
COURSE: LAWS 3504A - Law and Aboriginal Peoples
TERM: Fall 2008
PREREQUISITES: LAWS 2005, 3503 or 51.353 or LAWS 3509 (no waivers)
Day: Thursday
Time: 11:35 a.m. - 2:35 p.m.
Room: A 720 LA (Loeb Building)
INSTRUCTOR: Professor D.W. Elliott
Contact: **Office:** D585 Loeb Building
Office Hrs.: Fridays, 9:05 a.m. to 11:05 a.m. at D585 Loeb, during term
Telephone: 520-2600 ext. 7492 during office hours only
Email: delliott@ccs.carleton.ca : please use email for all messages

1. COURSE OBJECTIVES AND CONTENT

The object of LAWS 3504A is to provide an understanding of some basic elements of the law relating to Aboriginal peoples in Canada, with an emphasis on the constitutional framework, the changing case law, and Aboriginal title. The course can touch only a part of this vast topic. It does not address important areas such as criminal justice and indigenous legal systems. Where possible, students should supplement LAWS 3504A with other courses and readings on Aboriginal issues.

2. CLASS FORMAT

The classes will consist of lectures, with opportunity for questions and discussion. Students will be expected to attend classes regularly, to answer questions, and to discuss the issues. Students must read the materials assigned, before the relevant class.

3. READINGS

(a) **Required reading**

D.W. Elliott, 5th ed. *Law and Aboriginal Peoples in Canada* (North York, Ont.: Captus Press, 2005). (in the Carleton Bookstore; earlier editions are out of date); class emails (ensure that you can be reached at <http://connect.carleton.ca/>); class handouts; and as assigned.

(b) **Optional readings**

In LAWS 3504A Reserved Readings section, Library; coursebook *Bibliography* and endnote readings; optional readings in Course Outline and University bookstore (for LAWS 3504A); and as recommended.

4. EVALUATION

20% Participation

In-class Attendance (15%) and Class Participation (5%)

It is the student's responsibility to personally sign class attendance sheets, and to be present throughout the entire class session. Credit is not given for missed classes or portions of classes. Informal review quizzes may be held from time to time, and considered in the attendance / class participation mark. In class discussions, quality (knowledge of readings and of thought) is more important than quantity.

10% Midterm October 16, 2008

30% Course Paper: due on Nov 13, 2008 (optional advance date: Nov. 06, 2008)

40% Final Examination: December, 2008

Length: 3 hrs., choice of essay or multiple-choice questions, on all term work.

The evaluation objective is a balanced assessment, based on several kinds of criteria spread out over the academic year, rather than a single make-or-break "ordeal by fire." Numerical grades are used for the course components: for numerical / letter grade equivalents, see the *Undergraduate Calendar*. The midterm and the final examination cannot be re-scheduled because of travel plans, etc. See the *Undergraduate Calendar* for general faculty and University examination regulations. To be eligible to obtain a passing grade, students must complete all components of the evaluation scheme.

"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/law/accommodations.htm>

5. TOPIC SCHEDULE

The topics are keyed to the headings in the Outline / Table of Contents at the beginning of the coursebook, ***Law and Aboriginal Peoples in Canada***. The first part of this book contains text, in chapters that correspond to the weekly class topics. The second part of the book contains readings that correspond to each of the chapters. Thus "ch.1" below refers to both **Chapter 1** in the first part of the book and also **Chapter Readings 1** in the second part. Knowledge and understanding of coursebook material, the lectures, and handouts will help ensure that you can contribute to class discussions and pass the midterm and final examination.

1.	Introduction (ch.1)	Sept.	04
2.	Background; Who is an Aboriginal Person? (ch.2)	Sept.	11
3.	Aboriginal Rights before <i>Calder</i> (ch.3)	Sept.	18
4.	Aboriginal Rights from <i>Calder</i> to <i>Guerin</i> (ch.4)	Sept.	25
5.	Indian Treaties (ch.5)	Oct.	02
6.	Legislative Jurisdiction (ch. 6)	Oct.	09
7.	<i>Constitution Act, 1982</i> and <i>Sparrow</i> (ch. 7) (<i>midterm</i>)	Oct.	16
8.	Fiduciary Obligations (ch.8)	Oct.	23
9.	Aboriginal Rights (ch.9)	Oct.	30
10.	Aboriginal Rights and Title (ch.10) (<i>paper advance due date</i>)	Nov.	06
11.	Aboriginal Claims (ch.11) (<i>paper final due date</i>)	Nov.	13
12.	Aboriginal Self-Government (ch.12); (<i>review</i>)	Nov.	20

6. COURSE PAPER

(a) General Requirements

The course paper is central to LAWS 3504A, 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, WestlawCarswell, 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.
- (ii) *format*
The paper must be a maximum of 2200 words (about 11 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. Avoid 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. 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 November 13, 2008, in class or in the essay drop-slot - an assignment slot in the corridor outside the Departmental Office, Room C473, Loeb Building. As an option, a paper can be submitted in advance, in the essay drop-slot, on November 06, 2008, 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 November 13, 2008 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. The instructor 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 paper must follow the legal citation and format 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*, 6th ed. (Markham, Ont.: LexisNexis Butterworths, 2004); Douglass T. MacEilven et al., *Legal Research Handbook*, 5th ed. (Markham, Ont.: LexisNexis Butterworths, 2003); Aleksandra 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*, 3d 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*, 2d 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); H. Robertson, *The Research Essay; A Guide to Essays and Papers*, 4th ed. (Ottawa: Piperhill Pubs., 1999).

7. DEPARTMENTAL POLICY AND PROCEDURE

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