

Course Outline

COURSE: LAWS 2502D – Law State and Citizen

TERM: Winter 2011

PREREQUISITES: Second year standing

LECTURE: Day & Time: Wednesday, 6 – 9 p.m.
LOCATION: Please check with Carleton Central for current room location

INSTRUCTOR: Christopher McNaught
(CONTRACT)

CONTACT: Office Hrs: TBA
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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 . 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

COURSE THEMES

This course explores dramatic, historical transformations in the perception and procedures constituting the state's relationship with its citizens through, for example, administrative, often non-judicial procedures. The rights of both individuals and groups are explored against the backdrop of historical treatment of women and aboriginals, as well as the intensified atmosphere of an age of security obsession and 'terrorism' and the challenges to the 'rule of law'.

COURSE ORGANIZATION

Lectures.

COURSE EVALUATION - All components must be completed to obtain a passing grade

- a) **Two *in-class* tests – (1) hour each; each worth 20%**
- b) **Final Examination - (2) hrs., closed book, scheduled during University Exam Period - 60%**

READING MATERIALS

Purchase of the following sourcebook/course manual is required. It contains all assigned readings and is available in the university bookstore :

David W. Elliott, *Introduction to Public Law, Readings on the State, The*

Administrative Process, and Basic Values, 6th Edition (Carleton Coursepack)

Students will be expected to have completed the readings for a particular week's topic as referenced by the Schedule below.

* Here are some *suggested additional and supplemental* readings to enhance your exploration of specific aspects of the course -- further readings may be suggested in the lectures:

Backhouse, *Colour-Coded: A Legal History of Racism in Canada, 1900-50* (Toronto, 1999)

Barber, *Beyond Jihad vs McWorld*, *The Nation*, 2002 Issue, January 21

De Schutter, *The Challenge of Imposing Human Rights on Corporate Actors O.*, (*Introduction*): NYU Global Law Working Paper, 2005

Hoffman, *Human Rights and Terrorism*, *Human Rights Quarterly*, vol. 26, Number 4, Nov. 2004, pp.932-955

Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror*, Princeton U. Press, 2005

McNaught, "Political Trials and the Canadian Political Tradition" in M.L. Friedland, ed., *Courts and Trials: A Multidisciplinary Approach*, (Toronto, 1975) 137.

Roach, *September 11: Consequences for Canada*, McGill/Queen's University Press, 2003

Rutherford, *Weapons of Mass Persuasion, Marketing the War Against Iraq*, U of T Press

Strange, *The Retreat of the State: The Diffusion of Power in the World Economy*, Cambridge: Cambridge University Press, 2004.

Scharf, *The United States and the International Criminal Court: The ICC's Jurisdiction Over the Nationals of Non-Party States: A Critique of the US Position*, 64 *Law & Contemporary problems* 67 (2001) (also internet) <http://www.law.duke.edu/journals/lcp/>

TOPICS AND READINGS

All required readings associated with the scheduled topics below may be found in the 2502D Coursepack; look to the topic *not* the lecture no. to locate coursepack readings in relation to the schedule below. **NB.** The schedule is not concrete, and topics may be dealt with in different sequence, or with varying emphasis. For example, contemporary areas surrounding the rule of law, human rights, women, aboriginals, and security and post-9/11 issues, will attract more analysis.

TOPICS AND READINGS SCHEDULE

Lecture 1 Introduction

Conceptualizing the sociology underpinning Canada's experience in state administration

Lecture 2. Law, State, and Social Goals and Techniques

Special focus on the movement from the Age of Aquarius to the Age of Entitlement

Lecture 3. Administrative Law Structure and Action**Lecture 4. Non-Judicial and Judicial Control**

Special focus on the *Roncarelli* case & the Sponsorship Scandal – the political chimera of oversight

Lecture 5. Equality & Group Rights

Social norms redressing the balance; the aboriginal nightmare

Lecture 6. Substantive Review

Has modern procedure given 'heart' to an impersonal sphere; is there natural justice ?

Lecture 7. Theory, Problems, and Reform**Lecture 8. Basic Values and their protection**

Some snapshots of the rule of law as exercised (or not) on both domestic and international levels; immigration, surveillance, privacy.

Lecture 9. Scope and Interpretation of the *Charter*

The pendulum's swing: a Charter /"Rights"-crazed world ? Must everything result in legal recourse ?

Lecture 10. Fundamental Freedoms and Fundamental Justice**Lecture 11. Public International Law**

The U.N., the International Court and the viability of safe legal havens in a globalized world

Lecture 12. Exam review