Public Law I: The Constitution and the Courts in Canada
AP/PPAS 3135 3.0 C Public Law I –Tues 4-7pm FC 108

Syllabus
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Course Description
This course examines the courts and their place in the development of Canadian federalism. Using the courts and the process of judicial review as the centre of our analysis, we will consider the roles of lawyers and judges and the relationship between law, politics, and public policy. In doing so, students will become familiar with the Canadian court structure, the process of judicial review, and Canadian constitutional law as it applies to Canadian federalism. Students will also learn to analyse statutory and case law so as to understand its legal meaning as well as learn to do legal research in this context.

Format
The course will consist of lectures, interactive discussion of the readings, and occasional audio-visual on-line material. Lecture takes place during the first part of class. During the second part of class there will be class discussion. In order to facilitate class discussion and participation, students are expected to read the assigned readings.

Expected Learning outcomes:
After the completion of the course students will:

- Acquire a comprehensive knowledge of the distinctive features of the Canadian constitution and constitutional changes
- Gain a better understanding of federal division of power and the historical trajectory of Canadian federalism
- Gain a foundational understanding of judicial interpretation of the federal diction of power and the potential of federalism review to shape federal-provincial power dynamics.
- Gain an appreciation of the dynamics and complexity of the roles of the courts and federalism review in Canada
- Develop analytical and research skills that are essential to pursuing advanced studies in the field of public policy and administration
Readings


There will be no course-pack for this course, but you can expect up to three additional readings each week, along with the appropriate sections of the textbook. Please note that this course requires extensive and dedicated reading of the course material.

Evaluation

Grades will be assigned as follows:

- 25% – Case Study (written assignment, due last class)
- 10% – Tutorial Participation
- 35% – Final Exam (during the exam period)
- 30% – Midterm Exam

Web Resources:

Supreme Court of Canada homepage:  
http://www.scc.csc.gc.ca/welcome/index_e.asp

Reported Decisions of the Supreme Court 1983 to Present:  

Canadian Legal information Institute (a search engine for reported court cases in all Canadian jurisdictions).  
http://www.canlii.org/en/index.html

Tentative Lecture Schedule and Reading List

Fall Reading Days\(^1\) (no classes, University open)  
Oct. 29 - Nov. 1
# Lecture Schedule

**Lecture 1 – Sept 13**  
- *Introduction to the Course*

**Lecture 2 – Sept 20**  
- *Sources and Structure of Canadian Law*  
  - Hogg Chapters 1, 2, 3  
  - *Constitution Act 1867, Constitution Act 1982*

**Lecture 3 – Sept 27**  
- *Canadian Constitutional Principles*  
  - Hogg Chapters 5.1-4, 9.1-3, 12, 14.1  
  - “The Rise of Court Government in Canada” Donald Savoie

**Lecture 4 – Oct 4**  
- *The Canadian Court System*  
  - Hogg Chapters 7, 8  
  - *Ref. re. Remuneration of Judges*

**Lecture 5 – Oct 11**  
- *Judicial Review*  
  - Hogg Chapter 15.1-4, 15.9  

**Lecture 6 – Oct 18**  
- *Midterm*

**Lecture 7 – Oct 25**  
- *POGG – Peace, Order and Good Government*  
  - Hogg Chapter 17  
  - *Russell v. The Queen*  
  - *Toronto Electric Commission v. Snider*  
  - *National Temperance Act Reference*  
  - *The Queen v. Crown Zellerbach*  
  - *Anti-Inflation Reference*
### Written Assignment:

The written assignment for this course consists of a case comment on a chosen topic drawn from a list provided below. Topics that are not specified in the list will not be accepted. The essay assignment is worth **30%** of the final grade.

