

Course Outline

COURSE:	LAWS 2005 C – Public Law
TERM:	Fall /Winter 2008/09
PREREQUISITES:	Either LAWS 1000 [1.0] or PSCI 1000 [1.0], or the combination of PSCI 1001 and PSCI 1002, or second-year status or higher in the Bachelor of Public Affairs and Policy Management Program
CLASS:	Day & Time: Wednesday 2:30-5:30 pm Room: Fall: 340 TB (Tory) Winter: 342 TB
INSTRUCTOR: (CONTRACT)	Nick E. Milanovic
CONTACT:	Office: C476 LA (Loeb) Office Hrs: By appointment, Monday or Wednesday Email: Nikola_milanovic@carleton.ca

"Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities for a formal evaluation of disability-related needs. Registered PMC students are required to contact the centre, 613-520-6608, every term to ensure that I receive your letter of accommodation, no later than two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations. If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by November 7, 2008, for December examinations, and March 6, 2009, for April examinations." With regard to accommodations for religious obligations and pregnancy, please see http://www.carleton.ca/pmc/students/accom_policy.html

GENERAL COURSE OBJECTIVES & SCOPE

Canadian public law, the law pertaining to the state and its relation to society, is an evolving and contested area of law. The focus in public law has increasingly shifted from an emphasis on legislative and executive decision making to the role of the courts in establishing and maintaining our relationship with the state.

This course provides an introduction to Canadian public law, with an emphasis on the questions of reform and the role of the courts. In the first term we examine law and the role of the state, investigating the Constitution, with an emphasis on the federal system, its interpretation, change, and reform. In the second term, the focus of the course will change to consider the theories of the state, administrative law, basic rights including the *Charter of Rights and Freedoms*, and finally the course concludes by examining basic concepts of public international law.

CLASS FORMAT

This class will be delivered on the basis of interactive lectures. Students will be expected to regularly attend classes; attempt to answer questions put to them and discuss the topics under consideration in a respectful and courteous manner. Students must read the assigned materials before attending the relevant class.

REQUIRED READINGS

The required readings are the two Law 2005 sourcebooks. They are available in the Carleton University Bookstore. (Other required readings may be assigned in class.)

- i) First term: David W. Elliott, ed., *Introduction to Public Law: Sourcebook*, 7th ed. (North York: Captus Press, 2007) – please note earlier editions are outdated
- ii) Second term: David W. Elliott, ed., *Introduction to Public Law: Readings on the State, the Administrative Process, and Basic Values*, 6th ed. (North York: Captus Press, 2007) – please note earlier editions are outdated

OPTIONAL READINGS

The following are suggested sources of optional readings which might further your understanding of this course and can be accessed on RESERVE or in the general stacks of the Library. Note none of these books needs to be purchased for this course:

- Cairns, A., *Citizens Plus* (Vancouver: UBC Press, 2000)
 Cheffins, Ronald I. and Patricia A. Johnson, *The Revised Canadian Constitution: Politics as Law* (Toronto: McGraw-Hill Ryerson, 1986)
 Flanagan, T., *First Nations? Second Thoughts* (Montreal and Kingston: McGill-Queen's University Press, 2000)
 Gibbins, Roger, *Conflict and Unity*, 3rd ed. (Scarborough: Nelson Canada, 1994)
 Hogg, Peter W., *Constitutional Law of Canada*, Student ed. (Scarborough: Carswell, 2000)
 Jackson, Robert J. and Doreen Jackson, *Politics in Canada: Culture, Institutions, Behaviour and Public Policy*, 4th ed. (Scarborough: Prentice Hall Allyn and Bacon Canada, 1998)
 Jones, David Ph. and Anne S. de Villars, *Principles of Administrative Law*, 3rd ed. (Scarborough: Carswell, 1999)
 Knopff, R. and F.L. Morton, *Charter Politics* (Scarborough: Nelson, 1992)
 Mandel, Michael, *The Charter of Rights and the Legalization of Politics in Canada*, rev. (2nd) ed. (Toronto: Thompson Educational Publishing, 1994)
 Morton, F.L. and R. Knopff, *The Charter Revolution and the Court Party* (Peterborough: Broadview Press, 2000)
 Reesor, Bayard, *The Canadian Constitution in Historical Perspective* (Scarborough: Prentice Hall, 1992)
 Russell, P.H. et al., *Federalism and the Charter: Leading Constitutional Decisions* (Ottawa: Carleton U.P., 1989, any recent reprints)
 Whittington, Michael S. and Richard J. Van Loon, *Canadian Government and Politics: Institutions and Processes* (Toronto: McGraw-Hill Ryerson, 1996)

