Public Law I: The Constitution and the Courts in Canada

AP/PPAS 3135 3.0 M

Summer 2026 (Summer Session 2: June 22 – August 4)

Online via Zoom (link available in eClass)

Course Information

Course Instructor:	Danny O'Rourke-Dicarlo
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Office Hours & Location:	025 McLaughlin College
Course Time & Days:	7pm Monday/Wednesday

Land Acknowledgment

First Nations peoples have lived on this part of Turtle Island for millennia, stewarding the land, the water and all that contributes to life in this region. Today, the culture and presence of First Nations, Inuit and Métis peoples enrich the lands and people of this territory.

More than two centuries ago, the Mississauga people welcomed settlers to this territory, providing sustenance and engaging in trade and commerce. Between 1781 and 1820, eight treaties were signed between the Crown and the Mississaugas of the Credit First Nation, who opened their territory to settlement. Today, York University's Keele Campus is located on Toronto Purchase Treaty, No. 13 lands and is situated on the traditional territory of the Huron-Wendat and Haudenosaunee.

Treaty history is foundational, and it is our collective responsibility to honour the land, as we honour and respect those who have gone before us, those who are here and those who have yet to come. We are grateful for the opportunity to be learning, working and thriving on this land, and we commit to learn the truth and be active in the process of reconciliation.

Course Overview

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.

Course Learning Objectives

By the end of this course, students will be able to:

- 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 division 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

Course Format and Organization

The course will consist of online synchronous lectures delivered via Zoom, interactive discussions of the readings, and occasional additional audio-visual online material. The Zoom link for each session will be made available through eClass. The lecture takes place during the first part of class. We will take breaks periodically during the first half to allow for stretching and breakout discussions. During the second part of class there will be an opportunity for class discussion which we call an 'informal tutorial.' The 'informal tutorial' is optional for those students who wish to discuss any class-related material or issues. No new material will be covered during the tutorial.

In order to facilitate class discussion and participation, students are expected to read the assigned readings beforehand.

Technical Requirements

Several platforms will be used in this course (e.g., eClass, Zoom, etc.) through which students will interact with the course materials, the course director, as well as with one another.

Course Communication Plan and Office Hours

- The Course Director will communicate with students via eClass and emails
- Students can communicate with one another (e.g., in discussion forums on eClass)
- Office hours by appointment

Course Evaluation

Assessment	Due Date	Weight %	Course Learning Outcome
Mid-Term Exam	July 20	35%	Explication and Evaluation
Case Summary/Brief	July 29	30%	Close Reading
Final Exam	Exam Period	35%	Practical Application
Total		**100%**	

Assessment Descriptions

The written assignment for this course consists of a case summary 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.

A case summary is an extended descriptive analysis on a particular court case. The aim is to assess only a particular case was decided by the court. The case comment is both a descriptive and interpretative essay which focuses on specific court case but is not restricted to a simple exposition of its details.

Organizational Structure of a Case Summary:

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

1. Introduce the case (specifying your rationale behind selecting this case). Identify the problem or problems under review.
2. Outline the main legal issues and questions.
3. Survey the development of law in this particular area (case law referenced) and discuss the main issues raised in the case.
4. Summarize the judicial ruling on the case.

The expected length of this written assignment is roughly 5–7 pages. No extensions are allowed except under exceptional circumstances. Late papers will lose 2% of its grade for each day past due date.

Suggested Court Cases:

- Westendorp v. The Queen, [1983] 1 S.C.R. 43 (municipal by-law prohibiting standing in the street for the purpose of prostitution)
- Reference re Firearms Act (Can.), [2000] 1 S.C.R. 783 (federal firearms legislation and the Canadian gun registry)
- Re Eskimos, [1939] 2 D.L.R. 417 (constitutional responsibility for the Inuit)
- The Queen v. Hauser, 1979 CanLII 13 (S.C.C.) (constitutionality of the federal Narcotics Control Act)
- Capital Cities Comm. v. C.R.T.C., 1977 CanLII 12 (S.C.C.) (regulation of cable television)
- Rothmans, Benson & Hedges Inc. v. Saskatchewan, 2005 SCC 13 (provincial regulation of tobacco advertising)
- Reference re Employment Insurance Act (Can.), ss. 22 and 23, 2005 SCC 56 (federal maternity and parental benefits)
- Reference as to the Validity of Section 5(A) of the Dairy Industry Act, 1948 CanLII 2 (S.C.C.) (Margarine Reference)
- 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
- Ontario Hydro v. Ontario (1993)
- R. v. Hydro-Quebec [1997]

Submitting Assignments:

All assignments will be submitted digitally to eClass.

Grading

The grading scheme for this course conforms to the 9-point system used in undergraduate programs at York University. Access Grades and Grading Schemes under Academic and Financial Information in the Undergraduate Course Calendar. Full details are available in the Common Grading Scheme for Undergraduate Faculties Policy.

