

## Course Outline

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| <b>COURSE:</b>        | <b>LAWS 2005 A - Public Law</b>   |
| <b>TERM:</b>          | <b>Fall &amp; Fall/Winter 2008-09</b>   |
| <b>PREREQUISITES:</b> | <b>Either LAWS 1000 or PSCI 1000, or the combination of PSCI 1001 and PSCI 1002, or second year status or higher in the B.P.A.P.M Program</b> |
| <b>CLASS:</b>         | <b>Day &amp; Time: Monday - 11:35am-2:25pm</b>  |
|                       | <b>Room: Fall: 342 TB (Tory)</b>  |
|                       | <b>Winter: 208 TB</b>   |
| <b>INSTRUCTOR:</b>    | <b>Professor D.W. Elliott</b>   |
| <b>CONTACT:</b>       | <b>Office: D565 LA (Loeb)</b>   |
|                       | <b>Office Hrs: Friday - 9:35-11:05 am (at D585 LA during terms)</b>   |
|                       | <b>Telephone: 613-520-2600 x. 7492 - during office hours only</b>   |
|                       | <b>Email: <a href="mailto:delliott@ccs.carleton.ca">delliott@ccs.carleton.ca</a> - Please use email for all messages</b>                      |

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**1. COURSE OBJECT AND SCOPE**

The most basic areas of our law are often the most dynamic, contested, and unstable. Certainly this is true of Canadian public law, the law about the Canadian state and its relation to society. Near the centre of this moving picture - sometimes slowing change and sometimes accelerating it - are the Canadian courts.

LAWS 2005A aims to provide an introduction to Canadian public law, with special emphasis on reform and on the role of courts. In the first term we look at law and the role of the state, and at the Canadian constitution, with emphasis on the federal system and its interpretation, change, and reform. In the second term, we focus on theories of the state, on the administrative process and administrative law, the Charter and basic rights, and some aspects of public international law. Where is the Canadian state headed in these areas? What are the courts doing? What should they be doing? Should the courts' role vary according to the area in which they are involved?

**2. CLASS FORMAT**

The classes will consist mainly of lectures, although class discussion of specific points is welcome. Students are expected to attend classes regularly, to answer questions, and to discuss the issues. Students must read the materials assigned, before the relevant class.

**3. (a) REQUIRED READINGS**

The two LAWS 2005 sourcebooks described below; class emails (ensure that you can be reached at [connect.carleton.ca](mailto:connect.carleton.ca)); class handouts; and as assigned. (The sourcebooks are available in the Carleton Bookstore; earlier editions are outdated.)

First term: the LAWS 2005 first term Sourcebook: D.W. Elliott, ed., *Introduction to Public Law: Sourcebook*, 7th ed., (North York, Captus Press, 2007); and

Second term: the LAWS 2005 second term sourcebook: D.W. Elliott, *Introduction to Public Law: Readings on the State, the Administrative Process, and Basic Values*, 6th ed., (North York, Captus Press, 2007).

**(b) OPTIONAL READINGS**

In LAWS 2005 Reserved Readings, main Library; *Bibliography of Sourcebook*, footnote and endnote readings of both sourcebooks, optional readings in Course Outline and in Carleton Bookstore (under LAWS 2005A); and as recommended. Try to supplement these readings by watching for public law issues in the media and in lectures, etc. organized by University groups such as the Carleton University Legal Studies Society: <<http://www.carleton.ca/culss/>>.

#### 4. EVALUATION

**15% In-class Attendance and Participation**

In-class Attendance (10%) and Class Participation (5%)

It is the student's responsibility to personally sign class attendance sheets, and to be present throughout the entire class - both before and after the mid-class break. Credit is not given for missed classes or portions of classes. An attendance sheet will be circulated - either before the mid-class break, after it, or both before and after it. For class participation, quality (thoughtfulness and knowledge of the readings) is more important than quantity. Informal in-class review quizzes may be held from time to time and may be considered in the attendance / participation assessment.

