

**POLITICAL INSTITUTIONS OF THE CANADIAN STATE**  
**POLSCI 760**  
**Fall 2019, Term 1**

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**Lecture:** Thursday, 8:30-11:20  
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## **Course Description**

This course has two main objectives. First, it seeks to familiarize students with the scholarly literature and debates surrounding core institutions of the Canadian State, to the extent that they can present the major positions and take a nuanced position with respect to them. Second, it aims to problematize the a-sociological and ahistorical analysis of some strands of Canadian institutional research, by foregrounding questions of the origins of institutions, and of the manner in which institutions favour certain political actors and outcomes over others. Without eclipsing the question of how the institutions could or should change, the emphasis is on understanding why our institutions are as they are, and what effects they have.

## **Course Objectives**

By the end of the course students should be able to:

- Describe leading arguments about how particular Canadian political institutions produce outcomes
- Describe arguments about how certain institutional features reflect the influence of specific political actors or ideologies
- Assess and evaluate the relative adequacy of these arguments.

## **Required Materials and Texts**

- We will be reading large portion of David Schneiderman's *Red, White, and Kind of Blue?* (University of Toronto Press, 2015). Several copies of this book should be available for purchase at the campus store. Many of the remaining course materials are available on-line through the library catalogue. Required readings that are not available online will be made available on the course's Avenue to Learn page.

## **Class Format**

Students are expected to come having done all the required readings each week. They should arrive in class with the ability to summarize the main arguments and points of each reading, and with questions about the strength of the arguments and their relations to other arguments. While the instructor will lead the seminar discussion, that "leadership" will entail calling on class participants to discuss the readings and raise points for discussion.

## **Course Evaluation – Overview**

1. Participation (25%)
2. Paper Outline (10%), due October 21
3. Paper Draft Commentary (15%), due November 26, draft to reviewer November 19

4. Final Paper (50%), due December 4

## **Course Evaluation – Details**

### **Participation (25%)**

Participation will therefore be graded on the extent to which a student consistently contributes thoughtful reflection and analysis drawing on course readings.

### **Paper Outline (10%), due October 21**

As preparation for the final paper, students should submit a 1000-1500 word outline. The outline should set out the institution in question and the paper's argument, placing these within the context of existing research and arguments about that institution. It should include a bibliography that separates sources into those cited in the outline, and those sources that likely will be used for the final paper, but have not yet been consulted.

### **Paper Draft Commentary (15%), due November 26, draft to reviewer November 19**

Students will prepare a five page (double-spaced) commentary on the paper draft of a classmate. They must submit the commentary to the professor to be graded, and to the paper writer, to be considered when revising the final paper.

Students must therefore provide a copy of their paper to their discussant and the instructor on or before November 19.

The commentary should briefly describe the paper in one or two pages. What is it arguing? How is it placed in the literature? What sort of evidence is used? It should then underline the main strengths of the paper, as well as indicate places where the argument might be strengthened. Are there convergent or competing arguments or pieces of evidence that could be included?

### **Final Paper (50%), due December 4**

Students are expected to produce a 20-page paper on a Canadian political institution. The institution can be a highly visible one (e.g. the Senate, federalism), a narrower or more specific one (e.g. the franchise, the Council of the Federation, the Health Council of Canada, the Ontario Human Rights Commission), or a very specific one (e.g. Federal/Provincial/Territorial Advisory Committee on Governance and Accountability). The paper provides an opportunity for students to apply the themes and framework of the course to their own areas of interest. The paper should analyze the politics of the creation (or subsequent reform) of the institution in question OR analyze how the institution serves to favour certain actors and outcomes over others. Depending on the topic chosen, papers will have different dosages of critical literature review and primary research, as different institutions have different amounts of existing research and debate devoted to them.

## **Weekly Course Schedule and Required Readings**

### **Week 1 (Sep 5) Intro**

Topic: Introduction to the course

### **Week 2 (Sep 12) Different ways of thinking**

Topic: Different ways of thinking about institutions

Readings:

Terry M. Moe, "Power and Political Institutions," *Perspectives on Politics*, 3:2 (2005) 215-231.

Wolfgang Streeck and Kathleen Thelen, "Introduction: Institutional Change in Advanced Political Economies," in Wolfgang Streeck and Kathleen Thelen (eds) *Beyond Continuity: Institutional Change in Advanced Political Economies* (Oxford: Oxford University Press, 2005), 1-39.

Walter Korpi, "The Power Resources Model," in Christopher Pierson and Francis G. Castles (eds) *The Welfare State Reader* (Polity Press, 2000), 77-88.

Additional Readings:

James Mahoney and Kathleen Thelen, "A Theory of Gradual Institutional Change," in James Mahoney and Kathleen Thelen (eds) *Explaining institutional change: ambiguity, agency and power* (New York: Cambridge University Press, 2010), 1-37.

John L. Campbell, *Institutional Change and Globalization* (Princeton: Princeton University Press, 2004), esp. ch. 1-2.

Siobhan Harty, "Theorizing Institutional Change," in André Lecours (ed.) *New Institutionalism: Theory and Analysis* (Toronto: University of Toronto Press, 2008), 51-79.

Notes: Distribution of weekly responsibilities

### **Week 3 (Sep 19) Confederation**

Topic: Confederation

Readings:

Janet Aizenstat, *The Canadian Founding: John Locke and Parliament* (Montreal: McGill-Queen's University Press, 2007), ch. 2.