Grade	Grade Point	Percent Range	Description
A+	9	90–100	Exceptional
A	8	80–89	Excellent
B+	7	75–79	Very Good
B	6	70–74	Good
C+	5	65–69	Competent
C	4	60–64	Fairly Competent
D+	3	55–59	Passing
D	2	50–54	Marginally Passing
E	1	(marginally below 50%)	Marginally Failing
F	0	(below 50%)	Failing

How to Use Citations

Proper citation of sources is essential to academic integrity. All written assignments in this course must use a recognized citation format. Students may use McGill Guide, APA, or Chicago style, but must be consistent throughout their submission. Failure to properly cite sources may constitute a breach of academic honesty. The following resources are available to support research and citation:

- SPARK Student Papers & Academic Research Kit
- Chicago Style Overview, YorkU Libraries
- MLA Style Overview, YorkU Libraries
- APA Style Overview, YorkU Libraries
- Drop-in Research Support, YorkU Libraries
- Writing Centre

Course Schedule: Weekly Readings and Activities

Required Course Materials

Required readings: Peter Hogg *Constitutional Law of Canada,* Student Edition, available from the bookstore: $184.50 to $246.00

**Pre-owned or online copies from 2017–2023 are perfectly suitable.*

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.

Course Schedule

Week/Dates	Readings and Activities	Notes
1 – Mon, Jun 22	Introduction to the Course	
2 – Wed, Jun 24	Sources and Structure of Canadian Law Hogg Chapters 1, 2, 3 Constitution Act 1867, Constitution Act 1982	
3 – Mon, Jun 29	Canadian Constitutional Principles Hogg Chapters 5.1–4, 9.1–2, 12	
4 – Mon, Jul 6	The Canadian Court System Hogg Chapters 7, 8 Ref. re. Remuneration of Judges	***No class Wed, Jul 1 (Canada Day)***
5 – Wed, Jul 8	Judicial Review Hogg Chapter 15.1–4, 15.9 Edwards v. A.-G. Can.	
6 – Mon, Jul 13	POGG – Peace, Order and Good Government Hogg Chapter 17 Russell v. The Queen; Anti-Inflation Reference	**Mid-Term Distributed on eClass**
7 – Wed, Jul 15	No formal lecture: Online Mid-Term Q&A session at 7pm	
8 – Mon, Jul 20	Criminal Law Hogg Chapter 18 Margarine Reference; RJR-MacDonald v. Canada	**Mid-Term Due online via eClass**
9 – Wed, Jul 22	Trade and Commerce / Property and Civil Rights Hogg Chapter 20, 21 Dominion Stores v. The Queen; Manitoba Egg Reference	
10 – Mon, Jul 27	Trade and Commerce / Property and Civil Rights (cont'd) Hogg Chapter 20, 21 Dominion Stores v. The Queen; Manitoba Egg Reference	
11 – Wed, Jul 29	Aboriginal Peoples Hogg Chapter 28 The Queen R v Van Der Peet	**Case Summary Due Online**

		No class Mon, Aug 3 (Civic Holiday)

Web Resources:

- Supreme Court of Canada homepage: https://www.scc-csc.ca/home-accueil/index-eng.aspx
- Reported Decisions of the Supreme Court 1983 to Present: https://www.scc-csc.ca/case-dossier/index-eng.aspx
- Canadian Legal Information Institute (CanLII): https://www.canlii.org/en/

Course Policies

Academic Integrity

Academic integrity is a fundamental and important value of York University. To maintain a fair and honest learning environment, you are responsible for understanding and upholding academic integrity in all courses and academic activities. You are encouraged to connect with reliable on-campus resources that support your coursework and academic honesty. To better understand the serious consequences of breaching academic honesty policies, familiarize yourself with the Senate Policy on Academic Conduct. You can learn more about upholding academic integrity in your courses by exploring SPARK: Academic Integrity Module, LA&PS Academic Honesty and Academic Integrity for Students.

Generative Artificial Intelligence (GenAI)

Students are not permitted to use generative artificial intelligence (AI) in this course. Submitting any work created (in whole or part) through the use of generative AI tools will be considered a violation of York University's Senate Policy on Academic Conduct. Using AI apps such as Microsoft Copilot, ChatGPT, DALL-E, translation software among others to complete academic work without your instructor's knowledge or permission, is considered a breach under York's Academic Conduct Policy. For more information, please review AI Technology & Academic Integrity: Information for Students.

If you're not sure whether using an AI app for your academic work is acceptable, it is recommended that you:

- Carefully review the guidelines for your assessments
- Check for any messages from your instructor on eClass
- Ask your instructor or TA if they are permitting the use of these tools

Turnitin

To promote academic integrity in this course, you will normally be required to submit your written assignments to Turnitin (on the course's eClass site) for a review of textual similarities and the detection of possible plagiarism. In doing so, you are allowing your material to be included as source documents in the Turnitin.com reference database, where they will be used only for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin service are described on the Turnitin.com website. York students may opt out of using Turnitin. If you wish to opt out, you should contact your instructor as soon as possible.