**5% First Term Midterm**

November 3, 2008 (on first term's work to date)

**25% First Term Examination**

December, 2008; 2 hrs., formally scheduled, first term's work; choice of essay or multiple-choice format.

**5% Second Term Midterm** (on second term's work to date)

February 9, 2009

**20% Course Paper**

Topic selection deadline: November 10, 2008; advance submission date: February 23, 2009; final due deadline: March 02, 2009

**30% Final Examination**

April, 2009; 3 hrs. formally scheduled, both terms' work, with emphasis on second term; essay and multiple-choice format.

**To be eligible for a passing grade, students must complete all components of the evaluation scheme.** Final examination deferrals are possible only as indicated as indicated in the *Calendar* and where no more than three classes have been missed in the course as a whole.

The evaluation scheme's objective is a balanced assessment, based on several kinds of criteria, rather than a single make-or-break "ordeal by fire." Numerical grades are used for the component parts: for numerical / letter grading equivalents, see the Course Evaluation section of the *Undergraduate Calendar*. In fairness to others, examinations and the midterms cannot be re-scheduled because of travel plans. Missed in-class quizzes cannot be re-scheduled.

#### 5. ACADEMIC ACCOMMODATION

Students with disabilities that require academic accommodation should contact a coordinator at the Paul Menton Centre to complete required letters of accommodation. For formally scheduled examinations, the deadlines for submitting completed forms to the PMC are November 7, 2008 for the First Term Examination in December 2008 and March 6, 2009 for the Final Examination in April 2009. For academic accommodation for the two midterms, please see me at least two weeks before each of their scheduled dates. For accommodation for religious obligations and letters of accommodation for pregnancy, please contact Equity Services at 613-520-2600 x. 5622. For further information, see:

[http://www.carleton.ca/pmc/students/accom\\_policy.html](http://www.carleton.ca/pmc/students/accom_policy.html)

**6. TOPIC SCHEDULE**

The class topics correspond to the headings in the Outline / Table of Contents at the beginning of each of the two LAWS 2005 sourcebooks. The readings are to be read before the relevant class. The number at the left side indicates the week of the course in the relevant term. "Ch." indicates the corresponding chapter location of the required readings in the relevant (first term or second term) sourcebook.

**FIRST TERM: 2008**

|     |      |    |   |        |
|-----|------|----|---|--------|
| 1.  | Sept | 08 | Law and Public Law . . . . .  | Ch. 1  |
| 2.  | Sept | 15 | The Constitution . . . . .  | Ch. 2  |
| 3.  | Sept | 22 | <i>Constitution Act, 1867</i> . . . . .   | Ch. 3  |
| 4.  | Sept | 29 | The Judiciary . . . . .   | Ch. 4  |
| 5.  | Oct  | 06 | The JCPC and Early Federalism . . . . .   | Ch. 5  |
| 6.  | Oct  | 20 | The SCC: POGG, T&C, and Criminal Law . . . . .  | Ch. 6  |
| 7.  | Oct  | 27 | Overlap and Cooperative Federalism . . . . .  | Ch. 7  |
| 8*  | Nov  | 03 | The Legislative and Executive Branches . . . . .<br>* <i>FIRST TERM MIDTERM</i>   | Ch. 8  |
| 9*  | Nov  | 10 | <i>Constitution Act, 1982: Prologue &amp; General Aspects</i> . . . . .<br>* <i>COURSE PAPER TOPIC SELECTION DEADLINE</i> . . . | Ch. 9  |
| 10. | Nov  | 17 | The <i>Constitution Act, 1982; Specific Aspects</i> . . . . .   | Ch. 10 |
| 11. | Nov  | 24 | Formal and Informal Constitutional Changes . . . . .  | Ch. 11 |
| 12. | Dec  | 01 | Secession, Unity, and the Future . . . . .  | Ch. 12 |