Ian McKay, "The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History," *Canadian Historical Review* 81 (2000), 617-45.

David Schneiderman, *Red, White, and Kind of Blue? The Conservatives and the Americanization of Canadian Constitutional Culture* (Toronto: University of Toronto Press, 2015), ch. 1.

And one of:

Peter H. Russell, "The Conditional Nature of Trust in Canada's Multinational Constitutional Politics" in Dimitrios Karmis and François Rocher (eds.) *Trust, distrust, and mistrust in multinational democracies: comparative perspectives* (Montréal: McGill-Queen's University Press, 2018), 113-134.

Peter J. Smith, "The Ideological Origins of Canadian Confederation," in Janet Ajzenat and Peter J. Smith (eds) *Canada's Origins: Liberal, Tory or Republican?* (Ottawa: Carleton University Press, 1995), 47-78.

Additional readings:

Stanley B. Ryerson, *Unequal Union: Roots of the Crisis in the Canadas, 1815-1873* (Toronto: Progress Books, 1973), ch. 18.

Philip Resnick, *The Masks of Proteus: Canadian Reflections on the State* (Montréal: McGill-Queen's University Press, 1990), ch. 4

Ian McKay, "Canada as a Long Liberal Revolution: On Writing the History of Actually Existing Canadian Liberalisms, 1840s-1940s" in Jean-François Constant and Michel Ducharme, *Liberalism and Hegemony: Debating the Canadian Liberal Revolution* (Toronto: University of Toronto Press, 2009), 347-452.

Elsbeth A Heaman, *A Short History of the State in Canada*. Toronto: University of Toronto Press, 2015. (esp. ch. 1-3).

Andrew Smith, *British Businessmen and Canadian Confederation* (Montreal: McGill-Queen's University Press, 2008).

Andrew Smith, "Toryism, Classical Liberalism, and Capitalism: The Politics of Taxation and the Struggle for Canadian Confederation," *Canadian Historical Review* 89 (2008), 1-24.

Reg Whitaker, *A Sovereign Idea* (Montreal: McGill-Queen's University Press, 1992), ch. 1.

Cole Harris, "The Spaces of Early Canada," *Canadian Historical Review* 91 (2010), 725-759.

Notes: The class is taking place on Tuesday rather than Thursday this week as I will be away on the 19th. I will understand if some cannot attend.

## **Week 4 (Sep 26) Parliament and Senate**

Topic: Parliament and Senate

Readings:

Janet Aizenstat, *The Canadian Founding*, ch. 3.

David Schneiderman, *Red, White, and Kind of Blue? The Conservatives and the Americanization of Canadian Constitutional Culture* (Toronto: University of Toronto Press, 2015), ch. 3, and one of ch. 2 and ch. 4.

Jonathan Malloy, "More Than a Terrain of Struggle: Parliament as Ideological Instrument and Objective under Conservatism," in J.P. Lewis and Joanna Everitt (eds.) *The Blueprint: Conservative Parties and Their Impact on Canadian Politics* (Toronto: University of Toronto Press, 2017), pp. 242-263.

Additional readings:

Peter Aucoin, Mark D. Jarvis and Lori Turnbull, *Democratizing the Constitution: Reforming Responsible Government* (Toronto: Emond Montgomery, 2011), ch. 2

Jonathan Malloy, "The Drama of Parliament Under Minority Government" in G. Bruce Doern and Christopher Stoney, (eds.), *How Ottawa Spends 2011-12* (Montreal: McGill-Queen's University Press, 2010).

Philip Resnick, *The Masks of Proteus*, ch. 5.

Peter H. Russell, "Discretion and the Reserve Powers of the Crown," *Canadian Parliamentary Review*, 34:2 (2011), 19-25.

Bruce M. Hicks, "The Westminster Approach to Prorogation, Dissolution and Fixed Election Dates," *Canadian Parliamentary Review* 35:2 (2012)

David E. Smith, *The People's House of Commons: Theories of Democracy in Contention* (Toronto: University of Toronto Press, 2007).

Peter H. Russell, *Two Cheers for Minority Government* (Toronto: Emond Montgomery, 2008).

Peter H. Russell and Lorne Sossin (eds) *Parliamentary Democracy in Crisis* (Toronto: University of Toronto Press, 2009), chapters by Jean Leclair & Jean-François Goudreault-Desbiens (105-120), Peter Russell (136-149), and Graham White (150-60).

Johannes Wheeldon, "[Constitutional Peace, Political Order, or Good Government? Organizing and Assessing Scholarly Views on the 2008 Prorogation.](#)" *Canadian Political Science Review* 8:1 (2014).

Philip Resnick, *Parliament vs. People: An Essay on Democracy and Canadian Political Culture* (Vancouver: New Star Books, 1984), ch.1-4, 6.

David Smith, "The Senate of Canada and the Conundrum of Reform", and Janet Ajzenstat, "Harmonizing Regional Representation with Parliamentary Government: The Original Plan," in Jennifer Smith (ed.) *Democratic Dilemma: Reforming the Canadian Senate* (Montreal: McGill-Queen's University Press, 2009), 11-33.

Jennifer Smith, "Democracy and the Canadian House of Commons at the Millennium," *Canadian Public Administration* 42:4 (1999) 398-421.

David Docherty, *Legislatures* (Vancouver: UBC Press, 2005).

