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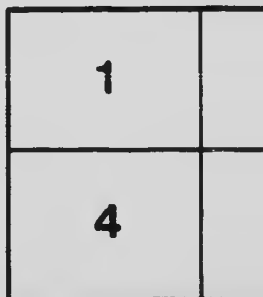
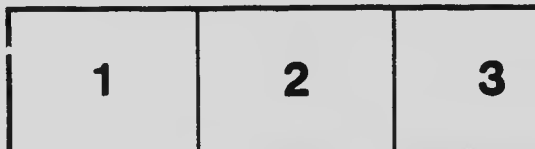
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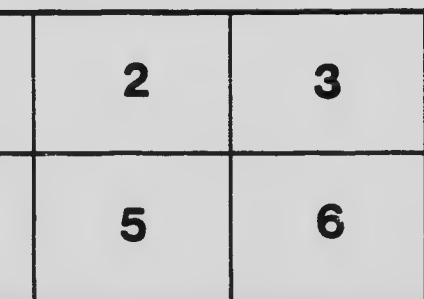
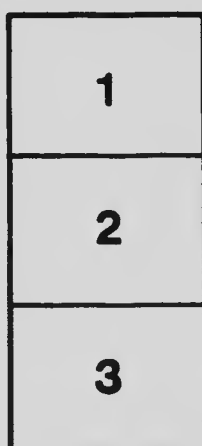
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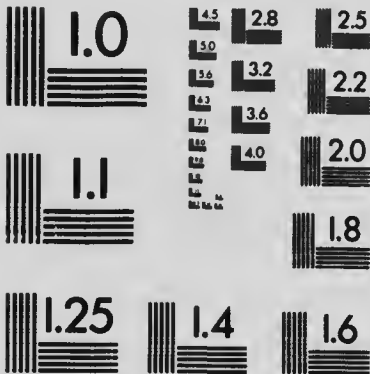
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SYLLABUS

