

LAW AND DEMOCRACY WEEK

Course n°5: Political Law (Gregory Tardi)



Gregory Tardi, B.A. (Hons.), B.C.L., LL.B., DJur., is Senior Parliamentary Counsel in the Legal Services of the House of Commons of Canada. He provides advice to the House, its senior officers and to all Members of Parliament. Mr. Tardi has worked at the Privy Council Office, the Department of Justice and Elections Canada. He is a Lecturer in the Faculty of Law of McGill University and has published extensively on the role of law in democratic governing. Mr. Tardi is the founding Executive Director of the Institute of Parliamentary and Political Law and the founding Executive Editor of the Journal of Parliamentary and Political Law.

It is useful that the session on political law immediately follow that on the foundations of constitutional law. While the study of the constitution deals with the highest legal standards of the democratic state, political law relates to the analysis of the organic public instruments of the state and of statecraft.

This session begins with a *tour d'horizon* of the legal instruments necessary toward the functioning of a democratic state. It then expands to consideration of the set of relationships among legal, public policy and political instruments. Political law emphasizes the idea of the role of law among these kinds of instruments and explains how the rule of law consists of the supremacy of legal norms and rules over the other types of rules and of the instruments containing them. Democracy includes a number of factors but the notion of the role / rule of law is the one which best distinguishes democratic regimes from authoritarian and dictatorial ones.

Implicit in the study of political law is the doctrine of accountability to law, as the counterpoint of constitutionally protected civil and political rights.