Accessibility

York University is committed to creating a learning environment which provides equal opportunity to all members of its community. If you anticipate or experience any barriers to learning in this course, please discuss your concerns with your instructor as early as possible. For students with disabilities, contact Student Accessibility Services to coordinate academic accommodations and services. Accommodations will be communicated to Course Directors through a Letter of Accommodation (LOA). Accommodations for tests/exams normally require three (3) weeks (or 21 days) before the scheduled test/exam to arrange. To learn more, please visit Accommodated Exam/Test Scheduling.

Religious Observance Accommodation

York University is committed to respecting the religious beliefs and practices of all members of the community and making reasonable and appropriate accommodations to adherents for observances of days of religious significance. Should any of the dates specified in this syllabus for course assignments, tests, or deadlines conflict with a date of religious significance, please contact the instructor not less than two (2) weeks (or 14 days) prior to the date for which accommodation is sought. If the requested accommodation is for an exam or falls within the formal examination periods, you must complete and submit a Religious Accommodation Agreement (PDF) at least three (3) weeks (or 21 days) before the start of the exam period.

Intellectual Property

Course materials are designed for use as part of this course at York University and are the intellectual property of the instructor unless otherwise stated. Third-party copyrighted materials (such as book chapters, journal articles, music, videos, etc.) have either been licensed for use in this course or fall under an exception or limitation in Canadian copyright law. Students may not publish, post on an Internet site, sell, or otherwise distribute any course materials or work without the instructor's express permission. Course materials should only be used by students enrolled in this course.

Copying this material for distribution (e.g., uploading material to a commercial third-party website) may lead to a charge of misconduct according to York's Code of Student Rights and Responsibilities, the Senate Policy on Academic Conduct, and/or legal consequences for copyright violations.

Academic Consideration for Missed Course Work

This policy applies to course assessments worth 20% or less of your overall course grade and does not apply to exams held during the final examination period. Students may self-declare two (2) 7-day consideration periods each 12-week term and one (1) 7-day consideration period per six-week term. An Attending Physician's Statement (APS) is not required for these self-declared absences. However, an instructor may request a signed APS for the final examination period, coursework worth more than 20% of the course grade and missed work outside of the self-declared academic consideration period(s).

Students can submit their self-declaration(s) for academic consideration using eClass. Students are then responsible for contacting the instructor no later than two (2) business days after the end of the consideration period(s) to arrange details of any accommodation for missed coursework. If you do not do this, you may get a zero (0) on the missed work. Where courses have built-in accommodations already established, the instructor may decline providing additional accommodations under this policy. For further details, please review the Policy on Academic Consideration for Missed Course Work.

Student Conduct in the Learning Environment

York University is committed to fostering teaching and learning environments that are free of disruptive and/or harassing behaviour, are physically safe, and conducive to effective teaching and learning. Students and instructors are expected to maintain a professional relationship characterized by courtesy, civility, and mutual respect and to refrain from actions disruptive to such a relationship. Individuals who fail to adhere to such standards and who violate University or public law may be subject to disciplinary action by the University.

For more information, see the policies on Disruptive and/or Harassing Behaviour in Academic Situations, Student Conduct and Responsibilities, and the Code of Student Rights & Responsibilities.

Student Support and Resources

To help you succeed academically, York University offers a wide range of resources and services. Everything from writing workshops and peer mentorship to wellness support and career guidance is available to fulfill our LA&PS students' needs. Explore the links below to access these on-campus resources:

- Academic Advising is available to provide students support and guidance in making academic decisions and goals.
- Student Accessibility Services are available for support and accessibility accommodation when required.
- Student Counselling, Health & Wellbeing offers workshops, resources, and counselling to support your academic success.
- Peer-Assisted Study Sessions (PASS) Program provides student study sessions for students to collaborate and enhance their understanding of course content in certain courses.
- Student Numeracy Assistance Centre at Keele (SNACK) supports students in courses involving math, stats, and Excel.
- The Writing Centre provides multiple avenues of writing-based support including drop-in sessions, one-to-one appointments, a Multilingual Studio, and an Accessibility Specialist.
- ESL Open Learning Centre (OLC) supports students with building proficiency in reading, writing, and speaking English.
- Learning Skills Services provides tips for time management, effective study and learning habits, keeping up with coursework, and other learning-related supports.
- Learning Commons provides links to supports for time management, writing, study skills, preparing for exams, and other learning-related resources.
- Roadmap to Student Success provides students with timely and targeted resources to help them achieve academic, personal, and professional success.
- Office of Student Community Relations (OSCR) is responsible for administering the Code of Student Rights & Responsibilities and provides critical incident support.
- goSAFE is staffed by York students and can accompany York community members to and from any on-campus location, such as the Village Shuttle pick-up hub, parking lots, bus stops, or residences.

For a full list of academic, wellness, and campus resources visit Student Support & Resources.