



Lakehead University
Introduction to Law (2023) Part Two
Political Science 1301

AT-2021

Tuesdays and Thursdays 10-11:30

Instructors: Dr. Patrick Cain

Email: pncain@lakeheadu.ca (email is for course inquiries that cannot be dealt with in person before/during/after class time)

Office hours: by appointment

COURSE DESCRIPTION

This second half of *Introduction to Law* studies constitutional issues and politics through the examination of important legal arguments issued by the Canadian and American Supreme Courts. Of special emphasis are the constitutional guarantees of liberty, equality and due process as they have been practiced and understood in Canada and the United States. As part of this course, students will also develop a better understanding of the power and purpose of the Judiciary within our political system and the various means it uses to interpret and apply the Constitution, including precedent, history, textual analysis, reason, and prudence. Students are expected to engage these important legal and political issues and questions through a number of robust experiential exercises.

Required Texts:

Most readings will be posted online. Many readings are Canadian and American Supreme Court opinions. Some of these will be posted on the course website, but others will need to be retrieved by students themselves. For full versions of U.S. Supreme Court Cases, and other resources, see <https://www.oyez.org>. For Canadian Cases, see <https://www.canlii.org/en/ca/>. Students are expected to print reading materials and bring them to class.

Grading for 2nd half of course

(Each course half is equal to 50% of the final grade):

In Class Test: 15%

Group Worksheet (worked on in groups, but filled out and submitted separately and individually): 20%

Individual Oral Argument: 15%

Supreme Court Questioning: 5%

Participation: 10%

Take Home Final Exam: 35%

Experiential Learning Component—Group Work

Students will be divided into small groups. Over several classes, each group will examine a different constitutional case or issue in detail, filling out and submitting provided worksheets, and preparing a 5-minute oral argument in response to their assigned case.

During these classes, individual members of the group will be asked to update their class on their work through presentations (group presentations/arguments count toward each student's presentation grade). This part of the course is meant to (among other things) lay the foundation for the successful delivery of individual oral arguments.

Experiential Learning Component—Individual Oral Arguments (with handout)

Students are required to prepare a 5-minute oral argument in response to an assigned case. A sign up sheet will be provided. Acting as a Lawyer, each student will prepare a 5-minute oral argument in response to their assigned cases, and will argue in favour of a selected side of the legal issue identified in the case. Following their presentation, students are expected to develop and clarify their argument by fielding challenging questions from the instructors and class (who will together act as members of the Supreme Court).

As part of their presentation students will also provide an organized one-page handout to each member of the class that outlines the legal argument they intend to pursue. A template will be provided and must be used.

The handout and oral argument should outline on the argument being made, NOT the facts and history of the case (these can be included only inasmuch as is necessary to advance the argument being made).

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As part of their presentation students will also provide an organized **one-page handout** to each member of the class that outlines the legal argument they intend to pursue. A template will be provided and must be used. The handout and oral argument should focus on the argument being made, and not on the facts and history of the case (which should be outlined only as much as necessary to advance the argument being made).

Experiential Learning Component--Supreme Court Questioning

Students are required to act as official Supreme Court questioners for one set Oral Argument (on a day that they are NOT assigned to act as a Lawyer.) A sign-up sheet will be provided.

Each member of the Court for that day will prepare and ask one line of questions in response to the Oral Argument they are assigned to review. The questions should be designed to challenge the acting Lawyer on his or her interpretation and application of the statute and constitutional provisions at issue. Following this initial questioning period (approx. 2-4 minutes), the rest of the class will be allowed to ask questions.

Due Dates

Late assignments will result in a penalty of 2% per day late to a maximum of 30%. Returned work will display the mark earned before any deduction. Extensions must be requested in advance of due date.

Class Participation

Although the instructors will occasionally lecture, much of class will be spent discussing the assigned readings and responding to the in-class oral arguments and presentations. Students are expected to fully participate in this discussion. To do so, students should:

1. Read assigned material carefully;
2. Bring the readings to class;
3. Be prepared to discuss the readings;
4. Prepare challenging questions during in-class oral arguments;
5. Avoid being inattentive and/or appearing inattentive.

Although the instructors will facilitate discussion in a number of ways (such as playing “devil’s advocate”), students should be prepared enough to drive the discussion themselves. In order to facilitate discussion, and in order to allow the lectures to be executed in the most effective manner, students are required to follow the seating direction of the instructors.

Other Participation Guidelines

Cameras must be turned on when in Zoom meetings. Cell phone use during class time is not allowed. No audio or video recording of the class is allowed without the written permission of the instructor, and any permitted recording will for be only for the private use of the individual to whom the permission is given.

Class Readings and Schedule

The readings from this course can involve complicated ideas and difficult arguments. Moreover, the presentations of these ideas and arguments sometimes take forms that may not be familiar to students. Students should therefore read the assigned readings carefully, slowly, and several times in order to grasp their content.

Some readings will be posted on the course website. If a reading is not found there, students are expected to find it themselves (this is done purposefully, to encourage the development of research skills)

At the instructors’ discretion, the readings and/or schedule may be altered

Other Policies:

Accessibility

If you have a request for accommodations, please contact the Student Accessibility office.

Communication

The instructors will regularly communicate with students about a variety of matters, both through in-class announcements and via email (using students' Lakehead email account). Students are encouraged to contact the instructors with any questions that arise during the course of the year.

Academic Honesty

Academic honesty is expected of all Lakehead University students. Cheating, collusion, and/or plagiarism will not be tolerated. Students are expected to make themselves fully familiar with Lakehead's policy in this area. Although all these policies will be enforced in full, it is worth emphasizing the following:

Plagiarism involves presenting another's work, ideas, theories, or interpretation as one's own.

