

MCMASTER UNIVERSITY
Political Science 3NN6 - PUBLIC LAW
Course Outline
2016-2017

Instructor: Greg Flynn
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Office: KTH 543
Office Hours: Tuesday & Thursday 1:30-2:30

Class Meetings

Lectures
Tuesday and Thursday: 2:30-3:20
Location: HH 302

Tutorials (As Scheduled)
Friday: 2:30-3:20
Location: HH 302

I. Introduction

The course explores how the relationship between Canadians and the Canadian state and governments are governed by three bodies of public law – administrative, criminal and constitutional. It will examine the historical, philosophical and theoretical aspects underlying constitutions, the rule of law and an independent judiciary as a base to an extensive investigation of the development, interpretation and evolution of the Canadian Constitution and Canadian public law. This preliminary focus will set the stage for a more intensive review of the major contemporary issues in Canadian public law including: delegated authority and administrative tribunals; criminal law, the division of powers and federalism; the role of the Courts, judicial interpretation of the Constitution (and the Charter of Rights and Freedoms in particular) and judicial activism; and recent challenges to the Constitution.

II. Objectives

The course is intended to give students a greater understanding of the interaction between politics, the courts and the law and to provide insight into some of the legal and political limitations faced by governments in attempting to make public policy in Canada.

By the end of the course, it is anticipated that students will be able to describe the structure of the levels of government in Canada, the constituent elements of the Canadian Constitution and the key legal and political rights set out in the Charter of Rights and Freedoms. They will be able to explain the functioning of the judicial and quasi-judicial administrative processes in the country and recognize what level of Court or tribunal is appropriate for adjudication of a particular issue. Students will be able to analyze current political and public policy issues from a legal and civil rights perspective and apply the knowledge they have gained to generate arguments on either side of an issue and appraise the validity and legitimacy of arguments advanced in public by politicians and the media. Students should also be able to present arguments and case summaries in written format in a brief, clear and concise manner supported by evidence and theory.

Given the complexity of some of the issues and the expectations of students, it is anticipated that an introductory class in political science with some knowledge of the structure of the government of Canada would be appropriate.

III. Required Texts

Students will find the following texts and readings to be of assistance in preparing for and understanding class materials. The texts are available at the McMaster University bookstore until at least December 2017. **PLEASE NOTE THAT THESE TEXTBOOKS ARE OPTIONAL.**

Milanovic, Nick E. Introduction to Public Law: Readings on the Law, State and Constitution. Captus Press, 2015

Milanovic, Nick E. Introduction to Public Law: Readings on the Law, State, and Citizen. Captus Press, 2015.

In addition, students will be referred to specific Supreme Court of Canada decisions that deal with particular subject matters of importance. Students will be given the appropriate case citation. Supreme Court of Canada decisions are available through the Supreme Court of Canada's website. The decisions of all other Canadian superior courts are available at <http://www.canlii.ca/>.

Class time will be devoted, in part, to discussing the issues raised in specific cases and readings. In order to further discussions, it would be helpful if students completed the optional readings prior to class.

IV. Class Schedule

September 06, 2016 Introduction – What is Public Law
Constitution – Chapter 1

September 12, 2016 The Constitution – Sources
Constitution – Chapters 2 and 3

September 19, 2016 The Legislative and Executive Branches
Constitution – Chapter 8

September 26, 2016 The Judiciary, Judicial Review and the Rule of Law
Constitution – Chapter 4
Citizen – Chapters 3 and 6

October 03, 2016 Criminal Law – Actus Reus and Mens Rea

ASSIGNMENT #1 DUE – OCTOBER 04, 2016

October 10, 2016 ***FALL READING WEEK – NO CLASSES***

October 17, 2016 Criminal Law - Defences

October 24, 2016 Administrative Law – Procedural Protections
Citizen – Chapter 2

October 31, 2016 Administrative Law – Procedural Protections and Substantive Review
Citizen – Chapter 4

