

Constitutional Law

Unit Outline - Semester 1 2011

QUT code:	LWB242
Credit points:	12
Antirequisite(s):	LWB235 Australian Federal Constitutional Law, LWB231 Introduction to Public Law
Date:	Semester 1 2011
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Rationale

An understanding of Constitutional Law is important for three reasons:

1. Its logical significance. As the Commonwealth Constitution is a 'higher' law, ordinary laws passed by Commonwealth or State Parliaments may depend on the Constitution for their validity. If supposed laws do not comply with the requirements of the Constitution the courts will not recognise them as valid laws.
2. Its political significance. Rules of Constitutional Law control what politicians and public servants can and cannot do.
3. Its practical significance for practising lawyers. Cases involving Constitutions do not just arise between the Crown Law officers of the Commonwealth and the States; some 70% involve a dispute between a private citizen or company, represented by private lawyers, and one of the governments.

Constitutional law is a core unit in the LLB course, and is required for admission to practice in all jurisdictions, across Australia.

Aims

The aim of the unit is to provide knowledge and understanding of the constitutional arrangements effected by the Commonwealth Constitution and the State Constitutions, including the structure and institutions of the Constitutions, the division of power between Commonwealth and States, and relations between the different levels of government. This unit also aims to further develop your legal research skills developed in previous law units.

Objectives

At the completion of this unit you should be able to:

1. demonstrate knowledge and understanding of Commonwealth and State constitutional law and how the interpretation and evolution of constitutional laws in Australia have been influenced by political, social and economic changes, particularly as they relate to federal-state relations ;
2. critically analyse and construct arguments for the way in which constitutional laws have and should evolve in response to changing social, political and economic contexts;
3. recognise and define Commonwealth and State constitutional law issues in given problems;
4. use appropriate research strategies to locate and evaluate primary and secondary sources of constitutional case, legislation and principles;
5. identify, extract and evaluate constitutional law principles and policy and relevant contexts to apply to real world problems and construct arguments for potential law reform;
6. communicate legal and policy arguments and solutions to problems clearly and logically using the appropriate level and style of communication for the context;
7. manage time and collaborate with others to recognise, critique and generate arguments for constitutional change; and
8. evaluate and reflect upon your own performance and development to recognise and correct gaps in knowledge and capabilities as relevant to this unit, future law units and your future professional studies.

Content

The material covered in this unit includes:

- Principles of interpretation of the Commonwealth Constitution
- Nature and extent of selected heads of Commonwealth legislative power
- Distribution of financial powers between Commonwealth and States
- Aspects of Commonwealth executive and judicial power
- State legislative power
- Express and implied federal limits on Commonwealth and State powers

Skills

In this unit you will further develop the following skills(implicitly and implicitly):

- Problem solving and reasoning;
- Legal research;
- Oral and written communication;
- Time management;
- Responsibility for independent learning; and
- Reflective practice.

Graduate Capabilities

Your understanding of the unit content and the further development of these skills will assist you to acquire the following law graduate capabilities:

1. Discipline Knowledge;
2. Problem Solving, Reasoning and Research;
3. Effective Communication;
4. Life Long Learning;
5. Work Independently and Collaboratively; and
6. Characteristics of Self-Reliance and Leadership.

For a full description of the law graduate capabilities see .

Approaches to Teaching and Learning

This unit is a combination of content and skills that will develop your graduate capabilities. The teaching and learning approach in this unit is a combination of lectures (to provide you with an understanding of the relevant law);and tutorials (to allow you to practise your application of the law to fact scenarios and to develop your legal problem solving and communication skills).

Lectures

There will be two hour lectures from week 1 through to week 13. Lectures will be delivered in person and the audio of the lecture will also be made available via podcasts on the unit Blackboard site. Guest lectures may also be scheduled at various times throughout the semester. Lectures will contain an overview of the relevant law, including summaries of the key cases. They will be supported by the use of PowerPoint presentations, which will be available on the unit Blackboard site.

Case Readings

In Constitutional Law it is necessary to read the primary case material to learn and understand the law. To this end the reading for 4 weeks of tutorials will include a High Court decision on the relevant area of law. These case readings will be discussed in detail. These case readings will be supplemented by readings from relevant texts.

Tutorials

One and a half hour (90 minute) tutorials have been timetabled for week 2 to week 13 of semester. Tutorials will provide you with the opportunity to following:

1. A detailed facilitated discussion of the case reading in the 4 weeks in which there is a more in-depth case discussion; and
 2. Practice applying the law to different scenarios by answering a series of problem questions.
- During tutorials, where appropriate, you will also participate in discussions of possible constitutional reform relating to the topics for that week, as well as a discussion of any constitutional reform ideas arising out of news reports from that week.

