



# LAW 314

## Constitutional Law

S1 External 2016

*Dept of Law*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Joel Harrison

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Credit points

3

Prerequisites

6cp in LAW or LAWS units at 200 level and (admission to LLB or BAppFinLLB or BALLB or BA-MediaLLB or BA-PsychLLB or BBALLB or BComLLB or BCom-ProfAccgLLB or BEnvLLB or BITLLB or BIntStudLLB or BPsych(Hons)LLB or BScLLB or BSecStudLLB or BSocScLLB)

Corequisites

Co-badged status

Unit description

This unit introduces students to fundamental principles of constitutional law and practice in Australia, including the basic structures of representative and responsible government, the structure and content of the Constitution of the Commonwealth of Australia and the relationship between the Commonwealth and the States. The unit places constitutional principles and doctrines in a wider context by exploring some of the questions that arise in relation to the framework for law and government in Australia. These include: federalism; democracy and citizenship; the rule of law; parliamentary sovereignty; and the relationships among the legislative, executive and judicial powers.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

On successful completion of this unit, you will be able to:

- 1) Analyse central constitutional law concepts, structural features, and implications arising from the constitutional text.
- 2) Identify constitutional law principles within cases.
- 3) Assess different theories of constitutional interpretation and understand their relationship to different doctrinal positions.
- 4) Evaluate what is necessary for a constitution, assessing current deficiencies and

strengths in the Commonwealth Constitution.

5) Apply constitutional law to new fact problems.

## Assessment Tasks

Name	Weighting	Due
<u>Quiz</u>	10%	01/04/2016
<u>Research Essay</u>	40%	15/04/2016
<u>Final Examination (Take-Home)</u>	50%	14/06/2016

### Quiz

Due: **01/04/2016**

Weighting: **10%**

This is a time limited quiz to be completed Friday 1 April 2016. The quiz will be available between 5pm and 8pm. You will have one hour to complete it from the time it is opened. When one hour has expired, all saved answers will be automatically submitted.

The quiz tests your understanding of a key case or cases read and discussed within the first five weeks of the unit. This will include the facts, legal issue(s), key arguments, legal principles, and legal conclusions.

(See iLearn for further details and assessment guidance.)

On successful completion you will be able to:

- 2) Identify constitutional law principles within cases.

### Research Essay

Due: **15/04/2016**

Weighting: **40%**

This is a research essay. You are required to develop an argument (a thesis) on a question of constitutional interpretation. You must conduct your own research beyond the textbook to engage with secondary authority (e.g. journal articles). As the assessment description provides, a good essay will analyse both case law and academic arguments.

Essays must be 2,000 words or less, excluding footnotes. Content over 2,000 words will not be marked.

Footnotes must not include substantive argument (ie only references are permitted). A bibliography should not be provided.

The essay must comply with the *Australian Guide to Legal Citation* (3rd ed). The Guide is available here <http://mulr.law.unimelb.edu.au/go/AGLC3>. Essays must be submitted in double

line spaced text, 12 point font.

The essay is due Friday 15 April 2016, 10pm.

All work is to be submitted via Turnitin on iLearn. Late submissions will not be marked and will receive a grade of 0.

(See iLearn for further details and assessment guidance.)

On successful completion you will be able to:

- 1) Analyse central constitutional law concepts, structural features, and implications arising from the constitutional text.
- 2) Identify constitutional law principles within cases.
- 3) Assess different theories of constitutional interpretation and understand their relationship to different doctrinal positions.

## Final Examination (Take-Home)

Due: **14/06/2016**

Weighting: **50%**

This is a take-home exam. It will consist in two questions – one fact pattern problem, asking you to apply constitutional law to a new set of facts; one general essay question asking you to develop an argument appealing to constitutional doctrine, principles, and theory. The questions are equally weighted. The exam can cover any material in the unit.

Students will be able to access the examination paper on iLearn from **9am, Tuesday 14 June** and must submit their answers by **1pm, Tuesday 14 June**. All work is to be submitted via Turnitin on iLearn.

A bibliography is not required. While referencing is required, footnoting is not. Rather, a student may reference for the exam in this manner:

e.g. 'The High Court has held that the race power permits the Commonwealth to pass laws for the benefit or detriment of indigenous persons (*Kartinyeri*).'

The **word limit** for the exam (including both questions) is **2,500 words**. This is a limit, rather than a target.

Late submissions will not be marked and will receive a grade of 0.

(See iLearn for further details and assessment guidance.)

On successful completion you will be able to:

- 1) Analyse central constitutional law concepts, structural features, and implications arising from the constitutional text.
- 3) Assess different theories of constitutional interpretation and understand their relationship to different doctrinal positions.

- 4) Evaluate what is necessary for a constitution, assessing current deficiencies and strengths in the Commonwealth Constitution.
- 5) Apply constitutional law to new fact problems.

## Delivery and Resources

Each week, one lecture in this unit will be pre-recorded and available to students on iLearn. A second in-person lecture will then be given on Thursdays, 4-5pm. These will take place **Week 1 to Week 12**. The schedule of topics to be covered in the lectures, and notes on required reading, will be available on iLearn.

