



CENTRE *for* CONSTITUTIONAL STUDIES
Centre d'études constitutionnelles

Annual Report
Centre for Constitutional Studies
2014-2015

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About the Centre and Highlights

The Centre for Constitutional Studies is an academic centre in the Faculty of Law at the University of Alberta. It is the cross-sector, constitutional research and public education hub in Canada. As an academic centre at the University of Alberta, it creates important connections between leading Canadian and international constitutional thinkers, makes key contributions to central debates about the Constitution and produces excellent resources that serve to inform the public about what the Constitution is and does.

The Centre was formed in 1987 as collaboration between the University of Alberta Faculty of Law and the Departments of Political Science, History and Sociology. It has two mandates: research and public legal education on the subject of constitutional issues.

OBJECTS

- 3.1 To undertake, facilitate and encourage multidisciplinary, interdisciplinary and cross-sector research about constitutional issues;
- 3.2 To facilitate the production of high-quality publications for scholars, the legal community and the public;
- 3.3 To promote an understanding and appreciation of constitutional issues among the public, private and not-for-profit sectors;
- 3.4 To serve as a resource for information and expertise about constitutional issues.

2014-2015 began with a review by the Dean, Faculty of Law, per the University of Alberta Centres and Institutes Operation Procedure, requiring a 5-year strategic and operational review of all Centres and Institutes. The Review Report produced for Faculty of Law Dean, Phil Bryden (as he then was) supported the continuation of the CCS and concluded that, “CCS is a vibrant and successful research centre with a longstanding history and enviable national reputation. The Faculty derives considerable benefits from its presence and should do everything it reasonably can to help it continue to prosper”.

By far the most significant highlight of the 2014-2015 year was the Centre’s Senate Reform conference, ‘Time for Boldness on Senate Reform’. This was a national conference which brought together academics in law and political science from across Canada along with senators and politicians who put forward some practical ideas for reform of Canada’s Upper House. A Special Issue of *Constitutional Forum* featuring articles from many of the speakers at the conference will be published in June, 2015. The overwhelming view of participants and speakers at the conference was that the Centre should host a follow-up event to push the reform agenda forward.

The Centre welcomed a new Editor in Chief for the *Review of Constitutional Studies*, Professor Peter Carver. And on the public education front, the Centre piloted a one hour presentation for grade 6 students on, What is a Constitution? We hope to see this pilot develop into a regular feature of the public education programming produced by the Centre. It is an excellent opportunity for students of law to hone their constitutional knowledge by breaking it down to an understandable level for primary school students.

Programming: 2014 – 2015

Research

Conference: Time for Boldness on Senate Reform

On March 13th and 14th the Centre for Constitutional Studies hosted a conference titled **Time for Boldness on Senate Reform**. [View conference agenda](#).

Academics in law (Adam Dodek, Peter Carver, Kate Glover), political science (David E. Smith,



Roger Gibbins, Linda Trimble, Bruce Hicks, Andrew Heard, Lori Turnbull), Senators (Hon. Jim Cowan, Hon. Elaine McCoy, Hon. Claudette Tardif), politicians (Hon. Stephane Dion, James Rajotte, Craig Scott) and former politicians (Rt. Hon. Kim Campbell, Hon. Anne McLellan) all presented their views on the way forward for Canada with respect to its

Upper House. It provided a unique opportunity for this rich diversity of voices to hear from each other on the subject of moving boldly toward reform.

The conference was recorded and video from all sessions is available for viewing on the [Centre's YouTube channel](#). Proceedings and commentary on the conference will be published in a Special Issue of the *Constitutional Forum*.

Read a more detailed summary of the conference on [Arthur Grant's blogpost](#).

Andrew Heard has also written an adaptation of his presentation in the [National Post](#).

Annual Constitutional Symposium

3rd Annual Constitutional Symposium – October 3, 2014 – The Centre for Constitutional Studies in association with the Legal Education Society of Alberta hosted the Third Annual Constitutional Symposium at the University of Alberta. The full day Symposium featured updates and analysis of recent Supreme Court of Canada constitutional decisions such as *Canada (AG) v Bedford*, *R v Daniels*, and *Tsilhqot'in Nation v British Columbia*, and their impact on constitutional law. Sean Fine, *Globe and Mail* Justice Writer, and retired Supreme Court Justice Hon. John C. Major provided a lively exchange in the last panel of the day on the subject of 'Dialogue' between the Courts and the Harper Government.