McDougall, A. (2019), Connecting power to protection: The political bases of language commissioners in Canada. *Can Public Admin*, 62: 77-95. doi:[10.1111/capa.12311](https://doi.org/10.1111/capa.12311)

Rudy B. Andeweg, "Towards a Stronger Parliament? Electoral Engineering of Executive-Legislative Relations," *Acta Politica* 41 (2006) 232-248.

Institute of Intergovernmental Relations, 2008 Working Paper Series on Senate Reform

## **Week 5 (Oct 3) Cabinet and Executive**

Topic: Cabinet and Executive

Readings:

Donald J. Savoie, "The Rise of Court Government in Canada," *Canadian Journal of Political Science* 32:4 (1999) 635-664.

Mary Liston, "The Most Opaque Branch? The (Un)accountable Growth of Executive Power in Modern Canadian Government," in Richard Albert, Paul Daly and Vanessa MacDonnell (eds.) *The Canadian Constitution in Transition* (Toronto: University of Toronto Press, 2019), 19-59.

J.P. Lewis, "A Wolf in Wolf's Clothing: The Stephen Harper Ministry," in J.P. Lewis and Joanna Everitt (eds.) *The Blueprint: Conservative Parties and Their Impact on Canadian Politics* (Toronto: University of Toronto Press, 2017), 264-289.

David Good, *The Politics of Public Money* 2<sup>nd</sup> ed. (Toronto: University of Toronto Press, 2014), ch. 4.

Additional readings:



Graham White, "The 'Centre' of the Democratic Deficit: Power and Influence in Canadian Political Executives," in Patti Tamara Lenard and Richard Simeon (ed.), *Imperfect Democracies: The Democratic Deficit in Canada and the United States* (Vancouver: UBC Press, 2012), 226-247.

Dennis Baker, *Not Quite Supreme: The Courts and Coordinate Constitutional Interpretation* (Montreal: McGill-Queen's University Press, 2010), ch. 3-4.

G. Bruce Doern, Allan M. Maslove and Michael J. Prince, *Canadian Public Budgeting in the Age of Crisis* (Montreal: McGill-Queen's University Press, 2013), ch. 4.

Herman Bakvis and Steven B. Wolinetz, "Canada: Executive Dominance and Presidentialization," in Thomas Poguntke and Paul Webb (eds) *The Presidentialization of Politics: A Comparative Study of Modern Democracies* (Oxford: Oxford University Press, 2005). (e-book, available from the library web catalogue).

Graham White, *Cabinets and First Ministers* (Vancouver: UBC Press, 2005).

## **Week 6 (Oct 10) Bureaucratic Institutions**

Topic: Bureaucratic Institutions

Readings:

David Good, *The Politics of Public Money* 2<sup>nd</sup> ed. (Toronto: University of Toronto Press, 2014), ch. 1 (esp. p. 30-37), 2.

Amanda Clarke, *Opening the Government of Canada: Federal Bureaucracy in the Digital Age*. Vancouver: UBC Press, 2019, chapter 2, 4.

One of:

Jennifer Robson and R. Paul Wilson, "Political Staff and Permanent Public Servants: Still Getting Along," in Thierry Giasson, Alex Marland and Andrea Lawlor (Vancouver: UBC Press 2018), 71-88

Alex Marland, J.P. Lewis and Tom Flanagan, "Governance in the Age of Digital Media and Branding," *Governance* 30:1 (2017), 125-141.

Additional readings:

Evert A. Lindquist and Chris Eichbaum, "Remaking Government in Canada: Dares, Resilience and Civility in Westminster Systems," *Governance* 29:4 (2016), 553-571.

Stephanie Paterson, Patrick Marier and Felix Chu, "Technocracy or transformation? Mapping women's policy agencies and orienting gender (in)equality in the Canadian provinces." *Canadian Public Administration* 59:3 (2016), 405-424.

Rianne Mahon, "Canadian Public Policy: The Unequal Structure of Representation," in Leo Panitch (ed.) *The Canadian State* (Toronto: University of Toronto Press, 1977), 165-198.

Bryan Evans, "How the State Changes Its Mind? A Gramscian Account of Ontario's Managerial Culture Change," *Philosophy of Management* 5:2 (2005) 25-46.

Jonathan Craft, *Backrooms and Beyond: Partisan Advisers and the Politics of Policy Work in Canada* (Toronto: University of Toronto Press, 2016), Introduction, ch 1.

Donald Savoie, "The Canadian public service has a personality," *Canadian Public Administration* 49:3 (2006) 261-281.

J.E. Hodgetts, *Pioneer Public Service* (Toronto: University of Toronto Press, 1955), ch. XVI.

Denis Grube, "Public voices from anonymous corridors: The public face of the public service in a Westminster system," *Canadian Public Administration* 56:1 (2013) 3-25.

Donald Savoie, "Intrastate Federalism and the Civil Service," in Hans Michelmann and Christine de Clercy (eds) *Continuity and Change in Canadian Politics* (Toronto: University of Toronto Press, 2006), 64-88.

John Shields and Bryan Evans, *Shrinking the State: Globalization and Public Administration "Reform"* (Halifax: Fernwood, 1998).

Heather Whiteside, *Purchase for Profit: Public-Private Partnerships and Canada's Public Health-Care System* (Toronto: University of Toronto Press, 2015), ch, 3.

