

PSCI 3007A
Constitutional Politics in Canada
Thursdays 8:35-11:25
Please confirm location on Carleton Central

Instructor: Dr. Rand Dyck
Office: Loeb B643
Office Hours: Thursday, 11:30-1:00 or by appointment
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The constitution features more prominently in the daily politics of Canada than in any other country. This course examines the political context of the many constitutional issues in Canada since 1867. In the pre-1960 period, these issues primarily involved the evolution of Canadian federalism, the search for a constitutional amending formula, and a concern with rights and freedoms. The Quiet Revolution in Quebec then broadened the constitutional agenda and led to various attempts at mega-constitutional change, which preoccupied the country for about 30 years. To some extent, these big but largely unsuccessful projects have eclipsed smaller, more productive constitutional changes. This is a lecture course with ample opportunity for questions and discussion.

Text: Peter H. Russell, *Constitutional Odyssey*, 3rd ed., Toronto; University of Toronto Press, 2004.

You are required to read the relevant chapter in this excellent text each week as well as the other required readings listed. These required readings include several important public documents, which are available on the Internet. In particular, you must master the Constitution Acts of 1867 and 1982. They are conveniently available at: <http://laws.justice.gc.ca/en/const/index.html>. The other required readings are on reserve, and you will also find the recommended readings very interesting. Texts are available at the Carleton University Bookstore.

Method of Evaluation

Short Essay	Oct. 2	10%
Mid-term Exam	Oct. 16	25%
Major Essay	Nov. 13	25%
Final Exam	TBD*	30%
Attendance and Participation		10%

As per early feedback guidelines, the sort essay will be returned by October 31st.

***Final exam to be scheduled during formal exam period, Dec. 4-20th**

Students are expected to attend every class and risk losing two marks per absence from the 10% allotted to Attendance and Participation.

The short essay is to be about seven pages long and the major essay at least 10 pages long, each on a topic chosen from a list assigned by the instructor. Further details on each assignment will be included with the relevant handout.

Class Schedule and Readings

Sept. 4 – Introduction

Sept. 11 - The Ingredients of the Canadian Constitution

Required readings:

Russell, *Constitutional Odyssey*, chs. 1 and 2.

Peter Hogg, *Constitutional Law of Canada*, 2006 Student ed. (Toronto: Carswell, 2006), ch. 1: "Sources."

Recommended readings:

Andrew Heard, *Canadian Constitutional Conventions* (Toronto: Oxford University Press, 1991)

Sept. 18 – Confederation and the B.N.A. Act, 1867

Required readings:

Russell, *Constitutional Odyssey*, ch. 3.

Constitution Act, 1867 (online at <http://laws.justice.gc.ca/en/const/index.html>).

Garth Stevenson, *Unfulfilled Union*, 4th ed. (Montreal: McGill-Queen's University Press, 2004), ch. 2: "Origins and Objectives of Canadian Confederation."

Recommended readings:

Donald Creighton, *The Road to Confederation: The Emergence of Canada, 1863-1867* (Toronto: Macmillan, 1964).

Sept. 25 – The Division of Powers and Provincial Rights

Required readings:

Russell, *Constitutional Odyssey*, ch. 4.

Stevenson, *Unfulfilled Union*, 4th ed., 2004, ch. 3: "Judicial Interpretation of the Constitution."

Recommended readings:

Garth Stevenson, "The Division of Powers," in R.D. Olling and M.W. Westmacott, eds., *Perspectives on Canadian Federalism* (Scarborough: Prentice-Hall, 1988).

Alan C. Cairns, "The Judicial Committee and Its Critics," *CJPS* (December 1971) or in Cairns, *Constitution, Government, and Society in Canada* (Toronto: McClelland and Stewart, 1988), ch. 2.

John T. Saywell, *The Lawmakers: Judicial Power and the Shaping of Canadian Federalism* (Toronto: University of Toronto Press, 2003).

Oct. 2 – Constitutional Amendments, 1867-1980 and the Amending Formula

Required readings:

Russell, *Constitutional Odyssey*, ch. 5.

J.P. Meekison, "The Amending Formula," in Olling and Westmacott, *Perspectives on Canadian Federalism* (Scarborough: Prentice-Hall, 1988) or in *Queen's Law Journal* (1982-83).

Guy Favreau, *The Amendment of the Constitution of Canada* (Ottawa: Queen's Printer, 1965), chs. I and II.

Recommended Reading:

J.R. Hurley, *Amending Canada's Constitution: History, Processes, Problems and Prospects* (Ottawa: Minister of Supply and Services Canada, 1996), chs. 1 & 2.

Paul Gérin-Lajoie, *Constitutional Amendment in Canada* (Toronto: University of Toronto Press, 1950).

