

POLI 4217 WA
Canadian Constitutional Politics

Lakehead University
Winter 2022

2:30pm to 5:30pm on Friday
Room: Ryan Building 3023

Professor: Dr. Toby Rollo
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Office Hours: On Request

1. Course Description

The course offers an examination of political issues relating to Canada's constitution. Among the issues the course examines are: historical events, political forces and legal ideals that have shaped the constitution; the roots and legacies of the Constitution Act 1867, and the Constitution Act 1982; the politics of constitutional reform; judicial interpretation of the constitution in general, and the Charter of Rights and Freedoms in particular; the socio-political impact of the constitutionalization of rights and constitutional litigation; and the judicialization of politics in present-day Canada. Students will become familiar with fundamental aspects of Canadian constitutionalism, such as the federal/provincial division of powers and jurisdictions; the court system and the Supreme Court of Canada; constitutional change and the attempts to resolve socio-political tensions in Canada through mega" constitutional reform; Indigenous peoples and the Canadian constitution. Throughout the course, the Canadian constitution will be examined from a political perspective, emphasizing Canada's unique constitutional legacy while also covering the series of dramatic constitutional events which have taken place in Canada.

2. Course Materials

Required Text (available through the bookstore):

Russell, P. H. (2017). *Canada's Odyssey: A Country Based on Incomplete Conquests*. University of Toronto Press.

3. Course Requirements

1. **Participation and Attendance (30%):** Participants who attend and participate have an opportunity to earn up to 30% for their time and effort.
2. **Presentation (25%):** Participants will give a presentation 15 to 20-minute presentation for one of the weekly readings. Presenters should summarize the main points of the work(s) and provide their critical interpretation of the arguments and evidence offered in the work(s).
3. **Research Paper (45%):** 10 to 12-page essay (approx. 2,500-3,000 words) on a topic of your choosing. Please clear the topic with me. Use the materials from the course.

4. E-mail

E-mail will be answered within three business days.

5. Accessibility

Students with diverse learning styles and needs are welcome in this course. In particular, if you have a disability/health consideration that may require accommodations, please feel free to approach me Accessibility Services. The sooner you let us know your needs the quicker we can assist you in achieving your learning goals in this course.

6. Essays

You are to complete one essay. The goal of the essay is to provide a clear, concise response (argument) to the research question backed by rational consideration of the evidence.

Summarize your response (argument) in a sentence or two – the thesis statement – and appear in the first paragraph of your essay. Be explicit. The reader should be clear on what you are arguing. Assume an educated reader. Do not spend more than a few paragraphs providing background information. Focus on providing information that advances your argument. While the balance of the paper will defend your argument, you should also acknowledge counterarguments and seek to demonstrate that your argument is superior.

7. Formatting bibliographies, references

The written assignments will all be double-spaced in 12pt Times New Roman font with standard margins. Essays should be free of spelling and grammatical errors. They must include appropriate citations and complete bibliography.

Include a title page with your name, the date, the course number, and my name. In completing the written assignments, students must cite all facts and figures that are not common knowledge and must cite all ideas that are borrowed from other authors. Students must use a recognized standard format correctly in their bibliographies, references, and footnotes. Failure to do so will result in substantial penalty in calculating your assignment grade.

The University takes instructional offences (including plagiarism) very seriously. Please make sure that you are familiar with the regulations regarding instructional offences. Also, it is not acceptable to submit the same assignment in two different courses.

8. Schedule

Week 1: Introductions

Friday, January 14

Syllabus Review and Introduction to Concepts

Glossary of Parliamentary Procedure:

<https://www.ourcommons.ca/About/Glossary/Index-e.html>

Readings:

Russell, Canada's Odyssey

- Introduction

Week 2: Constitutional Development – Indigenous Treaties

Friday, January 21

Readings:

Russell, Canada's Odyssey

- 2. The Incomplete Conquest of New France
- 3. The Original Partnership With Indigenous Peoples
- Oliver *et al*, "The Role of Theory in Canadian Constitutional Law"

Week 3: Constitutional Development to 1867

Friday, January 28

Readings:

Russell, Canada's Odyssey

- 4. English-Speaking People Become the Majority
- 5. Three Wars and Betrayal of Our Indian Allies
- 6. Rebellions and the Plan to Assimilate French Canada

Week 4: Constitutional Division of Powers and Canadian Sovereignty

Friday, February 4

Readings:

Russell, Canada's Odyssey

- 7. English Canada Gets a Dominion French Canada Gets a Province and Indigenous Peoples Get Left Out
 - 8. The Colonization of Indigenous Canada
 - 9. The Provincialization of French Canada

Week 5: Constitutional Amendments and Change, 1867-1970

Friday, February 11

Readings:

Russell, Canada's Odyssey

- 10. The Nationalization of English Canada
- 11. Quebec Becomes Constitutionally Radical
 - Vipond, "1867: Confederation"

Spry, "Action: The October Crisis of 1970" Watch at
https://www.nfb.ca/film/action_the_october_crisis_of_1970/

Week 6: Constitutional Change, 1970 - 1982

Friday, February 18

Readings:

Russell, Canada's Odyssey

- 12. Aboriginal Peoples Get a Hearing
- Feltes, "The Constitution Express and Transnational Decolonization" and "The Constitution Express II"
- Cardinal and Foucher, "Minority Languages, Education, and the Constitution"

Duncan, "The Road to Patriation" Watch at

https://www.nfb.ca/film/road_to_patriation/

Week 7: Break

Reading Week – NO CLASS

Bulbulian, "Dancing Around the Table, Part One" Watch at

https://www.nfb.ca/film/dancing_around_the_table_1/

Bulbulian, "Dancing Around the Table, Part Two" Watch at

https://www.nfb.ca/film/dancing_around_the_table_part_two/

Week 8: The Constitution and The Charter

Friday, March 4

Readings:

- Webber, "Rights and Freedoms"

Russell, Canada's Odyssey

- 13. English-Canada Becomes Multicultural
- 14. Patriation – Quebec's Loss, Aboriginal Gains
- Hogg and Amarnath, "Understanding Dialogue Theory"

Constitution Act, 1982 - <https://laws-lois.justice.gc.ca/eng/const/page-12.html>

Week 9: Meech Lake Accord 1987-1991

Friday, March 11

Readings:

- Cairns, "Citizens (Outsiders) and Governments (Insiders) in Constitution-Making: The Case of Meech Lake"
- McRoberts, "Bringing Quebec into the Constitution: Missing Two Chances"
- Turpel and Monture, "Ode to Elijah: Reflections of Two First Nations Women on the Rekindling of Spirit at the Wake for the Meech Lake Accord"

Week 10: Charlottetown Accord 1992

Friday, March 18

Readings:

- Johnston, "An Inverted Logroll: The Charlottetown Accord and the Referendum"
- Venne, "Treaty Indigenous Peoples and the Charlottetown Accord: The Message in the Breeze"

The Agenda, "Premiers talk about the Meech Lake Accord's Failure" Watch at <https://www.youtube.com/watch?v=ySMlaZJaYzU>

Week 11: The Era of Secession and Mega-Constitutional Politics, 1993-2000

Friday, March 25

Readings:

- McRoberts, "The 1995 Quebec Referendum: Making Sovereignty a Real Possibility"

Leclair, "Constitutional Principles in the Secession Reference"

Russell, Canada's Odyssey

- 15. The End of Mega Constitutional Politics?

CBC, “Breaking Point Part One” Watch at
<https://www.youtube.com/watch?v=F17lOundk4Y>

CBC, “Breaking Point Part Two” Watch at
<https://www.youtube.com/watch?v=nnF46gRSPig>

Week 12: Indigenous Sovereignty and the Constitutional Law

Friday, April 1

Readings:

- Webber, “Contending Sovereignties”
- Borrows, “(Ab)Originalism and Canada’s Constitution”
- Boyd, “No Taps, No Toilets: First Nations and the Constitutional Right to Water in Canada”
- McCrossan, “Contrasting Visions of Indigenous Rights, Recognition, and Territory: Assessing Crown Policy in the Context of Reconciliation and Historic Obligations”

The Agenda, “This Land is Our (Title) Land” Watch at
<https://www.youtube.com/watch?v=3wI650YzgGc>

Week 12: The 2000s and the Future of Canada’s Constitution

Friday, April 8

Readings:

- Kirkup, “After Marriage Equality: Courting Queer and Trans Rights”
- MacFarlane, “Policy Influence and its Limits – Assessing the Power of the Courts and the Constitution”

Russell, Canada’s Odyssey

- 16. The Three Pillars Continue Their Odyssey