Gregory Albo, "Democratic Citizenship and the Future of Public Management," in Greg Albo, David Langille and Leo Panitch (eds.) *A different kind of state? Popular Power and Democratic Administration* (Toronto: Oxford University Press, 1993), 17-33.

Ian Brodie, "In Defense of Political Staff," *Canadian Parliamentary Review* 35:3 (2012)

## **Week 7 (Oct 17) mid-term break, NO CLASS**

## **Week 8 (Oct 24) Federalism**

Topic: Federalism

Readings:

Barbara Cameron, "Social Reproduction and Canadian Federalism," in Kate Bezanson and Meg Luxton (eds) *Social Reproduction: Feminist Political Economy Challenges Neo-Liberalism* (Montréal: McGill-Queen's University Press, 2006), 45-74.

Noura Karazivan, "Cooperative Federalism in Canada and Quebec's Changing Attitudes," in Richard Albert, Paul Daly and Vanessa MacDonnell (eds.) *The Canadian Constitution in Transition* (Toronto: University of Toronto Press, 2019), 136-166.

And two of:

André Lecours, "Dynamic De/Centralization in Canada, 1867–2010," *Publius: The Journal of Federalism*, 49:1 (2019) 57-83.

Peter Graefe. "Corporatization and Federal-Provincial Relations," in Jamie Brownlee, Chris Hurl and Kevin Walby (eds.) *Corporatizing Canada: Making Business Out of Public Service*. (Toronto: Between the Lines, 2018), 141-153.

Robert Schertzer, Andrew McDougall, Grace Skogstad, "Multilateral Collaboration in Canadian Intergovernmental Relations: The Role of Procedural and Reciprocal Norms," *Publius: The Journal of Federalism* 48:4 (2018), 636-663.

Additional readings:

Julie Simmons, "Canadian multilateral intergovernmental institutions and the limits of institutional innovation," *Regional and Federal Studies* 27:5 (2017), 573-596.

Anna Esselment, "Federal Feet and Provincial Pools: The Conservatives and Federalism in Canada," in J.P. Lewis and Joanna Everitt (eds.) *The Blueprint: Conservative Parties and Their Impact on Canadian Politics* (Toronto: University of Toronto Press, 2017), 290-313.

Robert Schertzer, "Collaborative Federalism and the Role of the Supreme Court of Canada," in Emmett Macfarlane (ed.) *Policy Change, Courts and the Canadian Constitution* (Toronto: University of Toronto Press, 2018).

Robert Schertzer, *The Judicial Role in a Diverse Federation* (Toronto: University of Toronto Press, 2016), ch. 1.

Alain Noël, "How do you limit a power that does not exist" and Andrew Petter, "The Myth of the Federal Spending Power Revisited," in John R. Allan *et al.*, *Canada: The State of the Federation 2008: Open Federalism and the Spending Power* (Kingston: Institute of Intergovernmental Relations, 2012), 167-182, 183-192.

Adam Harmes, "The Political Economy of Open Federalism," in *Canadian Journal of Political Science* 40:2 (2007) 417-437.

François Rocher and Marie-Christine Gilbert, "Re-Federalizing Canada: Refocusing the Debate on Decentralization," in Ruth Hubbard and Gilles Paquet (eds.) *The Case for Decentralized Federalism* (Ottawa: University of Ottawa Press, 2010) 116-158.

Rianne Mahon and Deborah Brennan, "Federalism and the 'New Politics' of Welfare Development: Childcare and Parental Leave in Australia and Canada," *Publius* 43:1 (2013), 90-108.

Jean-François Caron, Guy Laforest and Catherine Vallières-Roland, "Canada's Federative Deficit," in Alain-G. Gagnon, *Contemporary Canadian Federalism: Foundations, Traditions, Institutions* (Toronto: University of Toronto Press, 2009), 132-162.

Julie M. Simmons, "Democratizing Executive Federalism: The Role of Non-Governmental Actors in Intergovernmental Agreements," in Herman Bakvis and Grace Skogstad (eds) *Canadian Federalism: Performance, Effectiveness, and Legitimacy*, 2<sup>nd</sup> ed. (Toronto: Oxford University Press, 2008), 355-379.

Eric Montpetit, "[Easing Dissatisfaction with Canadian Federalism? The Promise of the Strategy of Disjointed Incrementalism](#)," *Canadian Political Science Review* 2:3 (2008).

Guy Laforest, "The Meaning of Canadian Federalism in Québec: Critical Reflections," *Revista d'estudis autonòmics i federals* 11 (2010), 10-55.  
[http://www10.gencat.cat/drep/binaris/\\_reaf11\\_Laforest\\_tcm112-132308.pdf](http://www10.gencat.cat/drep/binaris/_reaf11_Laforest_tcm112-132308.pdf)

Jennifer Smith, *Federalism* (Vancouver: UBC Press, 2004).

Alain-G. Gagnon and Raffaele Iacovino, *Federalism, Citizenship, and Quebec* (Toronto: University of Toronto Press, 2007).

François Rocher, "The Quebec-Canada Dynamic or the Negation of the Ideal of Federalism," in Alain-G. Gagnon, *Contemporary Canadian Federalism: Foundations, Traditions, Institutions* (Toronto: University of Toronto Press, 2009), 81-131.

Peter Graefe, "The Spending Power and Federal Social Policy Leadership: A Prospective View," in *Defining the Federal Government's Role in Social Policy: The Spending Power and Other Instruments* (Montreal: IRPP, 2008).