Publications

Review of Constitutional Studies



The ***Review of Constitutional Studies*** is published twice yearly and is unique as the only interdisciplinary journal in Canada that publishes academic work on constitutional issues. Submissions to the journal are received from scholars around the world and once accepted, are subjected to two reviews using a double-blind peer review process. In 2014-2015 the Centre published **Volume 19.1**, which included articles from well-known academics Hugo Cyr, Rainer Knopff and Dennis Baker. This issue included a new regular feature from our Book Review Editor, Dwight Newman, called Book Notes. This feature provides short synopses of several books which we do not have the space to review in full. It is a welcome addition to our journal. Table of Contents for **Volume 19.1** can be found at

Appendix B of this Report.

Publication of **Volume 19.2** was delayed due in large part to its length. This Volume is the first to be published with the *Review's* new Editor in Chief, Peter Carver, who is a professor of constitutional and administrative law in the Faculty of Law at the University of Alberta.

The *Review* is fortunate to have an **Editorial Board** comprised of enthusiastic scholars from across Canada: Editor in Chief, Professor Peter Carver, Law, U of A; Professor Dwight Newman,

Law, U Sask, Book Review Editor; Professor Margot Young, Law, UBC; Professor Steve Patten, Political Science, U of A; Professor Eric Adams, Law, U of A; Professor Ben Berger, Law, Osgoode; Professor Robert Leckey, Law, McGill and Professor Alexandra Dobrowolsky, Political Science, Saint Mary's University.

Constitutional Forum



The **Constitutional Forum** is the Centre's online journal. Its purpose is to provide a forum for dialogue, discussion and debate among legal practitioners and academics about topics of constitutional significance. Articles are meant to be short and interesting, and issues of the journal are published on an ongoing basis. Three issues of the *Forum* were published in 2014-2015: 23.2, 23.3 and 23.4. Volume 23.2 was a compendium of papers presented at the Centre's Constitutional Symposium in October, 2014. Volume 23.3 included articles on judicial activism in Spain and on participatory democracy in Greece. An argument was made by Ian Peach in his article that the Supreme Court's *Reference re Supreme Court Act*, expanded Canada's Constitution. Lastly, Volume 23.4 was a special issue focussed on cooperative federalism with articles written by 3 Quebec scholars, Hugo Cyr, Jean-Francois Gaudreault Desbiens and Paul Daly. The authors argued that the Constitution should be interpreted to include the concept of cooperative federalism, specifically in relation to the Quebec Long Gun Registry case that was heard by the Supreme Court of Canada in Fall, 2014.

Books

Professors Lois Harder and Steve Patten, Department of Political Science, University of Alberta are co-editing a volume of papers presented at the Patriation Negotiations Conference hosted by the Centre for Constitutional Studies in 2011. The book will also contain selected other papers. It promises to be a seminal work on the patriation of Canada's Constitution – its process and its consequences. Launch of this book is planned for June 2, 2015 at Congress.

Public Legal Education

The Centre's Public Legal Education program aims to make the Constitution relevant to Albertans. It does this by providing accurate, relevant, and accessible information about the Constitution to the general public. "Know Your Constitution" is the Centre's public legal education motto. The Centre uses a variety of means to accomplish this goal.

Website and Social Media

The Centre's [website](#) is the primary tool used for providing information to the public about the Constitution. The website features articles, constitutional news, information about upcoming events, and links to the Centre's webcasts and publications. Traffic to the website has grown steadily over the last few years and several hundred people visit the website on a daily basis searching for information about the Constitution. Website traffic has more than quadrupled in 2014-2015 compared to 2013-2014.

The Centre is also active on [Twitter](#) and [YouTube](#). The Centre uses Twitter to keep people informed of new content on the website, upcoming events, and links to constitutional news. YouTube is used to post videos from all of the Centre's public events. Several thousand people have accessed the Centre's YouTube channel to watch these videos.

Newsletter

The Centre continues to publish its newsletter, [Constitutional Currents](#). *Constitutional Currents* is an electronic newsletter published four times a year with close to 3000 subscribers. The purpose of the newsletter is to provide schools and the general public with useable, plain language information about the Constitution. It links to articles about the Constitution and to webcasts of speaker events from the Centre's website. It also announces upcoming public lectures and events at the Centre. Anyone can sign up to receive the Newsletter by visiting the Centre's website and clicking the ["Newsletter Subscribe"](#) button.

Summer Student Program

Each summer the Centre hires Law students to write plain language articles on specific court cases and broader constitutional issues for the Centre's website. The purpose of these articles is to provide the public with interesting, accessible, and accurate information about the Constitution and about the nature and importance of constitutional issues.