To avoid plagiarism, writers should always:

1. Put quotation marks around any words from sources
2. Give accurate and complete citations for all material *including paraphrased material.*
3. Avoid borrowing entire arguments or approaches to a subject from another writer. Make it 'original' while staying faithful to the assignment parameters.

COURSE READING AND ASSIGNMENT SCHEDULE

Unit #1 Constitutionalism and Political Science

Experiential Learning Component: Collaborative Analysis and Debate

- 1/10 Course Outline
Introduction to Constitutionalism and Political Science
- 1/12 Ancient Constitutionalism and the Law
Aristotle, *Politics*, Book III, Chapters 7-10
Aristotle, *Ethics*, Book I, Chapters 1, 3
- 11/17 Modern Constitutionalism and the Law
Hobbes, *Leviathan*, chapters 13-15
- 1/19 Written Constitutions
Federalist Papers 9, 51, 78, excerpts
Recommended: U.S. Constitution, Canadian Constitution and The Charter of Rights and Freedoms
- 1/24 Written and Unwritten Constitutions II
Delgamuukw v. BC (1997)

- 1/26 Unit #1 Review
Unit #2 Group Formation—groups will be posted on the course website by
end of day.
Read your group's case before January 31 class.

Unit #2 Constitutionalism and Freedom of Expression
Experiential Learning Component: Group Workshopping and Oral Arguments

- 1/31 Part One of Group Workshopping
Group 1—R v. Keegstra (1990)
Group 2—R v. Zundle (1992)
Group 3—R v. Butler (1992)
Group 4—R v. Sharpe (2001)
Group 5—Saskatchewan Human Rights Commission v. Whatcott (2013)
- 2/2 **At Home Test on Constitutionalism and Political Science**
Test emailed out at 10:00 am—submitted to course website by 11:30 am
- 2/7 Part Two of Group Workshopping
Group 1—R v. Keegstra (1990)
Group 2—R v. Zundle (1992)
Group 3—R v. Butler (1992)
Group 4—R v. Sharpe (2001)
Group 5—Saskatchewan Human Rights Commission v. Whatcott (2013)
Part One Questions Due
- 2/9 Part Three of Group Workshopping
Group 1—R v. Keegstra (1990)
Group 2—R v. Zundle (1992)
Group 3—R v. Butler (1992)
Group 4—R v. Sharpe (2001)
Group 5—Saskatchewan Human Rights Commission v. Whatcott (2013)
Part Two Questions Due
- 2/14 Part Four of Group Workshopping—Oral Arguments Begin
Group 1—R v. Keegstra (1990)
Group 2—R v. Zundle (1992)
Group 3—R v. Butler (1992)
Group 4—R v. Sharpe (2001)
Group 5—Saskatchewan Human Rights Commission v. Whatcott (2013)
Part Three Questions Due
- 2/16 Part Four of Group Workshopping Continued—Oral Arguments Completed

- Group 1—R v. Keegstra (1990)
 - Group 2—R v. Zundle (1992)
 - Group 3—R v. Butler (1992)
 - Group 4—R v. Sharpe (2001)
 - Group 5—Saskatchewan Human Rights Commission v. Whatcott (2013)
- Part Four Questions Due**

2/21 STUDY BREAK

2/24 STUDY BREAK

***Unit #3 Fundamental Freedoms and Political Equality
Experiential Learning Component: Individual Oral Arguments***

* Lawyers are representing the party they sign up directly under

** Justices will question all the Lawyers listed above them in the case

2/28 *Brandenburg v. Ohio* (1969)

Lawyers:

_____ v. _____

Justices:

U.S. v. Stevens (2011)

Lawyers:

_____ v. _____

Justices:

3/2 *Snyder v. Phelps* (2011)

Lawyers #1 :

_____ v. _____

Justices #1 :

Lawyers #2 :

_____ v. _____

Justices #2 :

3/7 *Jacobson* v. *Mass. (1905)*

Lawyers:

_____ v. _____

Justices:

Buck v. Bell (1927)

Lawyers:

_____ v. _____

Justices:

3/9 *E (Mrs.) v. Eve (1986)*

Lawyers #1 :

_____ v. _____

Justices #1 :

Lawyers #2 :

_____ v. _____

Justices #2 :

3/14 *Weatherall v. Canada (1993)*

Lawyers #1 :

_____ v. _____

Justices #1 :

Lawyers #2 :

_____ v. _____

Justices #2 :

3/21 *R. v Ewanchuk (1999)*

Lawyers #1 :

_____ v. _____

Justices #1 :

Lawyers #2 :

_____ v. _____

Justices #2 :

3/23 *R. v. Hess; R. v. Nguyen* (1990)

Lawyers #1 :

_____ v. _____

Justices #1 :

Lawyers #2 :

_____ v. _____

Justices #2 :

3/28 *R v Jobidon* (1991)

Lawyers #1 :

_____ v. _____

Justices #1 :

Lawyers #2 :

_____ v. _____

Justices #2 :

3/30 *Meiorin Case (1999)*

Lawyers #1 :

_____ v. _____

Justices #1 :

Lawyers #2 :

_____ v. _____

Justices #2 :

4/4 *Ricci v. DeStephano (2009)*

Lawyers #1 :

_____ v. _____

Justices #1 :

Lawyers #2 :

_____ v. _____

Justices #2 :

4/6 Oral Arguments Make up Day

4/11 Catch up and Review

Final Exam (Details TBA)