Alain Noël, "Power and Purpose in Intergovernmental Relations," *Policy Matters*, 2:6 (2001).

Janet Aizenstat, *The Canadian Founding*, ch. 5.

Janet Aizenstat et al. (ed.) *Canada's Founding Debates*, ch. 9.

Jörg Broschek, "Historical Institutionalism and the Varieties of Federalism in Germany and Canada," *Publius*, 42: 4 (2012) 662-687.

Julie M. Simmons and Amy Nugent, "Panacea or Peril: Intergovernmental Accountability and the Auditor General" in Peter Graefe, Julie M. Simmons and Linda A.

White (eds) *Overpromising and Underperforming?* (Toronto: University of Toronto Press, 2012).

## **Week 9 (Oct 31) Courts and the Charter**

Topic: Courts and the Charter

Readings:

Andrew Petter, "Legalise This: The *Chartering* of Canadian Politics," in James Kelly and Christopher Manfredi (eds) *Contested Constitutionalism: Reflections on the Canadian Charter of Rights and Freedoms* (Vancouver: UBC Press, 2009), 33-49.

Three of:

Janet Hiebert, "The Charter, Policy, and Political Judgment." In Emmett Macfarlane (ed.) *Policy Change, Courts, and the Canadian Constitution*. Toronto: University of Toronto Press.

Emmett McFarlane, "[You Can't Always Get What You Want": Regime Politics, the Supreme Court of Canada and the Harper Government.](#)" *Canadian Journal of Political Science* forthcoming.

John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016), ch. 4.

Samuel LaSelva, *Canada and the Ethics of Constitutionalism: Identity, Destiny and Constitutional Faith*. Montreal: McGill-Queen's University Press, 2018. Ch. 4.

Additional readings:

James B. Kelly, "Legislative Activism and Parliamentary Bills of Rights: Institutional Lessons for Canada," in James Kelly and Christopher Manfredi (eds) *Contested Constitutionalism: Reflections on the Canadian Charter of Rights and Freedoms* (Vancouver: UBC Press, 2009), 86-105.

Andrew Petter, "Wealthcare: The Politics of the Charter Re-visited," in Colleen M. Flood et al. (eds), *Access to Care, Access to Justice: The Legal Debate Over Private Health Insurance in Canada* (Toronto: University of Toronto Press, 2005).

Robert Schertzer, *The Judicial Role in a Diverse Federation* (Toronto: University of Toronto Press, 2016), pp. 271-292.

Dennis Baker, *Not Quite Supreme: The Courts and Coordinate Constitutional Interpretation* (Montreal: McGill-Queen's University Press, 2010).

Janet Hiebert, "Wrestling with Rights: Judges, Parliament and the Making of Social Policy," in Paul Howe and Peter Russell (eds.) *Judicial Power and Canadian Democracy* (Montreal: McGill-Queen's University Press, 2001), 165-213

Erin Crandell, "DIY101: The Constitutional Entrenchment of the Supreme Court of Canada." in Emmett Macfarlane (ed.) *Constitutional Amendment in Canada* (Toronto: University of Toronto Press, 2016), ch.9.

Andrea Lawlor and Erin Crandell, "Questioning Judges with a Questionable Process: An Analysis of Committee Appearances by Supreme Court Candidates." *Canadian Journal of Political Science* 48: 4 (2015) 863-883.

Erin Crandall and Andrea Lawlor, "The Politics of Judicial Appointment: Do Party Connections Impede the Appointment of Women to Federally Appointed Courts?" *Canadian Journal of Political Science* 50:3 (2017), 823-847.

Miriam Smith, "Ghosts of the JCPC," *Canadian Journal of Political Science*, 35:1 (2002), 3-29.

Emmett Macfarlane, "Administration at the Supreme Court of Canada: Challenges and Change in the Charter Era," *Canadian Public Administration* 52:1 (2009), 1-21.

Emmett Macfarlane, *Governing from the Bench: The Supreme Court of Canada and the Judicial Role* (Vancouver: UBC Press, 2013)

Nadia Verelli (ed.), *The Democratic Dilemma: Reforming Canada's Supreme Court* (Montreal: McGill-Queen's University Press, 2013).

Robert Schertzer, "Recognition or Imposition? Federalism, national minorities, and the Supreme Court of Canada," *Nations and Nationalism* 14:1 (2008) 105-126.

Dimitrios Panagos, *Uncertain Accommodation: Aboriginal Identity and Group Rights in the Supreme Court of Canada*. Vancouver: UBC Press, 2016.

Ian Greene, *Courts* (Vancouver: UBC Press, 2005).

Institute of Intergovernmental Relations, Special Working Paper Series on the Federal Dimensions of Reforming the Supreme Court of Canada.

## **Week 10 (Nov 7) The 1982 Constitution**

Topic: The 1982 Constitution

Readings:

Alan Cairns, *Reconfigurations* (Toronto: McClelland and Stewart, 1995), ch. 4.

Samuel LaSelva, *Canada and the Ethics of Constitutionalism: Identity, Destiny and Constitutional Faith*. Montreal: McGill-Queen's University Press, 2018. Ch. 3.

John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto: University of Toronto Press, 2016), ch. 3.

