

Lakehead

UNIVERSITY

POLI 44217 WAO Constitutional Politics in Canada

Instructor: Todd Stubbs

Class Times: T 2:30-5:30, OA 2008

Office/Hours: T 11:30-12:30, or by appointment

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Course Description

When in 1982 Canadians “brought home” their constitution from its legal domicile in Britain why didn’t they just tear it up and start from scratch? Why did Canadians pursue formal sovereignty in the form of patriating a constitution that retained the original statute and thus included an essential constitutional link to the Crown? Was it enough to include in this package a Charter of Rights and Freedoms, a section on Aboriginal Rights, and an amending formula? Are these features (the old parliamentary structure and the new rights-based content) of the Canadian constitution consistent or do they point to future conflict? This course analyzes Canada’s constitutional evolution and the factors promoting and inhibiting constitutional change. A special focus is placed on the constitutional reforms of the late-twentieth century and their impacts. In particular, we will consider whether this constitutional arrangement is appropriate for modern Canada and whether it will adequately serve the needs of future generations.

Course Outcomes

Students in POLI 4217 will develop a thorough understanding of constitutional politics in Canada. An emphasis is placed on critical reading, active engagement with scholarly literatures, and independent research. The course also stresses further advanced development of writing skills and presentation competencies.

Mandatory Reading Materials

Lois Harder and Steve Patten, eds., *Patriation and Its Consequences: Constitution Making in Canada* (Vancouver; UBC Press, 2015)

Additional materials are posted on D2L or linked in the syllabus. Be sure to check the weekly schedule for information about the readings.

Evaluation

Proposal and Bibliography: 20%

Research Paper: 35%

Individual Presentation: 20%

Participation: 25%

Course Structure and Work Requirements

Course Structure:

Class will meet once a week for a total of three hours. Weekly activities will vary (see the schedule, below) but a major emphasis is placed on discussion. *Students are expected to read all assigned materials and take an active part in discussions.*

Assignments:

1) Proposal and Preliminary Bibliography

Students will prepare a two-page double-spaced topic proposal for their Research Paper. The proposal must feature 1) a research question, 2) a hypothesis that answers the research question directly, and 3) relevant background information describing the major themes and their relevance to global political economy.

In addition, students will append to the proposal a preliminary annotated bibliography featuring no fewer than 8 scholarly sources, correctly formatted using APA or CMS.

Suggested topics and additional guidelines are posted on D2L. See the Assignment Guidelines file.

2) Research Paper

- 6,000 to 6,250 words in length, not including the bibliography.
- Minimum of 20 scholarly sources.

The Research Paper will address in depth a historical or contemporary issue related to Canadian constitutional politics. Additional guidelines are posted on D2L. See the Assignment Guidelines file.

3) Presentation

Each student will prepare a 10 min (minimum) presentation discussing their research project. The presentation will address the main elements of the project: 1) the topic, 2) the research question and hypothesis, and 3) the main themes drawn from the literature. The main purpose of the presentation is to seek input from the class on how to improve the project in anticipation of preparing the final version of the Research Paper.

4) Participation

Participation is an essential feature of the course. This course is largely discussion-based so attendance and preparation are critical. In addition to regular participation students should expect to lead (or co-lead) at least one class discussion, which will include a brief summary of the reading material and the preparation of discussion questions.

Evaluation of Written Assignments/Projects:**80-100% (A range):**

Shows advanced competency in meeting the research and/or analytical and/or communications and/or cognitive and/or technical requirements of the assignment.

- The work is of exceptional quality
- The work is insightful, detailed, articulate, grammatically correct, technically correct, and well organized

70-79% (B range):

Exhibits a good effort in meeting the requirements of the assignment or examination.

- The work may be less focused, detailed, organized or less widely researched than a paper worthy of a higher grade or communicates fewer ideas with less detailed analysis than an assignment worthy of a higher grade

60-69% (C range):

Average approach and level of success in communicating analysis, factual material, and ideas.

- The work offers less detailed analysis and/or a lack sufficient research, and /or a less articulate or less clearly focused argument and/or may have technical flaws

50-59% (D range):

A poor level of competency in meeting the requirements of an assignment or examination.

- The work is poorly organized and/or written, features generalized statements, lacks supporting details and/or critical analysis, and features significant technical flaws

Below 50% (F):

Failure to meet the requirements of the assignment.

Course Policies**Late Assignments:**

All written work must be handed in on time. Late work will be penalized 2% per day, including weekends and holidays. Late assignments may not be accepted after more than ten days. To obtain an exemption for medical or compassionate reasons, students must present signed supporting documentation.

IMPORTANT: Unsubstantiated technical problems or electronic submission of blank files or otherwise unreadable files are not legitimate excuses for late penalty exemption.

Laptops, Cellphones, and Other Electronic Devices:

Unless the instructor approves their use for educational activities, students should refrain from using electronic devices such as smartphones, tablets, and the like, during class. If these devices are required for emergencies students are encouraged to inform the instructor before class starts. Laptops are permitted; however, using them to browse the internet during class for non-educational purposes is strongly discouraged. Upon the request of the instructor, students should be prepared to close laptops when deemed academically appropriate.