Oct. 9 – Protecting Rights and Broadening the Constitutional Agenda

Required readings:

Russell, *Constitutional Odyssey*, ch. 6.

Canadian Bill of Rights (on line: <http://laws.justice.gc.ca/en/showtdm/cs/c-1.3>).

Kenneth McRoberts, *Misconceiving Canada* (Toronto: Oxford University Press, 1997), ch. 2: "The 1960s: Coming to Terms with Duality and Quebec Nationalism."

Recommended readings:

Ian Green, *The Charter of Rights* (Toronto: Lorimer, 1989), ch. 1: "Setting the Stage: Civil Rights in Canada and the Pre-Charter Era."

Edward McWhinney, *Quebec and the Constitution, 1960-1978* (Toronto: University of Toronto Press, 1979).

Walter Tarnopolsky, *The Canadian Bill of Rights*, 2nd rev. ed. (Toronto: McClelland and Stewart, 1975).

Oct. 16 – Mid-term Test

Oct. 23 - Constitutional Politics in the 1970s

Required readings:

Russell, *Constitutional Odyssey*, ch. 7.

Pierre Elliott Trudeau, "Federalism, Nationalism and Reason," in Trudeau, *Federalism and the French Canadians* (Toronto: Macmillan 1968) or in Trudeau, *Against the Current* (Toronto: McClelland and Stewart, 1996).

Recommended readings:

McRoberts, *Misconceiving Canada*, ch. 3: "Trudeau and the New Federal Orthodoxy: Denying the Question."

Edward McWhinney, *Quebec and the Constitution, 1960-1978* (Toronto: University of Toronto Press, 1979).

Oct. 30 – Constitution Act, 1982

Required Readings:

Russell, *Constitutional Odyssey*, ch. 8.

Russell, "The Political Purposes of the Canadian Charter of Rights and Freedoms," (*Canadian Bar Review*, 1983).

Supreme Court: *Reference re Resolution to Amend the Constitution of Canada*, [1981] 1 S.C.R. 753.

Recommended Readings:

McRoberts, *Misconceiving Canada*, ch. 6: "Federalism and the Constitution: Entrenching the Trudeau Vision," and ch 7, "The Failure of the Trudeau Strategy."

Alan C. Cairns, "The Charter and the Constitution Act, 1982," in Cairns, *Charter versus Federalism* (Kingston: McGill-Queen's University Press, 1992).

Peter Hogg, *Canada Act Annotated* (Toronto: Carswell, 1982).

Keith Banting and Richard Simeon, eds. *And No One Cheered: Federalism, Democracy and the Constitution Act* (Toronto: Methuen, 1983).

Roy Romanow, J. Whyte, and H. Leeson, *Canada...Notwithstanding: The Making of the Constitution 1976-1982* (Toronto: Methuen, 1984).

Nov. 6 – Meech Lake Accord

Required Readings:

Russell, *Constitutional Odyssey*, ch. 9

Meech Lake Accord document (can be found on the Canadian Encyclopedia website)

Alan C. Cairns, "Citizens (Outsiders) and Governments (Insiders) in Constitution-Making: The Case of Meech Lake," in Cairns, *Disruptions; Canadian Public Policy* (1988).

McRoberts, *Misconceiving Canada*, ch. 8: "Bringing Quebec into the Constitution: Missing Two Chances," (pp. 190-207).

Recommended Readings:

Alan C. Cairns, "Passing Judgment on Meech Lake," in Cairns, *Disruptions*.

Peter Hogg, *Meech Lake Constitutional Accord Annotated* (Toronto: Carswell, 1988).

Trudeau's critique in Trudeau, *Against the Current*.

Guy LaForest, *Trudeau and the End of a Canadian Dream* (Montreal: McGill-Queen's University Press, 1995), Introduction and Ch. 1: "Trudeau and the Referendum."

Nov. 13 – Charlottetown Accord

Required Readings:

Russell, *Constitutional Odyssey*, chs. 10 & 11 and the Charlottetown Accord document in Russell's appendix.

McRoberts, *Misconceiving Canada*, ch. 8: "Bringing Quebec into the Constitution: Missing Two Chances," (pp. 207-221).

Recommended Readings:

Richard Johnston et al, *The Challenge of Direct Democracy: The 1992 Canadian Referendum* (Montreal: McGill-Queen's University Press, 1996).

Nov. 20 – Mega-Constitutional Politics, 1994-Present

Required Readings:

Russell, *Constitutional Odyssey*, ch. 12 (pp. 228-248).

Supreme Court: *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217.

Recommended Readings:

McRoberts, *Misconceiving Canada*, ch. 9: "The 1995 Quebec Referendum: Making Sovereignty a Real Possibility."

Monahan-Ryan exchange from Mark Charlton & Paul Barker, eds., *Crosscurrents*, 5th ed. (Toronto: Nelson, 2006): "Is the Clarity Act good for Canada?"

