

## Course Outline

<b>COURSE:</b>	<b>LAWS 2501 C – Law, State and Constitution</b>
<b>TERM:</b>	<b>Fall 2010/2011</b>
<b>PREREQUISITES:</b>	<b>1.0 credit from: LAWS 1000 [1.0], PAMM 1000 [1.0], PSCI 1001, PSCI 1002</b>
<b>CLASS:</b>	<b>Day &amp; Time: Tuesdays, 6:05-8:55pm</b>
	<b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR:</b>	<b>Dr. Zoran Oklopcic</b>
<b>CONTACT:</b>	<b>Office: Loeb D483</b>
	<b>Office Hrs: TBA</b>
	<b>Email: <a href="mailto:Zoran_Oklopcic@carleton.ca">Zoran_Oklopcic@carleton.ca</a></b>

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"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: [http://www.carleton.ca/pmc/students/accom\\_policy.html](http://www.carleton.ca/pmc/students/accom_policy.html) . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 15, 2010 for Fall exams and March 12, 2011 for Winter exams**. 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**

This course deals with some of the most important foundational questions of public (constitutional) law: What is an adequate way of thinking about the constitution of a legitimate state? How should we organize political power in a new polity? Should we embrace the idea of the separation of powers, and if so, which one of its variants? What are the merits and demerits of federalism? Can public (constitutional) law guide the most radical of political changes—secession?

The aim of this course is to enable you to become familiar with the most important areas of public law, and its theoretical background. The focus of the course will be on Canadian constitutional law, but we will approach it from a comparative perspective, drawing on the theoretical insights and practical experiences of other countries, such as the United States, Great Britain and France.

The success of this course depends on student engagement and interaction. Questions and discussion on specific points are welcomed and actively encouraged. In order to reap maximum benefits from the course material and class discussions, students will be expected to have read the required material before each class.

**EVALUATION** - All components must be completed to pass this course

- 20 % 1 hr Midterm Exam (multiple choice)
- 30 % 1 hr Pre-final exam, last class (multiple choice+1 shorter essay question)
- 50 % Take home final exam: short essay answers; and one longer, problem-oriented essay

Although class participation is not obligatory it is strongly encouraged. Students who attend lectures, and participate in class discussions have in past generally received a higher overall grade, in part due to their effort to engage the material in class.

- As a stimulus, I will add 0.3 percentage-points per lecture (excluding the presence at the Mid-term exam and the review sessions) for those who attended the lectures. In addition, your class participation may be valued up to 4 percentage points.

**SCHEDULE\***

- 1. Sept 14: Logistics. Overview of the course.**
- 2. Sept 21 Why do we need (public) law? The 'state of nature' and 'social contract'. A first glance into separation of powers.**  
  
Hobbes, Thomas, *Leviathan*, Part II, chs. XIII, XVII, XVIII [excerpts]  
Jean-Jacques Rousseau, *The Social Contract and Discourses*, book I, chs. 5, 6, 7; book II, chs. 1, 2, 7, 8, 9, 10 [excerpts]  
John Locke, *The Second Treatise of Civil Government*, chs.. XII and XIII [excerpts]
- 3. Sept 28 Federalism, American and in theory**  
Federalist Papers, nos. 9, 10, 39 [excerpts]  
Ronald Watts, "Comparing forms of Federal Partnerships" in D. Karmis, and W. Norman, *Theories of Federalism: A Reader* (Palgrave Macmillan, 2005)
- 4. Oct 5 Central issues of Canadian federalism**  
*Anti-Inflation Reference* [excerpts]  
Peter W. Hogg, "Federalism", "Financial Arrangements", and "Peace, Order and Good Government" in *Constitutional Law of Canada: 2010 Student Edition* (Thomson Carswell, 2010) [excerpts]
- 5. Oct 12 Horizontal organization of powers. Parliamentary sovereignty and/or separation of powers. The relationship between the executive and the legislature.**  
  
Federalist Papers 47, 48, 51 [excerpts]  
Giovanni Sartori, "Presidential System", "Semi-Presidential System", "Parliamentary System" in *Comparative Constitutional Engineering* (New York: NYU Press, 1997)  
Charles De Gaulle, "Bayeux Speech" (1946) [excerpts]
- 6. Oct 19 Separation of powers in Canada**  
  
Peter W. Hogg, "Responsible Government" in *Constitutional Law of Canada: 2010 Student Edition* (Thomson Carswell, 2010)

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\* All required texts will be available on WebCT. The schedule is subject to minor changes.

7. **Oct 27 Midterm exam**
  
8. **Nov 2 Theoretical foundations and varieties of the judicial review**  
*Marbury v. Madison (1803)* [excerpts]  
Alec Stone Sweet, “Constitutional Adjudication and Parliamentary Democracy” in *Governing With Judges* (Oxford and New York: Oxford University Press, 2000)
  
9. **Nov 9 Judicial Review in Canada.**  
*Roncarelli v. Duplessis* [1959] S.C.R. 121 [excerpts]  
Peter Hogg, “Supreme Court of Canada” in *Constitutional Law of Canada: 2010 Student Edition* (Thomson Carswell, 2010)
  
10. **Nov 16 Constitutional conventions and the Patriation of the Constitution**  
*[Patriation Reference, [1981] 1 S.C.R. 753 [excerpts]*  
*[movie!]*
  
11. **Nov 23 Constitutional amendment, unwritten principles and the unilateral secession of Quebec**  
*Reference re Secession of Quebec, [1998] 2 S.C.R. 217 [select passages]*  
<http://csc.lexum.umontreal.ca/en/1998/1998rcs2-217/1998rcs2-217.html> [selected passages]
  
12. **Nov 30 Multiple Choice Exam; Q&A about the take-home exam**