Academic Misconduct:

Lakehead University's policy on academic misconduct can be found in the online Course Calendar 2013-14 > University Regulation > IX Academic Misconduct.

A copy of the "Code of Student Behaviour and Disciplinary Procedures" including sections on plagiarism and other forms of misconduct may also be obtained from the Office of the Registrar.

The following rules shall govern the treatment of candidates who have been found guilty of attempting to obtain academic credit dishonestly.

- a. The minimum penalty for a candidate found guilty of plagiarism, or of cheating on any part of a course will be a zero for the work concerned.
- b. A candidate found guilty of cheating on a formal examination or a test, or of serious or repeated plagiarism, or of unofficially obtaining a copy of an examination paper before the examination is scheduled to be written, will receive zero for the course and may be expelled from the University.

Students disciplined under the Code of Student Behaviour and Disciplinary Procedures may appeal their case through the Judicial Panel.

Note: "Plagiarism" shall be deemed to include:

- a. Plagiarism of ideas as where an idea of an author or speaker is incorporated into the body of an assignment as though it were the writer's idea, i.e. no credit is given the person through referencing or footnoting or endnoting.
- b. Plagiarism of words occurs when phrases, sentences, tables or illustrations of an author or speaker are incorporated into the body of a writer's own, i.e. no quotations or indentations (depending on the format followed) are present but referencing or footnoting or endnoting is given.

Plagiarism of ideas and words as where words and an idea(s) of an author or speaker are incorporated into the body of a written assignment as though they were the writer's own words and ideas, i.e. no quotations or indentations (depending on format followed) are present and no referencing or footnoting or endnoting is given."

Weekly Schedule and Due Dates

Due Dates

Proposal and Bibliography: 11 February 2020

Research Paper: 24 March 2020

All due dates are valid to 11:59 pm on the specified day. Please submit papers to the D2L dropbox in pdf or .doc (Word) format.

Weekly Schedule

Part 1: The Constitutional Background

Week 1 (7 Jan.) Introduction to the Course/Canada's Constitutions

Course text – chs. 1 and 2.

Week 2 (14 Jan.) What Kind of State is Canada?

John Borrows, "Sources and Scope of Indigenous Legal Traditions," in *Canada's Indigenous Constitution* (Toronto: UTP, 2010).

Kenneth McRoberts, "Canada and the Multinational State," *Canadian Journal of Political Science/Revue canadienne de science politique* 34, 4 (Dec., 2001): 683-713.

Week 3 (28 Jan.) Confederation and the Question of Canadian Sovereignty

Janet Ajzenstat, "Popular Sovereignty in the Confederation Debates," in *The Canadian Founding: John Locke and Parliament* (Montreal & Kingston: MQUP, 2007).

British North America Act (1867).

<https://www.justice.gc.ca/eng/rp-pr/csj-sjc/constitution/lawreg-loireg/p1t11.html>

Week 4 (4 Feb.) The Pursuit of Canadian Sovereignty

Course text – ch. 3

Documents:

Frank Scott, "The Consequences of the Privy Council Decision," *Canadian Bar Review* 15, 6 (1937): 485-494.

Norman Rogers, "A Constitutional 'Impasse,'" *Queen's Quarterly*, (Jan., 1934): 475-486.

Week 5 (11 Feb.) Patriation and the Charter

Proposal due

(In-class film) Donald Brittain, *The Champions, Part 3: The Final Battle* (NFB, 1986).
Course text – ch. 4.

Part 2: Constitutional Politics

Week 6 (18 Feb.) The Judiciary and Constitutional Politics

Course text – chs. 6 and 7.

Week 7 (25 Feb.) Quebec-Canada Negotiations and the Accords

Presentations

Course text – ch. 8.

Documents:

Pierre Trudeau, “The Meech Lake Accord,” (from the *Toronto Star* and *La Presse*, 1987, 1989) in *Against the Current: Selected Writings, 1939-1996* (Toronto: McClelland & Stewart, 1996).

Week 8 (3 Mar.) First Nations-Canada Negotiations

Presentations

(In-class film) Maurice Bulbulian, *Dancing Around the Table, Part One* (NFB, 1987)

Course text – chs. 9 and 13.

Week 9 (10 Mar.) Women’s Constitutional Activism

Presentations

Course text – ch. 10.

Week 10 (17 Mar.) The Charter versus Federalism: Which is Winning?

Course text – ch. 12.

Alan C. Cairns, “The Charter and the Constitutional Act, 1982,” in *Charter versus Federalism: The Dilemmas of Constitutional Reform* (Montreal & Kingston: MQUP, 1992)

Week 11 (24 Mar.) The Constitutional Settlement Four Decades On

Research Essay due

Course text – chs. 11 and 14.

Week 12 (31 Mar.) Wrap-Up