of

CONSTITUTIONAL LAW

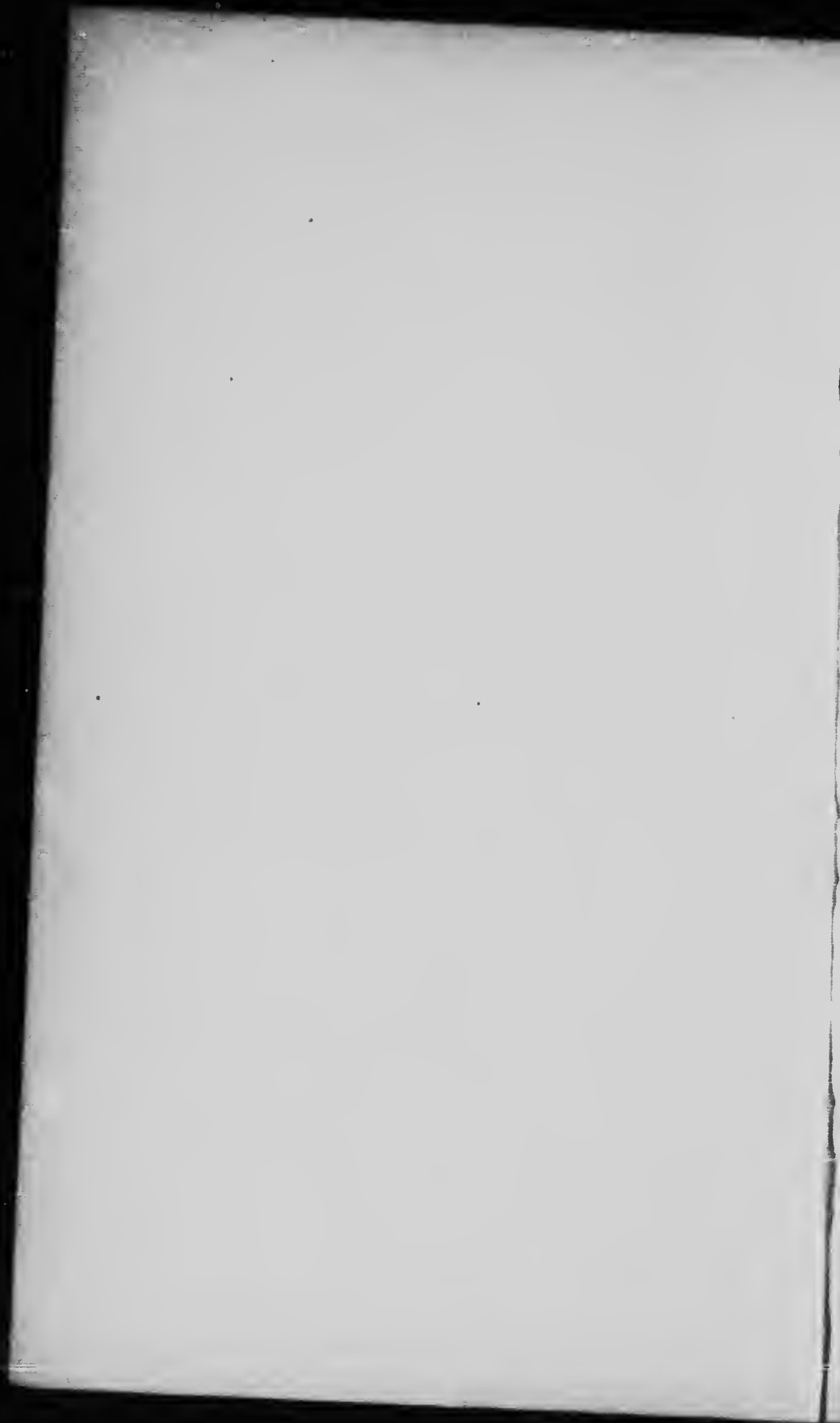


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Syllabus of Constitutional Law.

PART FIRST

- 1** Scientific study of Government. Political science or scientific study of Government is a part of Social Science—It is subordinate to Moral Science.
- 2** Society.
Various theories about its origin: Locke's theory—Rousseau's theory—The divine theory—The scholastic theory.
- 3** Distinction between State and Nation.
- 4** Essential elements of the State. 1° The people: citizens and subjects—Naturalization. 2° Territory: This means not only a portion of land but also rivers, lakes and canals, and if the State touches upon an open sea it includes in addition a maritime belt generally recognized to be three miles (3) in width measured from low water mark—State boundaries. 3° Sovereignty or Government. Formal element of society.
- 5** Different forms of Government: Monarchy—Aristocracy—Democracy—Confederation—Federal Union.
- 6** Neutralized States.
- 7** Protected States.
- 8** Merits and weak points of Democracy.
- 9** The electorate—Universal suffrage—Woman suffrage.
- 10** International Rights.
- 11** International Law.
- 12** Right of recognition.
- 13** Non intervention.
- 14** The Monroe Doctrine:
In 1823 when the Spanish colonies of South America had freed themselves of their Spanish rulers, several States of Europe seemed disposed to help Spain to retake her lost colonies. President Monroe fearing the re-establishment of monarchy on the american continent sent a message to Congress worded in the following terms: «We could not view an interposition for oppressing them, or controlling in any other manner their destiny by any European power, in any other light than as a manifestation of an unfriendly disposition towards the United States.»

This was considered as a threat to intervene in favor of the new South-American Republics, if Europe had espoused the cause of Spain against them—This is the Monroe doctrine. Since that time the message of Monroe has been given a wider interpretation and the tendency now is to say that no European nation should be allowed to acquire new territory on the American continent.

- 15** Rights of intercourse—In times of peace all nations allow to foreigners nearly all the rights their own citizens enjoy, except the right to vote and to hold office.
- 16** Causes of war—Wars are just or unjust. Casuists may decide this question which depend not on politics but on morals.

With regard to methods of warfare, international law has established certain rules, which are generally observed by all civilized nations. It forbids the use of poison and poisoned weapons, the killing of a disarmed enemy, the treacherous use of a flag of truce and other like barbarous actions.

No combatants may not be killed or taken prisoners; and this includes all who are not in the army, men as well as women and children. The fighting, however, must be confined to the regular armies; and one who fights on his own account may be treated as a murderer if captured by the other side. Private property on land, though belonging to citizens of the hostile nation, may not be taken as booty, and if anything is taken for the support of an invading army, it must be paid for. The common practice is for the commanding officer, when he has not the necessary money, to issue certificates for property taken, and these are afterwards redeemed by his government.

17 Privateering.

Sometimes during a war letters of marque are given to a private citizen, allowing him to send out an armed vessel at his own expense, to capture the vessels and property of citizens of the hostile nation. Such a vessel is called **PRIVATEER**. The property captured, called **PRIZE** must be brought to port, and the question of whether it is lawful prize is submitted to a court.

18 Neutral rights and duties.**PART SECOND****19 Outlines of the principal governments of the world.**

1° Great Britain—United Kingdom of Great Britain and Ireland * i. e., England, Scotland Ireland and Wales.

The government is centralized, not federal.

There are two Houses—Members for the House of Commons are elected by the people—Members of the House of Lords are chiefly hereditary nobles and bishops.

