Course Description

This course will investigate the origins and development of the Canadian constitutional tradition. The first half of the course will address the background to and debates surrounding Canadian confederation, and the development of the law of Canadian federalism over the course of the 19th and 20th century. The second half of the course will address the impact of the Constitution Act of 1982 and the Charter of Rights and Freedoms, through an analysis of Supreme Court decisions related to equality rights, freedom of religion, freedom of expression, and the rights of aboriginal peoples. The course will conclude with some reflections on the legitimacy and effectiveness of judicial power in the post-Charter era.

The major goal of this course is to familiarize students with the basic structure of Canadian constitutionalism, as well as the debates and conflicts over the meaning of constitutionalism that have shaped Canadian political history. In addition, the course will help students develop the ability to research, analyze and interpret both laws and judicial decisions. This is not to say that this course will only be of interest to prospective lawyers. Rather, it should be of interest to any Canadian citizen who wishes to understand the institutional basis of our political life, and to any student of politics who wishes to explore how an often fractious and divided nation has attempted to maintain liberal democratic forms of government.
Grading

Research Papers (20% each)

There will be two research papers on assigned topics. Please see below for additional information. The research paper will enable students to familiarize themselves with some of the major scholarly debates surrounding the evolution of Canadian constitutionalism. Students will be expected to utilize both primary and secondary sources in their research.

End of Term Exam (20%) This will be an "in class" exam. The exam will assess your familiarity with the readings, and with the issues discussed during lecture.

Final Exam (35%) The final exam will be cumulative, but will mostly focus on material from the Winter term.

Class Participation (5%) Students are expected to attend all lectures, and to have completed the readings beforehand. I encourage all students to participate by asking questions during the lecture, or by sending me questions (at any time) over email. I also encourage you to participate by attending office hours (though this need not be every week!) in order to discuss issues related to the course.

Research Paper Requirements: The research papers must be between 10-12 pages in length (double-spaced) with bibliography and endnotes not included. The first paper will be due in class on January 13th; the second paper will be due in class on March 10th. If you cannot hand your paper in during lecture, you must hand it in to the Political Science Office (third floor, Sidney Smith) during regular office hours (9am-5pm) and you must make sure that your paper is stamped with a time and date. All late papers will be penalized 2% per day late. No paper can be accepted more than one week after the due date.

Turnitin

I request that all students turn their papers in to “turnitin.com.” I am required to provide the following information about turnitin:

“Normally, students will be required to submit their course essays to Turnitin.com for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their essays to be included as source documents in the Turnitin.com reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin.com service are described on the Turnitin.com web site”.

If you do not wish to turn your paper in to turnitin, you must meet with me during the first month of class in order to discuss alternative arrangements.

To use turnitin, go to http://www.turnitin.com/ and follow the instructions. See also http://www.utoronto.ca/ota/TurnitinGuideForStudents.pdf
Turnitin course #: 2867236   Password: Canada

Required Readings

(Additional required readings will be available online)


Link to Law and Politics home page for on-line cases: [http://poli.ucalgary.ca/lawpol/](http://poli.ucalgary.ca/lawpol/)

Login= instructor

Password= emond!mont

Another useful website: The Canadian Legal Information Institute [http://www.canlii.org/en/](http://www.canlii.org/en/)

COURSE OUTLINE

September 9\textsuperscript{th} An Introduction to Canadian Constitutionalism: Parliamentary Government and the Rule of Law

*Constitutional Odyssey*, chapters 1-4

Recommended Readings

*Statutes, Treaties, and Documents of the Canadian Constitution 1713-1929*. edited by W.P.M. Kennedy [http://simplelink.library.utoronto.ca/url.cfm/84852](http://simplelink.library.utoronto.ca/url.cfm/84852)

September 16th Liberty and Representation in Canada’s Founding Debates

*Canada's Founding Debates*, parts one, two, three (pp 1-167)

**Recommended Readings**


September 23rd Identity, Nationality, and the Canadian Constitution

Canada's Founding Debates, parts three and four (pp. 167-357)

**Recommended Readings**


September 30th The British North America Act, 1867

Canada's Founding Debates, pp 357-465

*The Court and The Constitution*, Introductory Essay

**Recommended Readings**


October 7th  The Late Nineteenth Century

*Constitutional Odyssey*, chapter 4 pp 34-53


Online cases: *Severn v. The Queen* (1878),

*Recommended Readings*


October 14th same subject continued


October 21st The Early 20th Century: The Beginnings of Economic Regulation

*The Court and the Constitution: In re Board of Commerce Act and Combines and Fair Prices Act*, (1919, 1922), *Toronto Electric Commissioners v. Snider* (1925)

Online cases: *Fort Frances Pulp and Power Co. v. Manitoba Free Press* (1923)

October 28th The Depression and the New Deal


November 4
th same subject continued

The Court and the Constitution: Reference re Abolition of Privy Council Appeals, 1947

Online Case: Atlantic Smoke Shops Ltd. v Conlon (1943), A.G. of Ontario v. Canadian Temperance Federation (1946)

November 11
th Virtual Monday. No classes today

November 18
th Federalism, the Division of Powers, and the Development of the Canadian State


The Court and the Constitution: Johannesson v. West St. Paul (1952), Reference Re. Farm Products Marketing Act (Ontario) (1957), Chicken and Egg Reference (1971)

On-line: PEI Potato Marketing Board v. H.B. Willis (1952)

November 25
th same subject continued, and review

Constitutional Odyssey, Chapter 6


December 2
nd Mid-year exam (in class)

January 6
th Constitutional Change and Mega-Constitutional Politics

Constitutional Odyssey, Chapter 7,8,9
Quebec Veto Reference (1982)

Recommended Readings


January 13\textsuperscript{th} Rights Before the Charter

FIRST RESEARCH PAPER DUE IN CLASS


Recommended Readings


January 20th. Interpreting the Charter.


On-Line Cases: Retail, Wholesale, and Department Store Union v. Dolphin Delivery (1986)

Recommended Readings:


January 27th  Language and Education Rights


February 3rd  Freedom of Religion

The Court and the Constitution: The Queen v. Big M Drug Mart (1985),


February 10th  Freedom of Expression


February 17th  Reading Week

February 24th  Equality Rights


On-Line Cases: Andrew v. Law Society of British Columbia (1989),

March 3rd  Same Subject Continued

March 10th  Aboriginal Rights and the Canadian Constitution

Second Research Paper due in class


March 17th  same subject continued
March 24th Judicial Power and the Canadian Constitution

Readings TBA

March 31st Review and Conclusion