If you are an external student you will be provided with external tutorial tapes that will assist you

with your learning.

You will be required to be prepared for the tutorials and be ready to discuss the issues raised. Preparation will include attending or listening to lectures and attempting the tutorial questions set down in the Study Guide for each week.

Optional External Attendance School

Mid-way in the semester there is an optional attendance school for external students where the skills of problem solving and exam techniques will be practised.

Assessment

In this unit there is both formative assessment (to receive feedback on your learning) and summative assessment (to receive feedback and a mark). Formative assessment is designed to provide you with feedback on your development or attainment of understanding of constitutional law studied in this unit and the accompanying skills taught. In this unit you will receive formative feedback prior to the end of semester exam through:

1. The face-to-face tutorials (internal students);
2. The external school (external students);
3. The individual written feedback on your external exercise (external students);
4. The individual written feedback on your research assignment and methodology;
5. The generic feedback on the research assignment and methodology placed on the unit's Blackboard site; and
6. The option of private consultation with a member of the teaching team during student consultation.

All of the formative assessment you receive links with objective 8.

Self Reflection

You should reflect upon the feedback (both your individual and generic feedback as provided on Blackboard) for the purpose of identifying:

1. gaps in your knowledge and understanding of the legal principles;
2. inadequacies in your legal research skills;
3. strategies to improve your oral and written communication skills in further assessment;
4. strategies to improve your legal research skills; and
5. areas for improvement for future studies within the LLB.

You should record your work, the feedback and your reflection, noting your strategies for improvement, in your Student ePortfolio. This links with objective 8.

Assessment name: Tutorial Participation

Description: Internal students will be assessed on their attendance at, preparation for and participation in and contribution to discussions, analysis, problem solving and skills exercises in tutorials throughout the semester.

Relates to objectives: 1-8.

Weight: 10%

Internal or external: Internal

Group or individual: Individual

Due date: Weeks 2-13

Assessment name: External Exercise

Description: This exercise requires you to submit a written answer to a specified question. The word count for the external exercise is 750 words.

Relates to objectives: 2-5 and 7

Weight: 10%

Internal or external: External

Group or individual: Individual

Due date: Week 5

Assessment name: Research Assignment

Description: The research assignment and research methodology (max 3000 words) will require you to undertake a real world research project on a prescribed topic, such as developing a submission to a parliamentary inquiry or government on a constitutional law issue. The topic will be chosen to allow you to critically analyse an area of constitutional law of current significance, including one or more significant constitutional law decisions. The research assignment and methodology will assess your skills of researching and evaluating various legal sources, extracting and analysing constitutional law principles, constructing arguments using law and policy and legal writing in a real world context.

Relates to objectives: 1-8.

Weight: 40%

Internal or external: Both

Group or individual: Individual

Due date: Week 9

Assessment name: Final Exam

Description: There will be a compulsory end of semester exam. The exam will be of 2 hours duration with 30 minutes perusal time and it will be open book. All topics of the unit will be examinable.

Relates to objectives: 1-6 and 8.

Weight: 50%

Internal or external: Both

Group or individual: Individual

Due date: Central Exam Period

Academic Honesty

Academic honesty means that you are expected to exhibit honesty and act responsibly when undertaking assessment. Any action or practice on your part which would defeat the purposes of assessment is regarded as academic dishonesty. The penalties for academic dishonesty are provided in the Student Rules. For more information you should consult the [Academic Integrity Kit](#), and the QUT Library resources for avoiding plagiarism.

Resource materials

Prescribed Materials

P Keyzer, *Principles of Australian Constitutional Law*, 3rd ed, LexisNexis Butterworths, 2010.

J Clarke, P Keyzer and J Stellios, *Hanks' Australian Constitutional Law, Materials and Commentary*, 8th ed, Butterworths, 2009.

Reference Materials:

S Joseph and M Castan, *Federal Constitutional Law*, 3rd ed, Lawbook Co., 2010.

T Blackshield and G Williams, *Australian Constitutional Law and Theory*, 4th ed, Federation Press, 2006.

G Moens and J Trone, *Lumb & Moens', The Constitution of the Commonwealth of Australia Annotated*, 7th ed, LexisNexis Butterworths, 2007.

G Winterton, HP Lee, A Glass, JA Thomson and P Gerangelos, *Australian Federal Constitutional Law: Commentary and Materials*, 2nd ed, Lawbook Co, 2007.

Blackboard Site

Online resources for this unit are available on the unit blackboard site.

Risk assessment statement

There are no out of the ordinary risks associated with this unit.

Disclaimer - Offer of some units is subject to viability, and information in these Unit Outlines is subject to change prior to commencement of semester.

Last modified: 23-Dec-2010