. Although a take-home, students are expected to complete this assignment individually.

**3. Case Comment (20%)**

Students will be required to choose from a list of Supreme Court decisions and to write a case comment. To be submitted at latest on **March 30<sup>th</sup>**.

**4. Final Exam (45%)**

The final examination will consist of short answer and essay questions. It will take place during the exam period (April 11 – 23, 2015).

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 Department and the Dean.

### **NOTE ON ASSIGNMENTS:**

All assignments must be typewritten, double-spaced, 12pt Times New Roman font with standard 1 inch margins. All assignments must indicate the course code and the student's name and student number. Title pages and bibliographies are not counted in calculating page length for an assignment. Assignments must also include proper footnoting. Students must use the **Legal Style Sheet** available on the Department of Law website at [http://www.library.carleton.ca/sites/default/files/help/writing-citing/uniform\\_legal\\_style.pdf](http://www.library.carleton.ca/sites/default/files/help/writing-citing/uniform_legal_style.pdf).

**Violations of academic integrity will not be tolerated.** Violations include, among others, acts of plagiarism and unauthorized co-operation or collaboration on work that is intended to be completed on an individual basis. To avoid any problems, please familiarize yourself with the Department of Law and Legal Studies Policy and Procedure Statement (<http://www.carleton.ca/law/wp-content/uploads/PolicyMarch2012.pdf>) and the University's Academic Integrity Policy (<http://carleton.ca/senate/wp-content/uploads/Academic-Integrity-Policy.pdf>).

**TENTATIVE SCHEDULE AND READINGS****(A finalized schedule and reading list will be provided at the beginning of the term)**

Chapter numbers are provided for both Hogg and Monahan. Unless otherwise indicated, you may choose which to read. Students will be required to read some Supreme Court decisions in their entirety, in other cases relevant excerpts will be provided.

Week 1 – January 5 <sup>th</sup>  Introduction to the Canadian Constitution and Sources of Constitutional Law	
Week 2 – January 12 <sup>th</sup>  The Rule of Law and Constitutional Interpretation	<ul style="list-style-type: none"> <li>- Hogg ch. 1 or Monahan ch. 1</li> <li>- <i>Constitution Act, 1867</i></li> <li>- <i>Constitution Act 1982</i></li> <li>- <i>Edwards v. Canada (Attorney General)</i> [1928] A.C.R. 276 <a href="http://www.chrc-ccdp.ca/en/browseSubjects/edwardsscc.asp">http://www.chrc-ccdp.ca/en/browseSubjects/edwardsscc.asp</a></li> <li>- <i>Edwards v. Canada (Attorney General)</i>, [1930] A.C. 124 <a href="http://www.chrc-ccdp.ca/en/browseSubjects/edwardspc.asp">http://www.chrc-ccdp.ca/en/browseSubjects/edwardspc.asp</a></li> </ul>
Week 3 – January 19 <sup>th</sup>  Constitutional Amendment	<ul style="list-style-type: none"> <li>- Hogg ch. 4 or Monahan ch. 5</li> <li>- <i>Reference re Senate Reform</i> [2014] 1 S.C.R. 704</li> <li>- <i>Reference re Secession of Quebec</i>, [1998] 2 S.C.R. 217</li> </ul>
Week 4 – January 26 <sup>th</sup>  Federalism and the Division of Powers: Judicial review and Principles of Interpretation	<ul style="list-style-type: none"> <li>- Hogg ch. 15, 16 or Monahan ch. 4, 7</li> <li>- <i>R v. Morgentaler</i> [1993] 3 S.C.R. 463</li> <li>- <i>Canada (Attorney General) v. PHS Community Services Society</i>, [2011]</li> <li>- <i>Rothmans, Benson &amp; Hedges Inc. v. Saskatchewan</i>, [2005] 1 S.C.R. 188</li> </ul>
Week 5 – February 2 <sup>nd</sup>  Federalism and the Division of Powers: Judicial review and Principles of Interpretation	<ul style="list-style-type: none"> <li>- Hogg ch. 15, 16 or Monahan ch. 4, 7</li> <li>- <i>R v. Morgentaler</i> [1993] 3 S.C.R. 463</li> <li>- <i>Canada (Attorney General) v. PHS Community Services Society</i>, [2011]</li> <li>- <i>Rothmans, Benson &amp; Hedges Inc. v. Saskatchewan</i>, [2005] 1 S.C.R. 188</li> </ul>
Week 6 – February 9 <sup>th</sup>	<ul style="list-style-type: none"> <li>- Hogg ch. 17 or Monahan ch. 8</li> <li>- <i>R v. Crown Zellerbach Canada Ltd.</i> [1988] 1 S.C.R. 401</li> </ul>

