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Northern exposure

Professor James Gardner will head to Montreal on a Fulbright grant

Tension and resolution – those are the key elements of the scholarly work that SUNY Distinguished Professor James Gardner will do as he spends the fall semester in Montreal on a prestigious Fulbright U.S. Scholar grant.

Gardner will hold the Fulbright Visiting Research Chair in the Theory and Practice of Constitutionalism and Federalism, at McGill University. His project, called “Intergovernmental Contestation in Federal Systems,” will build on his interest in how governments of differing levels, such as Canada’s federal government and its provincial governments, influence each other, resolve conflicts and get things done.

Gardner, who is completing his tenure as vice dean for academic affairs, joins the list of other SUNY Buffalo Law faculty who have been awarded Fulbright grants, including Professors Rebecca French, Isabel Marcus and Errol Meidinger.

Being in Montreal, government seat of the fractious Canadian province of Quebec, will enable him to interview and observe provincial lawmakers there, as well as federal officials in Ottawa. “There is a tension built into the system by design, and it is that tension that is supposed to protect liberty,” Gardner says. “It’s a competitive arrangement – subnational and national governments are competing to do a better job for their boss, the people. What interests me is asking, where has there been conflict and how has it been resolved?”

His Fulbright project comes in two parts, likely to result in two substantive law journal articles.

The first looks at both the legal framework for how powers are allocated to the federal and provincial governments, and the more informal, extralegal ways that legislation gets passed.

“I want to look at the concrete, on-the-ground techniques by which Canadian provinces influence – and, in particular, attempt to resist or thwart – national policy initiatives by which they feel threatened or with which they merely disagree,” Gardner says. “I have in mind not merely high-profile, ethnically fraught clashes between Quebec and the national government, but also complaints by western provinces such as Alberta about inadequate influence on national policy making.” This line of inquiry builds on work he has previously done in looking at the Catalan and Basque regions of Spain.

The second part of the project examines the role of political parties in the interplay between federal and provincial lawmakers. “In order to act autonomously, subnational governments have to be autonomous and make policy decisions independently of the federal government,” Gardner says. “I’m looking at the operation of an institution that I think thwarts that autonomy, and that is national political parties and the back-channel way in which states influence federal policy.”

It is often observed, he says, that state and provincial public servants influence the agendas of national political parties. But it’s also true that the influence goes from national to local as well, what he calls a “national colonization of state politics.” The result, Gardner suspects, is a “convergence” of political thought – “the way questions are framed, the way they are pressed, and what counts as a good solution” – that compromises the autonomy of the state or province and subverts healthy conflict between governments on different levels.

Gardner’s research interests include the theoretical foundations of the constitutional structure of politics, the institutionalization through law of principles of democracy, constitutional structures of federalism, and subnational constitutional law. He is a frequent commentator in state and national media on constitutionalism and elections law.

The core Fulbright Scholar Program sends 800 U.S. faculty and professionals abroad each year. The Fulbright U.S. Scholar Program offers U.S. faculty, administrators and professionals grants to lecture, conduct research in a wide variety of academic and professional fields, or to participate in seminars. The Fulbright program is sponsored by the U.S. State Department’s Bureau of Educational and Cultural Affairs.