2° France.

France is a Republic since 1870. There are two Houses: The Senate whose members are elected for nine (9) years by a College composed of certain officials convened at the chef-lieu of the department.

The House of Commons whose members are elected by universal male suffrage for four years. The Cabinet is responsible to the House of Commons.

3° Germany.

The German Empire came into existence on the 16th of April 1871 with the King of Prussia as Emperor.

Twenty six States are united in a Confederation.

Two Houses: The federal council (Bundesrath) or upper House, and the national assembly, or Reichstag.

In each State there are likewise two Houses. There is no parliamentary Government and no Cabinet. The Chancellor is the head of all the civil departments.

4° Austria-Hungary.

The Austrian Empire is a federal union composed of Austria and Hungary; each of these two States is a constitutional monarchy—The Dual Monarchy.

The head of the Federal Union is the Emperor of Austria who is also king of Hungary. Each monarchy has two Houses.

5° Italy.

Since 1870 Italy is a constitutional monarchy.

Two Houses. The Cabinet is responsible to the House of Commons.

6° The United States of North America.

It is a Federal Union, governed by a President elected every fourth year by an electoral College.

Two Houses: The members of the Senate are now elected by the people for six years.

The members of the House of Commons are likewise chosen by the people for two years. Each State of the Union has two Senators. There is no responsible government. The President is the head of the executive and the ministers chosen by him are responsible solely to him for their official conduct.

7° Russia.

Russia is an absolute monarchy; all authority being centralized in the Czar.

There is a legislature called the DOUMA but it has no legislative power.

There is also a second House called the Council of the Empire. The heads of the various departments are responsible to the Czar.

8° Australia.

Australia, since 1901 is a Federation of six self-governing States. There are two Houses: the members of both are elected by the people.

Great Britain retains the management of all foreign relations. A Governor General is appointed by the British Cabinet and is guided in his official political conduct by the advice of his local ministers.

Each State has also a local government.

9° India.

India is a dependency of England. There is no local legislature. A Secretary of State for India; who is at the same time a member of the British Cabinet governs India with a Council composed of Englishmen.

There is a Governor General called Vice-Roy of India.

PART THIRD

(taken from Sir J. G. Bourinot with recent facts and accurate statistics)

20 What is a Constitution? What is meant by Statutes?

21 Executive, Legislative and Judicial Powers.

22 The Dominion of Canada is one of the most important dependencies of England.

It comprises now (1917) the provinces of Prince-Edward Island, New-Brunswick, Nova-Scotia, Quebec, Ontario, Manitoba, British Columbia, Alberta and Saskatchewan, Yukon territory and North-West territories, the latter including all British territories and possessions in North-America and all Islands adjacent thereto not included within any Provinces.

(Newfoundland and its dependencies are excepted)

The Dominion of Canada at the last census, 1911, had a population of 7,206,643.

Alberta	374,633
British Columbia	392,480
Manitoba	455,614
New Brunswick	351,889
Nova Scotia	492,338
Ontario	2,523,375
Prince Edward Island	93,728
Quebec	2,003,232
Saskatchewan	492,432
Yukon	8,512
North West Territories	18,481

23 Periods of political development—Constitutional History.

1° French rule, 1608—1759—'60—Landing of Jacques Cartier at Gaspé 1534—Samuel de Champlain founded Stadaconé 1608. About the year 1664 the King established a regular government in Canada with a Governor and an Intendant assisted by a Council.

2° English rule in Canada 1760—1791.

- 24** From 1760 to 1763 a military government ruled in Canada. The treaty of Paris in 1763 settled the question between England and France and Canada became formally an English colony. General Murray was appointed Governor General and the Roman Catholics who were the great majority were compelled to take the oath of allegiance which prevented the Catholics of England from sitting in the English Parliament. In the advising council of Murray there was only one French Canadian. Great discontent was generated by the laws of the Governor General. In 1774 the English Parliament gave a new Constitution to the Province under the name of Quebec Act. This Constitution was far from being popular.
- 25** The Quebec Act lasted from 1774 to 1791. While the Quebec Act was in force some forty thousand English people emigrated from the thirteen States of the United States who had declared their independence of England. These immigrants settled in the provinces now known as New Brunswick, Nova Scotia and Ontario and thus increased the English speaking population of Canada. The British government deemed it advisable to form two separate provinces.
- 26** The "Constitutional Act" passed by the Imperial Parliament 1791 formed "Lower Canada" with a governor-general, and "Upper Canada" with a lieutenant-governor. In each province there was an executive body chosen by the governor of the province;—a legislative Council chosen in the same way, and an assembly elected by the people in certain districts on a restricted franchise. After a few years experience, it became clear that the Constitution of 1791, could not work satisfactorily, because the executive body was not responsible to the people's assembly.
- 27** Responsible Government in Canada 1840—1867. After the rebellion of 1837 the Constitution of 1791 was suspended and for three years Canada was governed by a governor-general and a special council appointed by him.