November 07, 2016 Administrative Law – Substantive Review
Citizen – Chapter 5

ASSIGNMENT #2 DUE – NOVEMBER 10, 2016

November 14, 2016 Judicial Federalism and the JCPC
Constitution – Chapter 5

November 21, 2016 Judicial Federalism – Peace, Order and Good Government
Constitution – Chapter 6

November 28, 2016 Judicial Federalism post-JCPC
Constitution – Chapter 7

December 05, 2016 Exam Review and Preparation

DECEMBER EXAM PERIOD AND END OF TERM BREAK

January 04, 2017 The Charter – Scope and Application
Constitution – Chapters 9 and 10

January 09, 2017 The Charter – Scope and Application
Citizen – Chapters 7 and 8

January 16, 2017 Section 1

January 23, 2017 Section 2(a) - Freedom of Religion
Citizen – Chapter 9, pages 177-184

January 30, 2017 Section 2(a) Freedom of Religion and Section 2(b) Freedom of Expression
Citizen – Chapter 9, pages 184-190

February 06, 2017 Section 2(b) Freedom of Expression

ASSIGNMENT #3 DUE – FEBRUARY 09, 2017

February 13, 2017 Section 7 - Life, Liberty and Security of the Person
Citizen – Chapter 9, pages 190-201

February 20, 2017 ***WINTER READING WEEK – NO CLASS***

February 27, 2017 Section 15 – LLSP and Equality Rights
Citizen – Chapter 10

March 06, 2017 Section 15 – Equality Rights
Citizen – Chapter 11

March 13, 2017 Section 8 – Search and Seizure

ASSIGNMENT #4 DUE – MARCH 16, 2017

March 20, 2017 Sections 10 and 11 – Legal Rights

March 27, 2017 Section 3 - Democratic Rights

April 03, 2017 Exam Review and Preparation

V. Teaching Methods

The class is scheduled for three one-hour sessions per week.

Two hours of each week will be conducted in an interactive lecture format by the instructor with students having the opportunity to ask questions concerning the information being provided to them.

Beginning towards the end of September, the third hour of class time will consist of a tutorial session to be used for more informal guided discussions by the instructor concerning course materials and will review hypothetical facts and cases to reinforce and apply lecture material.

In addition to formal class time, students are invited to meet with the instructor and/or their TAs during regular office hours or by appointment to discuss course content or any other concerns.

VI. Evaluation

The following evaluations will determine the grade received by students.

1.	Case Decisions	30%
2.	Mid-Session Examination	30%
3.	Final Examination	40%

Assignments should be provided to the instructor, either in class or during office hours. As a last resort, assignments can be submitted to the box outside of the political science office. Assignments will not be accepted by the Department of Political Science Office staff or that are slipped under the instructor's or any other door. Papers received by e-mail or fax will not be accepted without the prior express permission of the instructor on each assignment.

Students who require academic accommodation must contact Student Accessibility Services (SAS) to make arrangements with a Program Coordinator. Academic accommodations must be arranged for each term of study. Student Accessibility Services can be contacted by phone 905525-9140 ext. 28652 or e-mail sas@mcmaster.ca. For further information, consult McMaster University's Policy for Academic Accommodation of Students with Disabilities.

Late Policy

Students should make all reasonable attempts to submit papers on the due date. In the event that a legitimate extension is required, students should speak to the instructor ***in advance*** of the due date to make the appropriate arrangements for such an extension. Requests for an extension submitted by e-mail will not be considered – you must speak to the instructor in person.

Examinations and/or assignments related to other courses do not constitute or qualify as exceptional circumstances or legitimate excuses.

Late papers will be penalized at the rate of three percentage points per working day for each day of delay, up to a maximum of one week, and entirely within the discretion of the instructor. After one week, the instructor may refuse to accept any late assignments in the absence of proper medical certification justifying an inability to fulfill academic requirements on a prolonged basis.

In the event that students are unable to attend class or complete required assignments and have submitted the appropriate documentation to their faculty or received the approval of the instructor for the incomplete work, the instructor reserves the right re-allocate the missed grades to other assignments.