Weekly one hour tutorials begin in **Week 2 and finish in Week 13**. Required reading will be notified on iLearn.

External students have a compulsory two day on-campus session.

The required text is: Peter Gerangelos et al (eds), *Winterton's Australian Federal Constitutional Law: Commentary and Materials* (Thomson Reuters, 3rd ed, 2013). It is available from the Macquarie University Co-op Bookshop. Additional reading will be available via iLearn, e-reserve, or else it will be linked to a publicly available source.

Students require access to a computer and a secure and reliable server.

The research essay and final exam must be submitted electronically via Turnitin.

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

**New Assessment Policy in effect from Session 2 2016** [http://mq.edu.au/policy/docs/assessment/policy\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.html). For more information visit [http://students.mq.edu.au/events/2016/07/19/new\\_assessment\\_policy\\_in\\_place\\_from\\_session\\_2/](http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/)

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Complaint Management Procedure for Students and Members of the Public [http://www.mq.edu.au/policy/docs/complaint\\_management/procedure.html](http://www.mq.edu.au/policy/docs/complaint_management/procedure.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

## Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit [ask.mq.edu.au](#).

### **Additional Macquarie Law School policy on assessment**

In the absence of a successful application for special consideration, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero.

Word limits will be strictly applied and work above the word limit will not be marked.

Footnotes are only to be used for referencing. Substantive material in footnotes will not be marked.

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

## Learning Skills

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/](http://www.mq.edu.au/about_us/)

[offices\\_and\\_units/information\\_technology/help/](#).

When using the University's IT, you must adhere to the [Acceptable Use of IT Resources Policy](#). The policy applies to all who connect to the MQ network including students.

## Graduate Capabilities

### Commitment to Continuous Learning

Our graduates will have enquiring minds and a literate curiosity which will lead them to pursue knowledge for its own sake. They will continue to pursue learning in their careers and as they participate in the world. They will be capable of reflecting on their experiences and relationships with others and the environment, learning from them, and growing - personally, professionally and socially.

This graduate capability is supported by:

#### Learning outcome

- 3) Assess different theories of constitutional interpretation and understand their relationship to different doctrinal positions.

### Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

#### Learning outcomes

- 1) Analyse central constitutional law concepts, structural features, and implications arising from the constitutional text.
- 2) Identify constitutional law principles within cases.
- 3) Assess different theories of constitutional interpretation and understand their relationship to different doctrinal positions.
- 4) Evaluate what is necessary for a constitution, assessing current deficiencies and strengths in the Commonwealth Constitution.
- 5) Apply constitutional law to new fact problems.

### Assessment tasks

- Quiz

- Research Essay
- Final Examination (Take-Home)

## Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

### Learning outcomes

- 1) Analyse central constitutional law concepts, structural features, and implications arising from the constitutional text.
- 3) Assess different theories of constitutional interpretation and understand their relationship to different doctrinal positions.
- 5) Apply constitutional law to new fact problems.

### Assessment tasks

- Research Essay
- Final Examination (Take-Home)

## Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

### Learning outcomes

- 1) Analyse central constitutional law concepts, structural features, and implications arising from the constitutional text.
- 3) Assess different theories of constitutional interpretation and understand their relationship to different doctrinal positions.
- 5) Apply constitutional law to new fact problems.

### Assessment tasks

- Research Essay
- Final Examination (Take-Home)



## Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

### Learning outcomes

- 2) Identify constitutional law principles within cases.
- 3) Assess different theories of constitutional interpretation and understand their relationship to different doctrinal positions.
- 5) Apply constitutional law to new fact problems.

### Assessment tasks

- Research Essay
- Final Examination (Take-Home)

## Engaged and Ethical Local and Global citizens

As local citizens our graduates will be aware of indigenous perspectives and of the nation's historical context. They will be engaged with the challenges of contemporary society and with knowledge and ideas. We want our graduates to have respect for diversity, to be open-minded, sensitive to others and inclusive, and to be open to other cultures and perspectives: they should have a level of cultural literacy. Our graduates should be aware of disadvantage and social justice, and be willing to participate to help create a wiser and better society.

This graduate capability is supported by:

### Learning outcome

- 4) Evaluate what is necessary for a constitution, assessing current deficiencies and strengths in the Commonwealth Constitution.

## Socially and Environmentally Active and Responsible

We want our graduates to be aware of and have respect for self and others; to be able to work with others as a leader and a team player; to have a sense of connectedness with others and country; and to have a sense of mutual obligation. Our graduates should be informed and active participants in moving society towards sustainability.

This graduate capability is supported by:

### Learning outcome

- 4) Evaluate what is necessary for a constitution, assessing current deficiencies and

strengths in the Commonwealth Constitution.

## Changes from Previous Offering

This unit's content, week-to-week structure, and assessment have changed from 2015.

The required text has also changed. The previous text (George Williams et al, *Blackshield and Williams Australian Constitutional Law and Theory: Commentary and Materials* (Federation Press, 6th ed, 2014) may be an additional resource for students developing their own thinking.

## Changes since First Published

Date	Description
11/01/2016	Same as internal unit