During the summer of 2014 the Centre hired three students: Andrew Lawrence (JD 2016), Mia Reimers (JD 2016), and Lorraine Snyder (JD 2016). These students wrote 20 articles for the Centre. The articles were a mix of Featured Court Rulings, articles about current constitutional issues, and keywords. In addition to writing, the students also developed and piloted a teaching module on the Constitution for grade 6 students.

These are the articles that the 2014 summer students completed:

Featured Court Rulings:

- [**Alberta v UFCW 401 \(2013\): Highest Court Upholds Union's Constitutional Freedom of Expression at Picket Line**](#)

- [*R v Caron \(2014\)*: Alberta has no Constitutional Obligation to Publish Laws in French](#)
- [*R v SA \(2014\)*: The Charter's guarantee of Life, Liberty and Security of Person does not include a right to use Edmonton's Transit System](#)
- [*Canada \(AG\) v Bedford*: Canada's Prostitution Laws Found Unconstitutional](#)
- [*Tsilhqot'in Nation v British Columbia \(2014\)*: An Expansion of Title and Justification](#)
- [*Reference re Senate Reform \(2014\)*: The Supreme Court Clarifies the Senate Reform Process](#)
- [*Reference re Supreme Court Act*: Defining Appointments to Canada's Highest Court](#)
- [*R v Taylor \(2014\)*: Right to counsel includes access to counsel](#)

Constitutional Issues Articles

- [The Constitution and Canada's Branches of Government](#)
- [Freedom of Association: The Constitutional Limits of Union Rights](#)
- [Charter's Freedom of Association Now Includes the Right to Strike: A decision 28 years in the making may profoundly alter labour relations in Canada](#)
- [Constitutional Challenges: Public Interest Standing](#)

Constitutional Keywords

- [Colourability](#)
- [Fundamental Freedoms](#)
- [Living Tree Doctrine](#)
- [Oakes Test](#)
- [Patriation](#)
- [Reference Question](#)
- [Senate](#)
- [Sui Generis](#)

Special Projects

Teaching Modules on the Constitution: As part of an Edmonton based project called **Inquiring Minds**, two of the Centre's summer students created a teaching module on the Constitution for

presentation to grade 6 students. The module consists of a PowerPoint presentation and interactive activities designed to teach students about the basics of Canada's Constitution. The Centre worked with educators from



several of the campuses involved with the Inquiring Minds project to design this module: City Hall Schools, Edmonton Journal Schools, USchool, and Alberta's Legislative Assembly. The module was successfully piloted in January with the help of student volunteers from the Faculty of Law.

Constitutional Envelopes: One of the Centre's students began work on a new project called 'constitutional envelopes'. These envelopes will feature landmark cases such as *Hunter v Southam*. Each envelope, when completed, will contain legal arguments, facts, decisions, newspaper articles, and possibly video interviews with key people involved in the case. To date work has begun on the *Hunter v Southam* constitutional envelope. A detailed checklist has been created for the documents required for this envelope and some of the documents have been located. The Centre plans to use this checklist so that future student employees and/or volunteers can continue the work that has been started. Matthew Woodley, CCS board member and partner at Reynolds Mirth Richards and Farmer LLP, has also worked with the Centre to provide input on how to locate necessary documents for the *Hunter v Southam* constitutional envelope.

Student Essay Contest: The Centre sponsored its first ever student essay contest. The contest was open to all post-secondary undergraduate students in the social sciences in Alberta. The purpose of the contest was to provide an opportunity for post-secondary students to research and write about the Constitution and to provide the work of the Centre with more visibility. The winner of the contest, Kaitlin Andersen, won \$1000. Her essay was entitled, *Understanding the Constitutional Hurdles that make Senate Reform a Challenge*. She was presented her award at the Centre's Time for Boldness on Senate Reform Conference.



Speakers & Events

The Centre invites professors, practitioners, and other experts to speak to the public about current constitutional issues throughout the year. In 2014-2015 the Centre hosted several events and drew diverse audiences composed of students, professors, legal practitioners, civil servants, and other members of the public.

Speakers

- [Fear the Fearon? Searches of digital devices incident to arrest](#) – January 29, 2015: In this lecture University of Alberta Law Professor Steven Penney discussed the *R v Fearon* Supreme Court decision. In this decision, the Court ruled that police may (sometimes) search the mobile phones of people they arrest without a warrant. Professor Penney examined whether the decision strikes a reasonable balance between law enforcement and privacy interests. Over 100 people attended the talk and the lecture was followed by a lively Q & A period. The audience was made up of law students, legal professionals, faculty members, and members of the general public.