EVALUATION

- (a) 10% **Essay** (1st term; **due in class November 29, 2008** topics to be announced in class)
 (b) 20% **Exam** (1st term, **December 2008** formally scheduled, 3 hours in length to be announced in class)
 (c) 30% **Essay** (2nd term, **due in class March 25, 2009**; details to be announced in class)
 (d) 40% **Final Exam** (2nd term, **April 2009**, formally scheduled, 3 hours in length, with emphasis on the second term, format will include a choice of one or more essay(s); short answers/definitions, and/or multiple choice questions.)

The evaluation scheme is designed to provide a balanced assessment based on several different evaluations covering various skills and abilities of each student.

Please note: Assignments must be handed in on time and at the location previously specified by the instructor. For assignments due to be handed in during class, any assignment handed in after the end of the lecture will be treated as LATE. An **Extension without penalty** can only be obtained in extreme cases (e.g. death in the family, illness or disability etc.) with appropriate supporting documentation (e.g. doctor's note, coroner's certificate, etc.). **LATE ASSIGNMENTS** will be penalized by **deducting four (4) percent for each day or part day it is late up to a maximum of seven (7) days. Any assignment or essay submitted beyond seven (7) days late without a valid excuse will automatically be failed.** To be eligible to pass this course students must complete all components of the evaluation scheme noted above, including assignments or essays that will be marked as a failure because of lateness. For exam purposes, you are responsible for what is contained in the "required" readings and substantive matters discussed in the lectures.

Departmental Policy and Procedure:

For further instructions regarding prerequisites, assignments, and grading, etc., please consult the Department of Law's Policy and Procedure Statement and the relevant pages of the Undergraduate Calendar.

TOPIC SCHEDULE

The topics generally correspond to the headings in the Table of Contents at the beginning of each of the two LAWS 2005 required texts. The assigned readings are to be read before the relevant class. The number at the left side of the outline below indicates the week of the course in the relevant term and “Ch.” indicates the corresponding chapter(s) of the required reading in the relevant (first or second term) required text to be completed prior to the lecture.

FIRST TERM: FALL 2008

1.	September 10	<u>Introduction</u>	No Reading
2.	September 17	<u>Law and Public Law</u>	Ch. 1
3.	September 24	<u>The Constitution</u>	Ch. 2 & Ch. 8
4.	October 01	<u>The Constitution Act 1867</u>	Ch. 3
5.	October 08	<u>The Judiciary</u>	Ch. 4
6.	October 15	<u>Early Key Decisions</u>	Ch. 5 & Ch. 6
7.	October 22	<u>POGG, Trade & Commerce, and other Powers: Modern Era</u>	Ch. 7
8.	October 29	<u>Constitution Act, 1982 and After</u>	Ch. 9
9.	November 05	<u>Constitution Act 1982, Specific Aspects</u>	Ch. 10
10.	November 12	<u>Formal & Informal Constitutional Changes</u>	Ch. 11
11.	November 19	<u>Secession, Unity, and the Future</u>	Ch. 12
12.	November 29	Review & Recap Please note: 1 st term Essay due in class November 29, 2008	

SECOND TERM: WINTER 2009

13.	January 07	<u>Law, State, and Social Goals and Techniques</u>	Ch. 1
14.	January 14	<u>Administrative Law Structure & Action</u>	Ch. 2
15.	January 21	<u>Non-Judicial & Judicial Control</u>	Ch. 3
16.	January 28	<u>Judicial Review and Procedural Control</u>	Ch. 4
17.	February 04	<u>Substantive Review</u>	Ch. 5
18.	February 11	<u>Theory, Problems, and Review</u>	Ch. 6
19.	February 25	<u>Basic Values and Their Protection</u>	Ch. 7
20.	March 04	<u>Scope of the Charter</u>	Ch. 8
21.	March 11	<u>Fundamental Freedoms & Fundamental Justice</u>	Ch. 9
22.	March 18	<u>Equality</u>	Ch. 10
23.	March 25	<u>Group Rights</u> Please note: 2 nd term Essay due in class March 25, 2009	Ch. 11
24.	April 1	<u>Public International Law</u>	