David Schneiderman, ed., *The Quebec Decision: The Supreme Court Case and Commentary* (Toronto: Lorimer, 1999).

Nov. 27 – Small-scale Constitutional Politics, 1994-Present

Required Readings:

Russell, *Constitutional Odyssey*, ch. 12 (pp. 248-273)

Recommended Readings:

Harvey Lazar, ed. *Canada: The State of the Federation 1997: Non-constitutional Renewal* (Kingston: Institute of Intergovernmental Relations, 1997).

Jennifer Smith, "Informal Constitutional Development: Change by Other Means," in Herman Bakvis and Grace Skogstad, eds. *Canadian Federalism: Performance, Effectiveness, and Legitimacy* (Toronto: Oxford University Press, 2002).

Academic Accommodations

For students with Disabilities: Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (9500 University Drive) for a formal evaluation of disability-related needs. Registered PMC students are required to contact the centre, 613-520-6608, every term to ensure that I receive your letter of accommodation, **no later than two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations.** If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 7, 2008**, for December examinations, and **March 6, 2009**, for April examinations."

For Religious Observance: Students requesting accommodation for religious observances should apply in writing to their instructor for alternate dates and/or means of satisfying academic requirements. Such requests should be made during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist, but no later than two weeks before the compulsory academic event. Accommodation is to be worked out directly and on an individual basis between the student and the instructor(s) involved. Instructors will make accommodations in a way that avoids academic disadvantage to the student. Instructors and students may contact an Equity Services Advisor for assistance (www.carleton.ca/equity).

For Pregnancy: Pregnant students requiring academic accommodations are encouraged to contact an Equity Advisor in Equity Services to complete a *letter of accommodation*. Then, make an appointment to discuss your needs with the instructor at least two weeks prior to the first academic event in which it is anticipated the accommodation will be required.

Plagiarism: The Undergraduate Calendar defines plagiarism as: "to use and pass off as one's own idea or product, work of another without expressly giving credit to another." The Graduate Calendar states that plagiarism has occurred when a student either: (a) directly copies another's work without acknowledgment; or (b) closely paraphrases the equivalent of a short paragraph or more without acknowledgment; or (c) borrows, without acknowledgment, any ideas in a clear and recognizable form in

such a way as to present them as the student's own thought, where such ideas, if they were the student's own would contribute to the merit of his or her own work. Instructors who suspect plagiarism are required to submit the paper and supporting documentation to the Departmental Chair who will refer the case to the Dean. It is not permitted to hand in the same assignment to two or more courses. The Department's Style Guide is available at: <http://www.carleton.ca/polisci/undergrad/Essay%20Style%20Guide.html>

Oral Examination: At the discretion of the instructor, students may be required to pass a brief oral examination on research papers and essays.

Submission and Return of Term Work: Papers must be handed directly to the instructor and will not be date-stamped in the departmental office. Late assignments may be submitted to the drop box in the corridor outside B640 Loeb. Assignments will be retrieved every business day at **4 p.m.**, stamped with that day's date, and then distributed to the instructor. For essays not returned in class please attach a **stamped, self-addressed envelope** if you wish to have your assignment returned by mail. Please note that assignments sent via fax or email will not be accepted. Final exams are intended solely for the purpose of evaluation and will not be returned.

Approval of final grades: Standing in a course is determined by the course instructor subject to the approval of the Faculty Dean. This means that grades submitted by an instructor may be subject to revision. No grades are final until they have been approved by the Dean.

Course Requirements: Students must fulfill all course requirements in order to achieve a passing grade. Failure to hand in any assignment will result in a grade of F. Failure to write the final exam will result in a grade of ABS. FND (Failure No Deferred) is assigned when a student's performance is so poor during the term that they cannot pass the course even with 100% on the final examination. In such cases, instructors may use this notation on the Final Grade Report to indicate that a student has already failed the course due to inadequate term work and should not be permitted access to a deferral of the examination. Deferred final exams are available ONLY if the student is in good standing in the course.

Connect Email Accounts: The Department of Political Science strongly encourages students to sign up for a campus email account. Important course and University information will be distributed via the Connect email system. See <http://connect.carleton.ca> for instructions on how to set up your account.

Carleton Political Science Society: The Carleton Political Science Society (CPSS) has made its mission to provide a social environment for politically inclined students and faculty. Holding social events, debates, and panel discussions, CPSS aims to involve all political science students in the after-hours academic life at Carleton University. Our mandate is to arrange social and academic activities in order to instill a sense of belonging within the Department and the larger University community. Members can benefit through numerous opportunities which will complement both academic and social life at Carleton

University. To find out more, please email carletonpss@gmail.com, visit our website at poliscisociety.com, or come to our office in Loeb D688.