Carissima Mathen, "The Federal Principle: Constitutional Amendment and Intergovernmental Relations." In Emmett Macfarlane (ed.) *Constitutional Amendment in Canada*. Toronto: University of Toronto Press, 2016. 65-84.

Additional Readings:

Janet L. Hiebert, "Compromise and the Notwithstanding Clause: Why the Dominant Narrative Distorts our Understanding," in James Kelly and Christopher Manfredi (eds) *Contested Constitutionalism: Reflections on the Canadian Charter of Rights and Freedoms* (Vancouver: UBC Press, 2009), 107-125.

Frédéric Bastien, "Britain, the Charter of Rights and the spirit of the 1982 Canadian Constitution," *Commonwealth & Comparative Politics* 48:3 (2010), 320-47.

Dennis Baker and Mark D. Jarvis, "The End of Informal Constitutional Change in Canada?" In Emmett Macfarlane (ed.) *Constitutional Amendment in Canada* (Toronto: University of Toronto Press, 2016), ch.9.

Guy Laforest, "The Internal Exile of Quebecers in the Canada of the Charter," in James Kelly and Christopher Manfredi (eds) *Contested Constitutionalism: Reflections on the Canadian Charter of Rights and Freedoms* (Vancouver: UBC Press, 2009), 251-262.

Sujit Choudhry, "Bills of Rights as Instruments of Nation Building in Multinational States: The Canadian Charter and Quebec Nationalism," in James Kelly and Christopher Manfredi (eds) *Contested Constitutionalism: Reflections on the Canadian Charter of Rights and Freedoms* (Vancouver: UBC Press, 2009), 233-250.

Reg Whitaker, *A Sovereign Idea* (Montreal: McGill-Queen's University Press, 1992), ch. 7.

James Tully, "Introduction," in Alain-G. Gagnon and James Tully (eds.) *Multinational Democracies* (Cambridge: Cambridge University Press, 2001), 1-33.

Kenneth McRoberts, "Canada and the Multinational State," *Canadian Journal of Political Science* 34:4 (2001) 683-713.

Alexandra Dobrowolsky, "Of 'Special Interest': Interest, identity and Feminist Constitutional Activism in Canada," *Canadian Journal of Political Science* 31:4 (1998) 707-742.

\*Matt James, *Misrecognized Materialists: Social Movements in Canadian Constitutional Politics* (Vancouver: UBC Press, 2006).

Peter H. Russell, "Can the Canadians Be a Sovereign People?" *Canadian Journal of Political Science*, vol. 24, no. 4 (1991) 691-709.

Matt James, "The Politics of Honourable Constitutional Inclusion and the Citizens' Constitution Theory," in Gerald Kernerman and Philip Resnick (eds.) *Insiders & Outsiders* (Vancouver: UBC Press, 2005), 132-147.

Samuel V. LaSelva, "[The Canadian Charter, the British Connection, and the Americanization Thesis: Toward a Montesquieuean Analysis of Rights and Their Protection](#)," *Canadian Journal of Political Science*, vol. 50, no. 4 (2017), pp. 1061-1081

## **Week 11 (Nov 14) Indigenous Peoples and Colonial Institutions**

Topic: Indigenous Peoples and Colonial Institutions

### Readings:

Jeremy Webber, "We Are Still in the Age of Encounter: Section 35 and a Canada beyond Sovereignty," in Patrick Macklem and Douglas Sanderson (eds.) *From Recognition to Reconciliation: Essays on the Constitutional Entrenchment of Aboriginal and Treaty Rights* (Toronto: University of Toronto Press, 2016)

Michael Asch, *On Being Here to Stay* (Toronto: University of Toronto Press, 2014), ch. 2

And two of:

Brenda Gunn, "Getting it Right: The Canadian Constitution and International Indigenous Rights," in Joyce Green (ed.) *Indivisible: Indigenous Human Rights* (Halifax: Fernwood, 2014), 194-216.

Gina Starblanket and Heidi Kiiwetinepinesiik Stark, "Towards a Relational Paradigm – Four Points for Consideration: Knowledge, Gender, Land and Identity," in Michael Asch, John Borrows and James Tully (eds.) *Resurgence and Reconciliation* (Toronto: University of Toronto Press, 2018), 175-207.

Michael McCrossan and Kiera L. Ladner, "Eliminating Indigenous Sovereignty: Federalism, the Supreme Court of Canada, and Territorial Rationalities of Power," *Canadian Journal of Political Science* 49:3 (2016), 411-431.

Hayden King, "Treaty Making and Breaking in Settler Colonial Canada," in Janine Brodie (ed.) *Contemporary Inequalities and Social Justice in Canada* (Toronto: University of Toronto Press, 2018), 107-123.



Additional readings:

Michael Morden, "Theorizing the resilience of the Indian Act," *Canadian Public Administration* 59: 1 (2016) 113-133.

Hayden King, "New Treaties, Same Old Dispossession: A Critical Assessment of Land and Resource Management Regimes in the North." In Martin Papillon (ed.) *Canada State of the Federation 2013: Aboriginal Multilevel Governance*. (Kingston: Institute for Intergovernmental Relations, 2015), 83-98.