- **Religious Diversity, Education and the “Crisis” in State Neutrality – February 27, 2015:**



Professor Benjamin Berger, an Associate Professor at Osgoode Hall Law School, discussed how in Canada, as in other countries, public education is a crucible for contemporary debates about the nature of secularism and the management of religious difference. Professor Berger brought insights from the thought of Hannah Arendt to bear on recent Supreme

Court of Canada decisions to explain why this is so and he explored the nature and limits of the concept of state neutrality.

Events



Law Day Alberta 2014 – April 26, 2014:

Law Day is an annual event organized by the Canadian Bar Association for the purpose of increasing public awareness and knowledge and fostering a better understanding of Canada's laws and legal system. The Centre hosted a constitutional appeal at Law Day focusing on section 8 of the *Canadian Charter of Rights and Freedoms* (Everyone has the right to be

secure against unreasonable search and seizure). The scenario involved a young woman being charged with drug trafficking after being pulled over for speeding while driving her mother's car. When the police found marijuana in the car, they also searched the woman's cellphone and found evidence of drug trafficking. After being convicted of drug trafficking as a result of this evidence, the conviction was appealed. At issue was whether the search of the phone constituted an unreasonable search and violated section 8 of the *Charter*. Two lawyers, Alexandra Bailey and Amy Lind, represented the Crown and Defense perspectives before Hon. Madam Justice June Ross. After the ruling, there was a lively question and answer period between the audience, the judge, the crown, and the defense. The audience was very diverse and was made up of young children, including a group of girl scouts, university students, and adults.

- **26th Annual McDonald Lecture** – Professor George Williams, AO – September 11, 2014:

Professor George Williams is one of Australia’s leading constitutional and human rights lawyers. He has appeared as a barrister in the High Court of Australia in some of the most important constitutional law cases on matters such as freedom of speech, freedom from racial discrimination and the rule of law. His lecture was entitled, “Anti-Terrorism Laws and Human Rights”. In his lecture Professor Williams explored the role and limits of bills of rights in the making of anti-terror laws. He discussed Australia’s anti-terror laws which exceed those of many other nations, including Canada, in their sheer number and scope.



- **Blueberry Soup: How Iceland changed the way we think about the world – October 21, 2014:** *Blueberry Soup* is an extraordinary documentary about the constitutional change



in Iceland following the financial crisis of 2008. The film is an account of an eclectic group of individuals that attempt to remake Iceland’s Constitution through a process of deliberative democracy. The Centre screened this documentary as part of a film tour by the film director, Eileen Jerrett. After the film she explained to the audience why she chose to make the

documentary and discussed the importance of the citizen led model of deliberative democracy. She took several questions from the audience following the film and there was a lively discussion about constitution building in Iceland and around the world.

Collaborations

Sexual Assault Law: Equality Gains through the *Charter* – March 22, 2015: In celebration of the 30th anniversary of section 15 of the *Charter*, and of the founding of the Women’s Legal Education and Action Fund (LEAF), LEAF Edmonton and the Centre presented a panel featuring lawyers who have used the concept of substantive equality to advance the rights of



complainants as counsel and interveners in sexual assault law cases before the Supreme Court.

The Centre participates in PLEDGE which is an organization of public legal education providers who meet to share information. It has collaborated in the past with the John Humphrey Centre for Peace and Human Rights, with the Sheldon Chumir Foundation, the Centre for Public Legal Education of Alberta, the Edmonton Community Legal Centre and with the Centre for Sexual Minority Studies. While there have not been collaborations with these organizations in the past year, the Centre continues to be in contact with these organizations for collaborative purposes.

- **Centre for Public Legal Education Alberta (CPLEA)** – CPLEA provides public legal education on legal issues for the public, and the Constitution is one of its focuses. However, CPLEA focuses on law more broadly and typically produces information on landlord/tenant law, family law, and civil law. CPLEA has used information from the Centre's website on its website and they consult with the Centre when they are developing material with respect to constitutional law.
- **Office of Sustainability, University of Alberta** – The Office of Sustainability is the hub of the sustainability initiative at the University of Alberta. They inform, inspire and enable students, faculty and staff to adopt sustainable practices. They focus on environmental, economic, and social sustainability. The Centre partnered with the Office of Sustainability during Sustainability Awareness Week to present the film *Blueberry Soup*. This film fit within their focus of social sustainability because of its emphasis on grassroots democracy.
- **Sheldon Chumir Foundation** – The Sheldon Chumir Foundation focuses on influencing ethical actions in the practical world of politics, business, government, as well as community structures and processes. Its focus on ethics overlaps with constitutional studies when it comes to areas such as human rights and democratic governance.
- **John Humphrey Centre for Peace and Human Rights** – The John Humphrey Centre for Peace and Human Rights focuses on education and projects specifically related to human rights issues which are a subset of the Constitution.
- **Institute for Sexual Minority Studies and Services (iSMSS), University of Alberta** – iSMSS leads research that affects policy development, intervention, education and community outreach for sexual and gender minorities, nationally and globally. Their work on minority rights overlaps with the Centre's PLE activities with respect to constitutionally protected equality rights.
- **Alberta Civil Liberties Research Centre** – does research and public education on human rights and civil liberties issues. The focus of the ACLRC is human rights education and reform and the CCS will be exploring opportunities for possible collaboration in the future as there are clearly areas where constitutional issues, human rights issues and civil liberties intersect.