**SECOND TERM: 2009**

|     |            |    |  |        |
|-----|------------|----|--|--------|
| 1.  | Jan        | 05 | Law, State, and Social Goals and Techniques . . . . .  | Ch. 1  |
| 2.  | Jan        | 12 | Administrative Law Structure and Action . . . . .  | Ch. 2  |
| 3.  | Jan        | 19 | Non-Judicial and Judicial Control . . . . .  | Ch. 3  |
| 4.  | Jan        | 26 | Judicial Review and Procedural Control . . . . .   | Ch. 4  |
| 5.  | Feb        | 02 | Substantive Review . . . . .   | Ch. 5  |
| 6*  | Feb        | 09 | Theory, Problems, and Reform . . . . .<br>* <i>SECOND TERM MIDTERM</i>                       | Ch. 6  |
|     | Feb. 16-20 |    | <i>Winter Term Break - No Classes</i>  |        |
| 7*  | Feb        | 23 | Basic Values and Their Protection . . . . .<br>* <i>COURSE PAPER ADVANCE SUBMISSION DATE</i> | Ch. 7  |
| 8*  | Mar        | 02 | Scope of the Charter . . . . .<br>* <i>COURSE PAPER FINAL DUE DEADLINE</i>                   | Ch. 8  |
| 9.  | Mar        | 09 | Fundamental Freedoms and Fundamental Justice . . . . .                                       | Ch. 9  |
| 10. | Mar        | 16 | Equality . . . . .   | Ch. 10 |
| 11. | Mar        | 23 | Group Rights: Aboriginal Rights . . . . .  | Ch. 11 |
| 12. | Mar        | 30 | Public International Law / Review . . . . .  | Ch. 12 |

## 7. COURSE PAPER

### (a) General Requirements

The course paper is important to LAWS 2005A, and research and communication skills are at least as important as substantive knowledge. Familiarize yourself with these instructions, heed suggestions made in class, and use the research and writing guides listed below. Look at the paper and electronic resources at MacOdrum Library, the reference works in the Department of Law's Law Resource Centre at D494 Loeb, Quicklaw, WestlaweCarswell, and other electronic data bases, and internet search engines and other research tools. As well, make good use of the Writing Tutorial Service (Learning Support Services, Room 411 MacOdrum Library), the Student Academic Success Centre (SASC, 302 Tory) and the Learning Commons (4th Floor, MacOdrum Library, 613-520-2600 ext. 1125).

#### (i) *topics*

All students must write a course paper on one of a choice of topics to be assigned by the instructor. Papers on other topics will not receive marks. Topic selections are due on November 10, 2008.

#### (ii) *format*

The paper must no longer than 2000 words (approximately nine double-spaced typed or word-processed pages, excluding footnotes or endnotes). It must be well-prepared, with proper citation, footnotes or endnotes, and bibliography. In all matters of legal citation and form, papers must comply with the McGill *Guide* referred to below.

#### (iii) *content*

Important qualities are: good organization and use of sources, comprehensive, up-to-date treatment of the subject matter, originality (i.e., no quoting or paraphrasing of secondary sources without explicit acknowledgment), accuracy (in grammar, spelling, and law), conciseness, reasoned analysis (discussion of pros and cons, comparisons, assessments, concrete examples, logical arguments, etc., rather than pure description or pure subjective opinion), and clarity, gender-appropriate language (e.g., avoiding use of male gender where both genders are relevant). See also the research, writing, and citation guides listed below.

#### (iv) *originality*

The paper must be researched and written entirely and exclusively by the student who submits it. All use of other peoples' words or ideas must be fully and clearly acknowledged. Work (a) that contains plagiarism - from the web or elsewhere, or (b) that was previously or is concurrently submitted for credit in this course, or (c) that was or is submitted for credit in any other course, will be given no credit. It is a very serious academic offence, subject to the penalties in the Department of Law's *Policy and Procedure Statement* below. Do not rely on case headnotes. Keep quotations and paraphrasing to a minimum. Where you use words or thoughts of others, give full credit for every single word or thought you use. Identify all words of others in quotation marks or in indented single-space passages, and link these to acknowledgments in endnotes or footnotes. If you must paraphrase, use your own words and fully acknowledge all the original sources. In all cases, all theories, views, and opinions of others must be fully acknowledged.