White, G. (2018), Issues of independence in Northern Aboriginal-state co-management boards. *Can Public Admin*, 61: 550-571. doi:[10.1111/capa.12302](https://doi.org/10.1111/capa.12302)

Heritz, J. (2018), From self-determination to service delivery: Assessing Indigenous inclusion in municipal governance in Canada. *Can Public Admin*, 61: 596-615. doi:[10.1111/capa.12277](https://doi.org/10.1111/capa.12277)

Poucette, T. L. (2018), Spinning wheels: Surmounting the Indian Act's impact on traditional Indigenous governance. *Can Public Admin*, 61: 499-522. doi:[10.1111/capa.12307](https://doi.org/10.1111/capa.12307)

Ian Peach, "Who speaks for whom? Implementing the Crown's duty to consult in the case of divided Aboriginal political structures." *Canadian Public Administration* 59: 1 (2016) 95-112.

Christopher Alcantara and Adrienne Davidson, "Negotiating Aboriginal Self-Government Agreements in Canada: An Analysis of the Inuvialuit Experience." *Canadian Journal of Political Science* 48:3 (2015) 553-575.

Christa Scholtz, "Part II and Part V: Aboriginal Peoples and Constitutional Amendment." In Emmett Macfarlane (ed.) *Constitutional Amendment in Canada* (Toronto: University of Toronto Press, 2016), ch. 4.

Kiera Ladner, "Negotiated Inferiority: The Royal Commission on Aboriginal People's Vision of a Renewed Relationship," *American Review of Canadian Studies* 31 (2001), 241-64.

Graham White, "Treaty Federalism in Northern Canada: Aboriginal-Government Land Claims Boards," *Publius* 32:3 (2002), 89-114.

Greg Poelzer and Ken Coates, "Aboriginal Peoples and the Crown in Canada: Completing the Canadian Experiment," in Hans Michelmann and Christine de Clercy (eds) *Continuity and Change in Canadian Politics* (Toronto: University of Toronto Press, 2006), 147-169.

Reg Whitaker, "Sovereignties Old and New: Canada, Quebec and Aboriginal Peoples," *Studies in Political Economy* 58 (1999) 69-96.

Paul McHugh and Lisa Ford, "Settler Sovereignty and the shapeshifting Crown," in Lisa Ford, Tim Rowse and Anna Yeatman (eds.) *Between Indigenous and Settler Governance* (New York: Taylor and Francis, 2012), ch. 3.

## **Week 12 (Nov 21) Electoral Institutions and Political Parties**

Topic: Electoral Institutions and Political Parties

Readings:

Dennis Pilon, "The Contested Origins of Canadian Democracy," *Studies in Political Economy* 98:2 (2017) 105-123.

Veronica Strong-Boag, "The Citizenship Debates: The 1885 Franchise Act," in Robert Adamoski, Dorothy E. Chunn, & Robert Menzies (eds) *Contesting Canadian Citizenship* (Peterborough: Broadview Press, 2002), 69-94.

Ken Carty, "Brokerage Parties, Brokerage Politics," in Richard Johnston and Campbell Sharman (eds.) *Parties and Party Systems: Structure and Context* (Vancouver: UBC Press 2015).

Michael Pal, "Is the Permanent Campaign the End of the Egalitarian Model for Elections?" in Richard Albert, Paul Daly and Vanessa MacDonnell (eds.) *The Canadian Constitution in Transition* (Toronto: University of Toronto Press, 2019), 338-367.

Additional readings:

Alan Cairns, "The Electoral System and the Party System in Canada, 1921-1965," *Canadian Journal of Political Science*, 1:1 (1968) 55-80.

Dennis Pilon, "[Democratic Leviathan: Defending First-Past-the-Post in Canada.](#)" *Canadian Political Science Review* 12:1 (2018), 24-49 (esp. 31-43).

Dennis Pilon, "Explaining Voting System Reform in Canada, 1874 to 1960," *Journal of Canadian Studies*, 40:3 (2006), 135-161.

Elections Canada, *A History of the Vote in Canada*, 2<sup>nd</sup> ed. (Ottawa: Elections Canada, 2007) [http://www.elections.ca/res/his/History-Eng\\_Text.pdf](http://www.elections.ca/res/his/History-Eng_Text.pdf)

John C. Courtney, *Elections* (Vancouver: UBC Press, 2004).

Harold D. Clarke et al. *Absent Mandate: Strategies and Choices in Canadian Elections* (Toronto: University of Toronto Press, 2019).

Matthew Mendlsohn and Sujit Choudhry, [Voter equality and other Canadian values: Finding the Right Balance.](#) (Toronto: Mowat Centre for Policy Innovation, 2011).

Michael Pal and Sujit Choudhry, "[Is Every Ballot Equal: Visible Minority Vote Dilution in Canada](#)," *Choices* 13:1 (2007), 1-21.

Richard S. Katz, "Finance Reform and the Cartel Party Model in Canada," in Lisa Young and Harold J. Jansen (eds) *Money, Politics and Democracy: Canada's Party Finance Reforms* (Vancouver: UBC Press, 2011), 60-81.

Royce Koop, "Party Constituency Associations and the Service, Policy and Symbolic Responsiveness of Canadian Members of Parliament." *Canadian Journal of Political Science*, 45:2 (2012) 359-378.

### **Week 13 (Nov 28) The Crown**

Topic: The Crown

Readings:

David E. Smith, *The Invisible Crown* (Toronto: University of Toronto Press, 1995), ch. 2, 5.

Philippe Lagassé, "Parliamentary and judicial ambivalence toward executive prerogative powers in Canada," *Canadian Public Administration*, 55:2 (2012), 157-180.