An Act of the British Parliament in 1840 reunited the two provinces of Canada. Things were not going too smoothly till the arrival of Lord Elgin 1847 as Governor General. From this time the Canadian Parliament was given full control of taxation, supply and expenditure in accordance with English constitutional principles. The great land question of Canada, the Seigniorial tenure of Lower Canada was disposed of by bying off the claims of the Seigniors, the clergy reserves difficulty was settled.

28 Maritime Provinces.

Nova-Scotia, New-Brunswick and Prince-Edward Island passed under the rule of England by the treaties of Utrech (1713) and Paris (1763). Previous to 1867 they enjoyed a complete system of self-government. New-Brunswick founded by Loyalists from the United-States was separated from Nova-Scotia and created a distinct province in 1784.

29 Political rights.

The struggles of the Canadian statesmen have won from England the concession of the following principles, which lie at the foundation of Canadian political structure.

- 1° Religious toleration.
- 2° The guarantee given to the French-Canadians for the preservation of their law and language.
- 3° The adoption of the English criminal law in all provinces.
- 4° The independence of the judicial power from political influences.
- 5° Complete provincial control over all local revenues and expenditures through the people's assembly.
- 6° The right of Canadian legislatures to manage their purely local affairs without imperial interference.
- 7° The establishment of representative institutions in every province.
- 8° The establishment of municipal institutions.
- 9° The adoption of the English principle of responsibility to the legislative assembly.

30 A convention of thirty-three representatives, men of the various English provinces of North America met in Quebec in the Autumn of 1864 and after several weeks deliberation the federal union was agreed upon. In 1867 the Imperial passed the British North American Act, and Ontario, Quebec, Nova-Scotia and New-Brunswick formed a Federal union.

British Columbia joined the Federation in 1871, July 20.

In 1870 July 15th, the province of Manitoba was formed from the vast country known as Prince Rupert's land and North West territories, and invested with all the functions of self-government and became part of the Dominion of Canada.

Prince Edward Island entered Confederation July 1, 1873

The Provinces of Saskatchewan and Alberta were established on the first of September 1905.

31 The Dominion of Canada is "A federation with a central government exercising general powers over all the members of the union, and of local governments having the control and management of certain matters naturally and conveniently belonging to them, while each government is administered in accordance with the British system of parliamentary institutions."

32 The parliamentary government of Canada is derived from that of England.

In Britain the following are the supreme authorities:

1° The Sovereign is the head of the executive, he makes laws for the country in parliament and administers justice by his courts.

2° The Privy Council, or adviser of the Sovereign.

An order-in-council means an order passed by the Sovereign by and with the advice of the privy Council or Cabinet.

The King never acts along. What he does in administration he does through the aid of a minister or ministry.

3° The Parliament. The rights of the English people are given in the famous "The Bill of Rights" passed in 1689 under William and Mary.

4° The Courts of justice—Judicial committee of the Privy Council of England. This is the great court of appeal.

33 Government in Canada.

The King as the head of the executive authority of the Empire is represented in Canada by a Governor-General appointed in Council. All addresses of the Canadian Government to the King or British Parliament must be forwarded by the Governor-General.

34 The Secretary of State for the Colonies.

This minister is the head of the Department of Colonial affairs. All possessions of the Crown, except India, are termed colonies.

35 The judicial committee.

The Canadian courts administer justice, in all cases, civil and criminal, in accordance with the rights of self-government. But the judicial committee of the Privy Council of England is a court Canadians may appeal to in certain cases.

Canadian Rights—The Canadian government has full control over taxation and expenditure.

36 The making of treaties with foreign Powers is left to the Imperial Parliament. But it is now a maxim that for all treaties of which Canada is a party, Canadian representatives shall be chosen to act for the Empire.

Disallowance of acts of the Canadian parliament is permitted to the King in Council.

37 In Canada as in England authority rests, in the Sovereign, in a Cabinet, in a Parliament and in law courts.

The Governor-General—The King is represented in Canada by a governor-general.

This functionary acts under the advice of a ministry responsible to parliament. He is bound by the terms of his commission.

He must report regularly on all matters on which the Secretary of State for the colonies should be informed. The Governor-General assembles, prorogues and dissolves parliament: his duties are many and shall be explained orally,

38 The King's privy Council for Canada.

This is properly the Cabinet or the official advisers of the Governor-General—There are many Departments.