The completion of an MSAF form does not absolve a student from the requirement to complete an assignment. Should a student complete an MSAF form, they should speak with the instructor to make arrangements for a new due date or other arrangements at their first opportunity or upon their first return to class.

The instructor reserves the right to not provide any comments or feedback on papers submitted after the original deadline, whether an extension is granted or not.

Academic Dishonesty

Students are expected to exhibit honesty and use ethical behaviour in all aspects of the learning process. Academic credentials earned are rooted in principles of honesty and academic integrity.

Academic dishonesty is to knowingly act or fail to act in a way that results or could result in unearned academic credit or advantage. This behaviour can result in serious consequences, e.g. the grade of zero on an assignment, loss of credit with a notation on the transcript (notation reads: “Grade of F assigned for academic dishonesty”), and/or suspension or expulsion from the university.

It is your responsibility to understand what constitutes academic dishonesty. For information on the various types of academic dishonesty please refer to the Academic Integrity Policy, located at www.mcmaster.ca/academicintegrity.

The following illustrates only three forms of academic dishonesty:

1. Plagiarism, e.g. the submission of work that is not one’s own or for which other credit has been obtained.
2. Improper collaboration in group work.
3. Copying or using unauthorized aids in tests and examinations.

VII. Assignments

1. Case Decisions – Various Due Dates

30%

Students will submit three two (2) page maximum papers based on a Supreme Court of Canada case dealing with the development of the Supreme Court, federalism, a Charter of Rights and Freedoms issue and/or an administrative law decision. Students will be asked to write a judicial decision of their own concerning a hypothetical set of facts with an application of the appropriate law. Students may submit up to four assignments in total to be graded (the last assignment will be optional) with only three highest assignments accounting for grading purposes.

It is anticipated that the series of assignments will provide students with an opportunity to learn to write both critically and concisely. The first assignment will provide strong feedback to students on their assignment and what is anticipated for future assignments.

PLEASE NOTE THAT THE DUE DATES LISTED IN OUTLINE ARE TENTATIVE AND TIMING OF ACTUAL DUE DATES WILL DEPEND ON COVERAGE OF COURSE MATERIALS. Students will be provided with the details of each particular assignment during class one week prior to the assignment being due.

2. Midterm examination – December 2016 **30%**

The mid-term exam will be based on all materials covered in the lectures and assigned readings. The format will consist of a hypothetical judicial decision style question. The exam will reinforce the materials the students have learned and provide a good summary of the broad course themes prior to delving into the specific materials in the second term.

3. Final examination – April 2017 **40%**

The final exam will be based on all materials covered in the lectures and assigned readings throughout the year, although it will be more heavily weighted to the second term material. As with the mid-term exam, the format will consist of both a short answer/identification component and a judicial decision essay style questions. The exam will provide an overall summary of the course for students and an opportunity to apply the material they have learned over the course of the year.

Statement on Electronic Resources

In this course we will be using AvenueToLearn. Students should be aware that, when they access the electronic components of this course, private information such as first and last names, user names for the McMaster e-mail accounts, and program affiliation may become apparent to all other students in the same course. The available information is dependent on the technology used. Continuation in this course will be deemed consent to this disclosure. If you have any questions or concerns about such disclosure please discuss this with the course instructor.

Faculty of Social Sciences E-mail Communication Policy

Effective September 1, 2011, it is the policy of the Faculty of Social Sciences that all e-mail communication sent from students to instructors (including TAs), and from students to staff, must originate from the student's own McMaster University e-mail account. This policy protects confidentiality and confirms the identity of the student. It is the student's responsibility to ensure that communication is sent to the university from a McMaster account. If an instructor becomes aware that a communication has come from an alternate address, the instructor may not reply at his or her discretion.

The instructor and university reserve the right to modify elements of the course during the term. The university may change the dates and deadlines for any or all courses in extreme circumstances. If either type of modification becomes necessary, reasonable notice and communication with the students will be given with explanation and the opportunity to comment on changes. It is the responsibility of the student to check his/her McMaster email and course websites weekly during the term and to note any changes.