

Public Law I: The Constitution and the Courts in Canada

AP/PPAS 3135 3.00 M

Mondays 11:30 – 2:30 FC 104

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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 limited legal research in this context.

Format

This course consists of a weekly lecture. In some weeks this will be followed by a discussion session during which we will be taking a more interactive approach. The course is centered around a single project with two written components (the legal memo and the factum) as well as an oral component. You are expected to have read all required material prior to the lectures and discussion sessions.

Readings

There will be no course-pack for this course, but most weeks you need to read one or more cases in addition to reading from the textbook. These cases will be available via moodle. You will note that you are responsible for knowing all cases mentioned on the reading list for the exam, but the expectation is that you will focus on one when preparing for class.

The textbook for this class is: Monahan, P., Shaw, B., Ryan, P., Canada. (2017). *Constitutional law* (Fifth edition.). Irwin Law. This book is available from the bookstore and used copies should be available from the usual sources as it has been out for a couple of years.

Moodle

Use of Moodle is mandatory for this course as you will need it to access the readings. Information on signing up for Moodle is available at <http://moodle.yorku.ca>.

Evaluation

20% – Legal Memorandum (short written assignment, due before reading week)

30% – Factum (long written assignment, due last class)

- 10% – Five Entrance Tickets
- 10% – Class Participation
- 30% – Exam (during the exam period, closed book)

Learning Outcomes

- Understand and know basic Canadian constitutional principles
- Understand and know the constitutional history of Canadian federalism
- Understand and make legal arguments
- Understand the legal process and how cases reach the Supreme Court of Canada
- Critically evaluate constitutional law decisions and arguments
- Build Basic legal research skills
- Build Develop third-year appropriate writing skills
- Build law and case reading skills

Written Assignments

There are two major written assignments in this course, the legal memorandum and the factum. The factum flows from the memorandum. Assignment specifics will be available on moodle as the course progresses. You will be given a topic for these two assignments in the second week of class. These topics will be based on a case that is either still before the courts or was recently decided.

There are also five minor assignments, the entrance tickets. These are short (150 words or half a double-spaced page) and are to be turned in via moodle the night before one of the 10 class where we have substantive readings (that is, all the classes except for the first and the last class). In these entrance tickets you must relate the textbook reading to the case or article assigned for that week. Additionally, you will likely be called on to discuss those readings in class. These will be graded on a pass/fail basis. There will be no option to resubmit a failed entrance ticket, but you may continue to turn them in until you have five passed.

Oral Component and Participation Grades

There will be an informal oral assignment, called the Mock Trial. The mock trial is a structured discussion section where you will discuss the arguments you are using in your factum. These will take place during the final five classes. They will not be formally graded, but your participation in them will be noted towards your participation grade.

Academic Honesty

It is expected that all students know and understand basic academic honesty rules. If you need a refresher, please review: <https://spark.library.yorku.ca/academic-integrity-what-is-academic-integrity/>. In addition, we will be discussing citation requirements during class. Any concerns over academic

integrity will be dealt with according to the Senate Policy, available via a link at the end of this syllabus.

Citation Style

We will be using APA citation style. For Canadian legal citation, APA incorporates the McGill Guide style, which is the standard for citing legal materials in Canada.

Reading List (subject to change, see moodle for updates)

Lecture	Discussion
<p>Lecture 1 – January 6</p> <p><i>Introduction to the Course</i></p>	
<p>Lecture 2 – January 13</p> <p><i>Sources and Structure of Canadian Law</i></p> <p>Monahan et al chapters 1 and 2</p> <p>Familiarize yourself with: <i>Constitution Act 1867, Constitution Act 1982</i> (p. 537 in Monahan et al)</p>	<ul style="list-style-type: none"> ● <i>Introducing the Mock Trial and the Legal Memorandum</i>
<p>Lecture 3 – January 20</p> <p><i>Canadian Constitutional Principles</i></p> <p>Monahan et al chapter 3</p> <p>“The Rise of Court Government in Canada” Donald Savoie</p>	<ul style="list-style-type: none"> ● <i>Legal Research I: Using Legal Treatises</i> ● <i>Learning to Read Canadian Case Law</i>
<p>Lecture 4 – January 27</p> <p><i>The Canadian Court System</i></p> <p>Monahan et al chapter 4</p> <p><i>Ref. re. Remuneration of Judges</i></p>	<ul style="list-style-type: none"> ● <i>Making Legal Arguments I: Arguing for the Parties</i>
<p>Lecture 5 – February 3</p> <p><i>Judicial Review</i></p>	<ul style="list-style-type: none"> ● <i>Making Legal Arguments II: Judicial Decisions</i>