#### (v) *presentation*

The paper must be an original typed or computer-printed document on standard-sized paper, with a title page but no cover. Pages must be numbered and firmly stapled. Papers are due on March 02, 2009, in class or in the essay drop-slot - an assignment slot in the corridor outside the Departmental Office, Room C473, Loeb Building. A paper can also be submitted in advance, in the essay drop-slot, on February 23, 2009, for a bonus of 5%. Students must keep an extra copy of the completed paper. Marks will be deducted for failure to type or print the paper, or to submit it on time - at the rate of 7% per day late, including weekends. Essays submitted in the essay drop-slot after March 02, 2009 will be dated according to the *Department of Law's Policy and Procedure Statement*. Extensions will not be granted, except for (i) disabling illness, verified by a medical certificate indicating precise period of disablement or (ii) death in immediate family, verified by certificate of date of death. I must be notified of the illness or death before the paper deadline. No credit is given for papers submitted after the University's final submission deadline. Papers handed in on time will be returned after completion of the final examination; late papers must be accompanied by a stamped and self-addressed envelope.

**(b) Research, writing, and citation guides**

The paper must follow the legal citation requirements in the McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 6th ed. (Scarborough, Ont.: Carswell, 2006). For basic elements of the McGill Guide, see Department of Law, Carleton University, *Legal Style Sheet for Term Papers*. <<http://www.carleton.ca/law/style.htm>> and Queen's University, *Legal Citation: Legal Research Materials* <<http://library.queensu.ca/law/lederman/legalcit.htm>>.

The following additional works may be helpful:

**Legal research manuals and sites**

- M. F. Fitzgerald, *Legal Problem Solving: Reasoning, Research and Writing*, 4th ed. (Markham, Ont.: LexisNexis Canada, 2007);
- M.J. Josipescu and P.W. Whitehead, *Legal Writing and Research Manual*, 6<sup>th</sup> ed. (Markham, Ont.: LexisNexis Butterworths, 2004);
- Douglass T. MacEllven et al., *Legal Research Handbook*, 5<sup>th</sup> ed. (Markham, Ont.: LexisNexis Butterworths, 2003);
- A. Zivanovic, *Guide to Electronic Research*, (Markham, Ont.: LexisNexis Butterworths, 2002);
- C.P. Best, *Legal Research on the Internet*, <<http://legalresearch.org/docs/internet2.html>>.

**Style and grammar manuals**

- D. Hacker, *A Canadian Writer's Reference*, 3 ed. (Boston: Bedford /St. Martin's, 2004);
- W. Strunk and E.B. White, *The Elements of Style*, 4th ed. (Boston: Allyn & Bacon, 2000);
- Editors' Association of Canada, *Editing Canadian English*, 2 ed. (Toronto: Macfarlane Walter & Ross, 2000);
- D. LePan, *The Broadview Book of Common Errors in English : A Guide to Righting Wrongs*, 3d ed. (Peterborough, Ont. : Broadview Press, 1998);
- J.A. McFarlane and W. Clements, *The Globe and Mail Style Book: A Guide to Language and Usage* (Toronto: McClelland & Stewart, 1998);
- The Canadian Style. A Guide to Writing and Editing*, rev. ed. (Toronto, Dundurn Press, 1997).

**Effective writing guides**

- N. Lukeman, *The First Five Pages: A Writer's Guide to Staying Out of the Rejection Pile* (New York: Fireside, 2000);
- J.M. Williams, *Style: Toward Clarity and Grace* (Chicago: U. of Chicago Press, 1990)

**General research and writing manuals**

- M.E. Northey, L. Tepperman, and J. Russell, *Making Sense in the Social Sciences: A Student's Guide to Writing and Style*, 3d ed. (Toronto: Oxford University Press, 2001);
- K.L. Turabian, *A Manual for Writers of Term Papers, Theses, and Dissertations*, 6th ed. (Chicago, University of Chicago Press, 1996)

**8. DEPARTMENTAL POLICY AND PROCEDURE**

For further instructions as to prerequisites, assignments, and grading, etc., see Department of Law, *Policy and Procedure Statement* and relevant pages of the *Undergraduate Calendar*.