

CONSTITUTIONAL LAW

Winter 2019

LAWS 2062 (5 credits)

Professor Jodi Lazare

SYLLABUS

Tuesdays 1:30-4:00 PM Room 305

Thursdays 1:30-4:00 PM Room 305*

Email: jodi.lazare@dal.ca

Office Hours: Tuesdays & Thursdays 4:15 – 5:00 PM or by appointment

(Note that, as a general matter, **substantive questions are best dealt with in person**, rather than by email.)

Office: 426

OFFICIAL COURSE DESCRIPTION

This required second year course concerns itself with three main themes:

- (1) The distribution of powers under the *Constitution Act, 1867*;
- (2) The *Canadian Charter of Rights and Freedoms*;
- (3) Aboriginal rights under section 35 of the *Constitution Act, 1982*.

This course is intended to follow from the basic introduction to and foundation for constitutional law laid in the first year Public Law course. Throughout the course, emphasis will be placed on the roles of the Constitution in our governmental structure and of the courts as its elaborator and guardian, as well as on constitutional litigation as a problem-solving process, through which fundamental values are examined.

REQUIRED MATERIALS

- *Canadian Constitutional Law*, 5th Edition, Emond Montgomery (available at the university bookstore in the SUB)
- Supplementary materials available on Brightspace

* On Thursday, January 10, class is moved to the Burbidge (Pharmacy) Building, located at 5968 College Street, room 318.

There will be **no class on Thursday, January 24**.

PEDAGOGICAL APPROACH

The course will consist of a blend of lectures, in-class discussions, and exercises, some of which will involve an audience response system (see below re. Top Hat). The approach to classroom interaction will be based on the assumption that students have done the readings assigned for that day.

We will discuss a number of varied, and sometimes challenging, subjects. Accordingly, the course is premised on the understanding that we all come to class with a variety of experiences and various levels of familiarity with the different subjects covered. As such, please keep in mind the following principles (borrowed and adapted from Professor Tracey Lindberg at the University of Ottawa):

1. We have the right to make kind mistakes. We will make mistakes and it is our responsibility to be as informed as possible when we get to class in order that our mistake is kind.
2. It actually does hurt us, as humans, to hear stereotypes, generalizations, and negative understandings about one's race, gender, or subject position. While we can all make kind mistakes, let us also be fully informed and gentle as we are talking about other people in the room.
3. You have the right to ask any question. While you are encouraged to speak freely, if you are shy or uncomfortable, please write it down and I will answer it during / as part of a lecture.
4. The goal of these principles is to acknowledge that we have continuing relationships with each other. These relationships must be respectful and reciprocal in order for us to share space and ideas (inside the classroom and out).

Top Hat

We will be using the Top Hat (www.tophat.com) classroom response system in class. You will be able to submit answers to in-class questions using Apple or Android smartphones and tablets, laptops, or through text message.

You can visit the Top Hat Overview (<https://success.tophat.com/s/article/Student-Top-Hat-Overview-and-Getting-Started-Guide>) within the Top Hat Success Center, which outlines how you register for a Top Hat account, as well as providing a brief overview to get you up and running on the system.

Our **Course Join Code is 662608**. You **must register** by visiting the course website at: <https://app-ca.tophat.com/e/662608>.

I understand that all Civil Procedure professors have required students to subscribe to Top Hat for the full year. Accordingly, there should be no additional cost to you for this class.

Should you require assistance with Top Hat at any time, due to the fact that they require specific user information to troubleshoot these issues, please contact their Support Team directly by way of email (support@tophat.com), the in app support button, or by calling 1-888-663-5491.

EVALUATION

You have the option of your performance in the course being evaluated in one of the two following ways:

Option 1		
Final examination	3 hours and 30 minutes total (including reading time)	100%

Option 2		
Short research paper	See below	20%
Final examination	3 hours and 30 minutes total (including reading time)	80%

In other words, you may choose to be evaluated based on one final exam, worth 100% of your mark, or based on a short paper and final, together worth 100%. The optional paper is not failsafe.

Final exam

The final exam, which takes place on **Monday, April 22**, is open book. Students are permitted to bring into the exam hard copies of the course materials and their notes. No other materials are permitted (**students are not permitted to bring into the exam copies of old exams or answer sheets**).

The exam will be written using Exam4 software.

Short research paper

Students may choose to complete an optional writing assignment for 20% of their grade. The intention of this assignment is to encourage research, writing, and critical engagement on a constitutional law topic of your choice. Your exam mark on 100 will be pro-rated to reflect the breakdown.

Students who choose this option will select a current topic, issue, or controversy related to any of the subjects covered in this course and complete a short research paper of not more than 10-12 pages (double-spaced, Times New Roman, 12-point font).

Note that this is an independent research paper, and outside research beyond the class materials is expected. You should account for the depth of research required to address your chosen topic, and will be assessed on it, as explained below.

The paper will be evaluated based on quality/depth of research, organization, analysis/insight, literary style, and originality — in other words, the “**Major Paper Guidelines**,” adapted for a shorter paper. While shorter than a Major Paper, papers should contain a clear thesis and argument backed by relevant authorities. Proper attribution of sources (both in the body of the paper and in citations) counts toward “literary style.” Papers should contain a table of contents (with page numbers) and a bibliography, in accordance with the McGill Guide for Legal Citation. The Major Paper Guidelines are available at:

https://cdn.dal.ca/content/dam/dalhousie/pdf/law/Academic%20Information%20Syllabi%20Moots%20Regulations/major_paper_guidelines.pdf

The optional paper is due on **Monday, April 8, 2019 at 3:30 PM** and should be submitted to Reception.

If you plan to write a short paper, the deadline to advise me, and to have your topic approved, is **Thursday, February 14 at 5:00 PM**. I am happy to discuss potential topics with you before that date.

CLASS SCHEDULE

The schedule of topics and readings is contained in a separate document (“Reading Calendar”) available on Brightspace.

ACCOMMODATION

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean Michael Deturbide or Dana-Lyn Mackenzie, Director of Student Services, as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require medical documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia Human Rights Act. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at 494-2836.

PLAGIARISM

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>. Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.