Case study is an extended commentary on a particular court case. The aim is to assess not only how a particular case was decided by the court, but also to analyze the implications of the ruling. The case comment is, therefore, an interpretative essay which focuses on specific court case but is not restricted to a simple exposition of its details.
Organizational Structure of a Case Comment:

Even though there is no established set of rules on how to write a case comment, the following suggestions might be useful;

1-Introduce the case (specifying your rationale behind selecting this case). Identify the problem or problems and state your thesis statement. Your thesis statement must be sharp, concise and comprehensive.

2-Outline the main legal issues and questions.

3-Survey the development of law in this particular area and discuss the main issues raised in the case.

4-Interpret the judicial ruling on the case (you should look at courts’ rulings on cases similar to this case. Elaborate on consistency or inconsistency of judicial rulings on cases relevant to the area under investigation).

5-Conclusion; recapitulate main points and reflect on the social, economic and political implications of the ruling.

In researching your paper, you should read not only court cases but academic analyses of these court cases. While there are no established rules on how many references are adequate to an exercise like this, it would be prudent to refer to at least 3 academic sources in addition to the cases you will cite. Helpful information on how to research legal literature can be found in Castle and Latchman, The Practical Guide to Canadian Legal Research. The expected length of this written assignment is roughly 7-8 pages. No extensions are allowed except under exceptional circumstances. Late paper will lose 2% of its grade for each day that it is late.

Court Cases:


(This case involved a municipal-by-law which prohibited standing in the street for the purpose of prostitution.)


(This case involves the federal firearms legislation and the Canadian gun registry.)


(This old Supreme Court reference case dealt with the question of which level of government had constitutional responsibility for the Inuit—then called Eskimos.)

(This is one of two cases the Supreme Court heard concerning the constitutionality of the federal Narcotics Control Act.)


(This case deals with the question of which level of government is responsible for regulating cable television.)


(A case involving a provincial government’s attempt to regulate tobacco advertising.)


(A reference case where the federal maternity and parental benefits provided under Employment Insurance were challenged on division of powers grounds.)


Union Colliery Co.v. Bryden (1899)

Saumur v. City of Quebec (1953)

Reference Re Alberta Statutes (1938)

Switzman v. Elbling (1957)

Edwards v. Canada (1930)-- Persons Case


R. v. Hydro-Quebec, [1997]

Reference re Canada Assistance Plan (1990)

Findlay v. Canada (Minister of Finance) (1992)

Confederation des syndicats nationaux vs Canada (2008)

Canada v. PHS Community Services Society (2011)
Grading, Assignment Submission, Lateness Penalties and Missed Tests

Grading: The grading scheme for the course conforms to the 9-point grading system used in undergraduate programs at York (e.g., A+ = 9, A = 8, B+ = 7, C+ = 5, etc.). Assignments and tests* will bear either a letter grade designation or a corresponding number grade (e.g. A+ = 90 to 100, A = 80 to 90, B+ = 75 to 79, etc.) For a full description of York grading system see the York University Undergraduate Calendar.

Assignment Submission: Assignments for this course must be received on the due date specified for the assignment. Assignments are to be handed in to your TA in tutorial. Email submissions will not be accepted.

Lateness Penalty: Assignments received later than the due date will be penalized at the rate of 2.5% daily, including weekends. Exceptions to the lateness penalty for valid reasons such as illness, compassionate grounds, etc., may be entertained by the Course Director, but will require supporting documentation (e.g., a doctor’s letter).

Missed Tests: Students with a documented reason for missing a course test, such as illness, compassionate grounds, etc., which is confirmed by supporting documentation (e.g., doctor’s letter) may request accommodation from the Course Instructor. Further extensions or accommodation will require students to submit a formal petition to the Faculty.

Important Additional Information
All students are expected to familiarize themselves with the following information, available on the Senate Committee on Curriculum & Academic Standards webpage (http://www.yorku.ca/secretariat/senate_cte_main_pages/ccas.htm):

- Religious Observance Accommodation [https://w2prod.sis.yorku.ca/Apps/WebObjects/cdm.woa/wa/regobs](https://w2prod.sis.yorku.ca/Apps/WebObjects/cdm.woa/wa/regobs)