The Division of Power and Peace, Order and Good Government	- <i>Friends of the Oldman River Society v. Canada (Minister of Transportation)</i> , [1992]
Week 7 – February 16 <sup>th</sup> <b>Reading week – No class</b>	
Week 8 – February 23 <sup>rd</sup> Aboriginal Rights under the Constitution	- Hogg ch. 28 or Monahan ch. 14 - <i>R v. Sparrow</i> [1990] 1 S.C.R. 1075 - <i>R v. Van der Peet</i> [1996] 2 S.C.R. 507 - <i>Delgamuukw v. British Columbia</i> [1997] 3 S.C.R. 1010
Week 9 – March 2 <sup>nd</sup> The <i>Canadian Charter of Rights and Freedoms</i> : Interpretation, Application and Remedies	- <i>Canadian Charter of Rights and Freedoms</i> - Hogg ch. 36, 37.1, 37.2 or Monahan ch. 13 - <i>Singh v. Minister of Employment and Immigration</i> [1985] 1 S.C.R. 177 - <i>Vriend v. Alberta</i> [1998] 1 S.C.R. 493
Week 10 – March 9 <sup>th</sup> The Framework of the Charter: Limitations and Override	- Hogg ch. 38, 39 - <i>R v. Oakes</i> , [1986] 1 S.C.R. 103 - <i>Alberta v. Hutterian Brethren of Wilson Colony</i> , [2009] 2 S.C.R. 567 - <i>Ford v. Quebec (Attorney General)</i> [1988] 2 S.C.R. 265
Week 11 – March 16 <sup>th</sup> Freedom of Religion and Freedom of Expression	- <i>Edwards Books and Art Ltd. et al. v. R.</i> , [1986] 2 S.C.R. 713 - <i>Multani v. Commission Scolaire Marguerite-Bourgeoys</i> , [2006] 1 S.C.R. 256 - <i>R v. Keegstra</i> , [1990] 3 S.C.R. 697 - <i>Little Sisters Book and Art Emporium v. Canada</i> [2000] 2 S.C.R. 1120 - <i>R v. Zundel</i> , [1992] 2 S.C.R. 731 - Additional reading: Hogg ch. 42, 43
Week 12 – March 23 <sup>rd</sup> Fundamental Justice	- Hogg ch. 47 - <i>Singh v. Minister of Employment and Immigration</i> [1985] 1 S.C.R. 177 - <i>R v. Morgentaler</i> , [1988] 1 S.C.R. 30 - <i>Charkaoui v. Canada (Citizenship and Immigration)</i> [2007] 1 S.C.R. 350 - <i>Rodriguez v. British Columbia</i> [1993] 3 S.C.R. 519 - <i>Carter v. Canada</i> (forthcoming decision of the SCC)
Week 13 – March 30 <sup>th</sup> Equality Rights	- Hogg ch. 55 - <i>Andrews v. Law Society of British Columbia</i> , [1989] 1 S.C.R. 143 - <i>Law v. Canada</i> , [1999] 1 S.C.R. 497

Week 14 – April 6 <sup>th</sup> Impact of the Charter and Review	- <b>Begin studying for your exam!</b>
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