<p>Monahan et al chapter 7</p> <p><i>Edwards v. A.-G. Can.</i></p>	
<p>Lecture 6 – February 10</p> <p><i>POGG – Peace, Order and Good Government</i></p> <p>Monahan et al chapter 8</p> <p>Read one of the following cases:</p> <ul style="list-style-type: none"> • <i>Russell v. The Queen</i> • <i>Toronto Electric Commission v. Snider</i> • <i>National Temperance Act Reference</i> • <i>The Queen v. Crown Zellerbach</i> • <i>Anti-Inflation Reference</i> <p><i>Legal Memorandum due</i></p>	<ul style="list-style-type: none"> • <i>Legal Research II: Finding Caselaw with canlii.org</i>
<p>Study Break – February 17</p>	
<p>Lecture 7 – February 24</p> <p><i>Criminal Law</i></p> <p>Monahan et al chapter 11</p> <p>Read one of the following cases:</p> <ul style="list-style-type: none"> • <i>Margarine Reference</i> • <i>RJR-MacDonald v. Canada</i> • <i>Westendorp v. The Queen</i> <p><i>Legal Memorandum returned</i></p>	
<p>Lecture 8 – March 2</p> <p><i>Trade and Commerce, Property and Civil Rights</i></p> <p>Monahan et al chapter 9 and 10</p>	<ul style="list-style-type: none"> • <i>Mock Trial 1</i>

<p>Read one of the following cases:</p> <ul style="list-style-type: none"> • <i>Citizens' Insurance v. Parsons</i> • <i>Dominion Stores v. The Queen</i> • <i>Toronto Electric Commission v. Snider</i> (from lecture 6) • <i>Manitoba Egg Reference</i> 	
<p>Lecture 9 – March 9</p> <p><i>Transportation and Communication</i></p> <p>Monahan et al chapter 12</p> <p>Read one of the following cases:</p> <ul style="list-style-type: none"> • <i>Aerial Navigation</i> • <i>Alberta Telephone</i> • <i>Capital City Communications</i> 	<ul style="list-style-type: none"> • <i>Mock Trial 2</i>
<p>Lecture 10 – March 16</p> <p><i>Aboriginal Peoples</i></p> <p>Monahan et al chapter 15</p> <p>Skim the following case:</p> <p><i>Delgamuukw v. The Queen</i></p>	<ul style="list-style-type: none"> • <i>Mock Trial 3</i>
<p>Lecture 11 – March 23</p> <p><i>Amendment Procedure and Constitutional Reform</i></p> <p>Monahan et al chapters 5 and 6</p> <p><i>Succession Reference</i></p>	<ul style="list-style-type: none"> • <i>Mock Trial 4</i>
<p>Lecture 12 – March 30</p> <p><i>Wrap-up and Exam Review</i></p>	<ul style="list-style-type: none"> • <i>Mock Trial 5</i>

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 before the due date and time specified for the assignment via moodle. Email or paper 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:

- York's Academic Honesty Policy and Procedures/Academic Integrity Website
<http://www.yorku.ca/secretariat/policies/document.php?document=69>
- Ethics Review Process for research involving human participants
<http://www.yorku.ca/secretariat/policies/document.php?document=94>
- Course requirement accommodation for students with disabilities, including physical, medical, systemic, learning and psychiatric disabilities
<http://www.yorku.ca/secretariat/policies/document.php?document=68>
- Student Conduct Standards
<http://www.yorku.ca/secretariat/policies/document.php?document=107>
- Religious Observance Accommodation
<https://w2prod.sis.yorku.ca/Apps/WebObjects/cdm.woa/wa/regobs>