

**Course Outline**

<b>COURSE:</b>	<b>LAWS 2501D - Law, State and Constitution</b>
<b>TERM:</b>	<b>Fall 2012</b>
<b>PREREQUISITES:</b>	<b>1:00 credit from LAWS 1000[1.0], PAPRM 1000[1.0], PSCI 1000[1.0], PSCI 1001, PSCI 1002</b>
<b>CLASS:</b>	<b>Day &amp; Time: Thursday - 6:05 p.m. – 8:55 p.m. Room: TBA (See Carleton Central)</b>
<b>INSTRUCTOR:</b>	<b>Dr. Roger R. Rickwood, LL.M., LL.B.</b>
<b>CONTACT:</b>	<b>Dept. Office: Room C473 Loeb and 613-520-3690 – e-mail: law@carleton.ca Office: B442 Loeb – Contract Instructors' Office, Loeb Office Hrs: TBA or by appointment Telephone: Email: rickwood@connect.carleton.ca OR rogerrickwood@aol.com</b>

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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). For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: [www.carleton.ca/equity](http://www.carleton.ca/equity)

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**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, *Constitutional Law*, 4<sup>th</sup> edition (Toronto: EMP, 2008).

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

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

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

Highlights of the Canadian Constitution (on line at igreene @ yorku.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](http://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)**

Hogg, Peter, *Constitutional Law*, Student Edition 2012 (Carswell, Aurora) 2012

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## **EVALUATION**

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

Mid-Term	30%	(MC & T/F Quiz plus Essay-1 out of 5 choices)
Case Study	20%	(Analysis of a constitutional case) - Due Nov. 8
Class participation	10%	
Final Exam	40%	(MC & T/F Quiz plus Essay-1 out of 5 choices)
Total	100%	

There will be a late penalty of 2 per cent per day and no case study report will be accepted after the Nov. 15. Exam preparation can benefit from reviewing statutes, notes and materials on 2501D webCT site. Supreme Court of Canada and Dept. of Justice websites can be accessed on line via webCT site. Citation Style Guide on webCT site and Department home page.

**SCHEDULE****Sept.6 – 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. 13 – Class 2 - Origins and Structure of the *Constitution Act 1867* - Government Branches &  
Roles - Macdonald's Vision**

- Elliott (SB), chs. 3, 4 (pp.59-67), ch. 8 (pp. 198-206)
- Monahan, chs.3 and 4
- Highlights of the Constitution (on webCT)(handout)

**Sept. 19 LAST DAY TO REGISTER/CHANGE COURSES****Sept. 20 – Class 3 - Judicial Review and the Constitution – Limited Judiciary Role in 1867**

- *Colonial Laws Validity Act 1865; Statute of Westminster 1931*
- Russell, Introduction (pp.1-30) and ch.1
- Elliott (SB), ch. 4

**- Privy Council Legacy on Constitutional Division of Powers and Change**

- Russell, ch.1 pp.33-80
- Monahan, ch. 7
- *Edwards v. A.G. for Canada* (Persons Case) (JCPC) in Russell, pp. 473-477
- Elliott, ch.4 & 5

**Sept. 27 – Class 4 - Canadian Independence, Constitutional Overlap and Co-operative  
Federalism & the SCC since 1949**

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

**Sept. 30 LAST DATE TO DROP COURSE WITHOUT FINANCIAL PENALTY**

**Oct. 4 – Class 5 - Origins, Trudeau’s Vision and Basic Structure of the *Constitution Act 1982* and Amending procedures**

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

**- Mid Term Test Review****Oct. 8 - Thanksgiving - Statutory Holiday.**

**Oct.11 - Class 6 - MID-TERM TEST** – 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. 18 - Class 7 - Special Aspects of the *Constitution Act, 1982* and Judicial Review**

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

**- CONSTITUTIONAL CASE STUDY - DUE NOV. 8****Oct. 25 - Class 8 - Formal & Informal Constitutional Change (Meech,Charlottetown & Beyond)**

- Elliott (SB), ch. 11
- Russell, pp.194-408
- Monahan, ch.6

**- Projected date for return of mid term test**

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**Nov. 1 - Class 9 - 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)

**Nov.8 - 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*
- Elliot (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. 15)**

**Nov. 9 Final Date to Apply for Final Exam at Paul Menton Centre**

**Nov. 15 - Class 11 - Resolving the Democratic Deficit Through Legislative, Executive and Electoral Reform**

- Elliott, ch. 8

**Nov. 22 - Class 12 - Administrative Law, Judicial Independence, Judicial Interpretation, Judicial Review and Judicial Accountability**

- Elliott, ch. 4
- Administrative Law Handout

**Nov.29 - Class 13 - Last Class - Course Evaluation; Overview and Examination Review**

- Elliott, ch. 12, pp.306-321

**Dec. 3 - Last Day All Classes – Final Term Work Receipt Day for Approved Deferrals – Last Day to Withdraw from Course without grade being assigned.**

**Dec. 6-19 Final Exam TBA in Formal Examination Period**

Final exam will be 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.

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