Department of justice	Dep't of the Interior
Customs Department	Dep't of External Affairs
Dep't of Inland Revenue	Dep't of Mines
Finance Dep't	Dep't of Indian Affairs
Insurance Dep't goes with [the Finance Dep't	Dep't of Public Printing
Members of the Treas. Board six in number	Dep't of the Sec. of State
Dep't of Public Works	Dep't of Marine and Fish.
Post Office Dep't	Dep't of the Naval Service
Dep't of Railways and Canals	Dep't of Agriculture
Dep't of Militia and Defence	Dep't of Trade and Com.
	Dep't of Labor

39 The Cabinet is represented in the Senate and in the House of Commons, it is practically a committee of both Houses and the members of the cabinet occupy office while they retain the confidence of the House of Commons.

The head of the Cabinet is called **PREMIER** or prime minister.

The Premier is the link of communication between the Government and the Governor-General.

If the Premier resign the whole cabinet must resign.

The Governor-General-in-Council means the Governor-g'l acting by and with the advice of his committee of the privy council of Canada. On every executive act there must be the evidence of ministerial responsibility and authority.

40 Civil Service.

All public officials are appointed by the governor on the recommendation of the ministry of the day. All appointments are during "good behavior".

The Great seal of Canada is the emblem of the royal authority in Canada. It is affixed to all official acts of the governor-general-in council.

The Dominion flags.

41 The Senate.

Two Houses constitute the legislative power of the Dominion: the Senate and the House of Commons.

Number of Senators is 87, the Western Provinces will have an increase of senatorial representation after the next elections.

Senators are appointed by the Governor-General.

Qualifications of Senators: 30 years—property holder for \$4,000.

President appointed by the Governor-General.

Legislative power—How they lose their seat—allowance.

42 The Canadian Government is representative, the majority in the House of Commons makes and unmakes Cabinets.

The number of Representatives in the H. of C. is now, through an amendment passed in 1905, two hundred and twenty one.

The representation is re-adjusted after every census (1911)

Quebec has a fixed number of sixty-five members.

The other provinces in proportion—and Prince Edward Island is guaranteed four members in the H. of Com. by an amendment passed in 1915.

Qualification of members.

The Speaker in the H. of Com. is elected by the Members.

Officers of the House of Commons.

43 Dominion franchise.

Manhood suffrage is now law in Canada.

Elections—How they are held.

Nomination of Candidates.

Votes are taken by ballots.

Polling day—and polling the vote.

44 Meeting of Parliament.

Oath of allegiance taken by all members.

Elections after a general election.

Laws respecting independence of parliament and the prevention of corrupt practices at elections.

- 45** Methods of conducting business and debate in parliament.
Speech from the throne—Motions—Debate—Petitions—
Bills, private and public—Money matters—the Budget
—Select committees.
- 46** Subjects of Dominion legislation.
The 91^o clause of the "British North America Act" enu-
merates twenty-nine subjects on which the Dominion
has exclusive legislative power.
- 47** The judicial power.
The judges of the Dominion are the authorised inter-
preters of the Constitution.
The judges of the provinces are appointed and paid by
the Dominion Government, but the constitution, main-
tenance and organization of their courts are placed under
the provincial governments.
- 48** The Supreme Court of Canada.
It was established in 1875—It is only a general court of
appeal for Canada in a limited sense.
This Court has a chief justice with a salary of \$10,000,
and five puisné i. c. judges of inferior rank with a salary
of \$9,000.
Constitutional controversies are the main object of this
Court.
- 49** The Exchequer Court.
It was separated from the Supreme Court of Canada in
1887—It considers all actions in which the crown is
interested.
It hears claims against the Dominion Government.
One judge, \$8,000—one assistant, \$6,000.
- 50** Admiralty Division—It hears all civil questions relating
to contracts and claims in respect of necessaries and
wages and other matters arising out of navigation, ship-
ping, trade and commerce, in Canadian waters.
It is presided by local judges.
Each Province forms an admiralty district and the Yukon
territory is another—Saskatchewan and Alberta have
none.

51 Revenue and expenditure,

Duties of custom and excise.

Direct and indirect taxation.

Custom duties are AD VALOREM or SPECIFIC.

52 Cost of the Dominion:

Charges on public debt,

Legislation, Senate, House of Commons etc.,

Civil government etc.,

Public works,

Railways, etc.,

Administration of justice, etc.,

Consolidated fund of Canada.

The currency of Canada.

53 Militia and defence.

Militia is divided into active and reserve.