Mariana Valverde and Adriel Weaver, "'The Crown Wears Many Hats': Canadian Aboriginal Law and the Black-boxing of Empire," in Kyle McGee (ed.) *Latour and the Passage of Law* (Oxford: Oxford University Press, 2015), 93-121.

Additional readings:

Philippe Lagassé and Patrick Baud. "The Crown and Constitutional Amendment after the Senate and Supreme Court References<sup>[T] [SEP]</sup>" In Emmett Macfarlane (ed.) *Constitutional Amendment in Canada* (Toronto: University of Toronto Press, 2016), ch.12.

Barbara Cameron, "The Office and Powers of the Governor General: Political Intention and Legal Interpretation," *Journal of Parliamentary and Political Law* 6 (2012), 87-106.

Edward McWhinney, *The Governor General and the Prime Ministers: The Making and Unmaking of Governments*, (Vancouver: Ronsdale Press, 2005), ch. 4.

Notes: In this class we will also take some time for the informal presentation of term papers

## **Course Policies**

### **Submission of Assignments**

[Insert policy on format of assignments and how to be submitted]

### **Grades**

Grades will be based on the McMaster University grading scale:

<b>MARK</b>	<b>GRADE</b>
90-100	A+
85-90	A
80-84	A-
77-79	B+
73-76	B
70-72	B-
69-0	F

### **Late Assignments**

Late papers will be assessed a penalty of two percentage points per day.

### **Absences, Missed Work, Illness**

In the event of an absence for medical or other reasons, students should review and follow the Academic Regulation in the Undergraduate Calendar “Requests for Relief for Missed Academic Term Work”.

### **Avenue to Learn**

In this course we will be using Avenue to Learn. Students should be aware that, when they access the electronic components of this course, private information such as first and last names, user names for the McMaster e-mail accounts, and program affiliation may become apparent to all other students in the same course. The available information is dependent on the technology used. Continuation in this course will be deemed consent to this disclosure. If you have any questions or concerns about such disclosure please discuss this with the course instructor.

### **Turnitin.com**

In this course we will be using a web-based service (Turnitin.com) to reveal authenticity and ownership of student submitted work. Students will be expected to submit their work electronically either directly to Turnitin.com or via Avenue to Learn (A2L) plagiarism detection (a service supported by Turnitin.com) so it can be checked for academic dishonesty. Students who do not wish to submit their work through A2L and/or Turnitin.com must still submit an electronic and/or hardcopy to the instructor. No penalty will be assigned to a student who does not submit work to Turnitin.com or A2L. All submitted work is subject to normal verification that standards of academic integrity have been upheld (e.g., on-line search, other software, etc.). For more information please refer to the [Turnitin.com Policy](#).

## **Academic Accommodation for Religious, Indigenous or Spiritual Observances (RISO)**

Students requiring academic accommodation based on religious, indigenous or spiritual observances should follow the procedures set out in the RISO policy. Students requiring a RISO accommodation should submit their request to their Faculty Office normally within 10 working days of the beginning of term in which they anticipate a need for accommodation or to the Registrar's Office prior to their examinations. Students should also contact their instructors as soon as possible to make alternative arrangements for classes, assignments, and tests

## **University Policies**

### **Academic Integrity Statement**

You are expected to exhibit honesty and use ethical behaviour in all aspects of the learning process. Academic credentials you earn are rooted in principles of honesty and academic integrity.

Academic dishonesty is to knowingly act or fail to act in a way that results or could result in unearned academic credit or advantage. This behaviour can result in serious consequences, e.g. the grade of zero on an assignment, loss of credit with a notation on the transcript (notation reads: "Grade of F assigned for academic dishonesty"), and/or suspension or expulsion from the university.

It is your responsibility to understand what constitutes academic dishonesty. For information on the various types of academic dishonesty please refer to the [Academic Integrity Policy](#).

The following illustrates only three forms of academic dishonesty

- Plagiarism, e.g. the submission of work that is not one's own or for which other credit has been obtained.
- Improper collaboration in group work.
- Copying or using unauthorized aids in tests and examinations.

### **Academic Accommodation of Students with Disabilities**

Students who require academic accommodation must contact [Student Accessibility Services \(SAS\)](#) to make arrangements with a Program Coordinator. Academic accommodations must be arranged for each term of study. Student Accessibility Services can be contacted by phone 905-525-9140 ext. 28652 or e-mail [sas@mcmaster.ca](mailto:sas@mcmaster.ca). For further information, consult McMaster University's Policy for [Academic Accommodation of Students with Disabilities](#).

### **Faculty of Social Sciences E-mail Communication Policy**

Effective September 1, 2010, it is the policy of the Faculty of Social Sciences that all e-mail communication sent from students to instructors (including TAs), and from students to staff, must originate from the student's own McMaster University e-mail account. This policy protects confidentiality and confirms the identity of the student. It is the student's responsibility to ensure that communication is sent to the university from a McMaster account. If an instructor becomes aware that a communication has come from an alternate address, the instructor may not reply at his or her discretion.

### **Course Modification**

The instructor and university reserve the right to modify elements of the course during the term. The university may change the dates and deadlines for any or all courses in extreme circumstances. If either type of modification becomes necessary, reasonable notice and communication with the students will be given with explanation and the opportunity to comment on changes. It is the responsibility of the student to check his/her McMaster email and course websites weekly during the term and to note any changes.