Organizational and Funding Structure

The Centre for Constitutional Studies is unique as a University Research Centre that links with the Alberta public on issues of constitutional importance. It is the only centre in Canada to focus on constitutional issues from an interdisciplinary perspective and the only constitutional studies centre in Western Canada.

As a ‘constellation’ within the University, the Centre brings together academics from several disciplines within the University of Alberta and other Universities across the country as well as policy makers, lawyers and the public to advance the University’s Academic Plan: *Dare to Discover – Learning, Discovery and Citizenship*.

The Centre’s work includes a **Research** and a **Public Legal Education** (PLE) program. Key to its success is the complementarity of these two programs: research facilitated by the Centre provides the strong, reliable knowledge base essential to creating effective public legal education resources for Albertans.

Accountability

The Centre for Constitutional Studies is an Academic Centre established at the University of Alberta and is accountable to the University through the Dean of the Faculty of Law. The Dean of the Faculty of Law is the trustholder for the Centre.

Advisory Board

The Advisory Board of the Centre is inter-disciplinary with representatives from law, political science, history, philosophy and business at the University of Alberta as well as representatives of the legal profession, the not-for-profit sector, the judiciary and the government. The Board provides oversight for the Dean of Law with respect to the budget and advises on strategic direction for the organization. The Centre is extremely fortunate to have this group of interested, engaged and hardworking advisors who are committed to the Centre’s mandate and who regularly ‘put their shoulders to the wheel’ for fund development, advertising of events and programming suggestions. In keeping with its regular schedule of meetings, the Board of Advisors met four times in fiscal 2013-2014.

A list of Board Directors and their biographies can be found at Appendix A, of this report.

Staff

The Centre has three full-time staff members, plus part-time student employees. In 2013-2014 the Centre hired its first Education and Communications Coordinator, a position that replaces the previous Program Manager position. Staff members were:

- **Patricia Paradis, Executive Director**, is responsible for the planning, implementation and assessment of the Centre's programs, overseeing the management of the Centre's daily operations, planning and organizing conferences, speakers and other events and editing the *Review of Constitutional Studies* and *Constitutional Forum*;
- **Dustin Martin, Education and Communications Coordinator**, is responsible for the website, for coordination of public education programming and for advertising and marketing for the Centre;
- **Administrator** – Not filled for 2014-2015. The Centre was able to have temporary assistance through Interim Staffing Solutions (ISS) at the University during the year.

Funding

The Centre is generously funded by the Alberta Law Foundation (ALF) through an annual operating grant. It also receives revenues from its publications (subscriptions, book sales, interest and royalties), and through other grants for projects as appropriate. For the fiscal year ending March 31, 2015, the grant approved from the ALF was for \$367,674.00. Unspent funds from the Operating Grant are returned to the Alberta Law Foundation at the end of each fiscal year. In this fiscal year, approximately \$47,000.00 will be returned to the ALF. This relatively large amount of unspent funds is accounted for because the Administrator position was not filled with a permanent employee during the fiscal year.

Publications revenue for the fiscal year which includes subscriptions to the *Review*, royalties for articles published in both the *Review* and the *Forum*, and book sales was \$9,240.00.

The Centre also holds a Reserve Fund in the amount of \$18,761.00.

Appendix A

Advisory Board –2014-2015

Name	Position	Date of Election	First term ends	Second term ends
Barbara Billingsley Professor	U of A Faculty - Law	2013	2016	
Dominique Clement Associate Professor	U of A Faculty - Sociology	2013	2016	
Mr. Kevin Feehan, Q.C. Dentons Canada LLP	Community – Legal	2012	2015	
Lise Gotell Professor and Vice Dean Faculty of Arts	U of A Faculty – Arts	2014	2017	
Joanna Harrington, Professor	U of A Faculty - Law	2012	2015	
Nathalie Kermoal, Special Advisor to the Provost & Associate Dean Academic	U of A Faculty – Native Studies and Campus	2012	2015	

Name	Position	Date of Election	First term ends	Second term ends
	Saint-Jean			
Oryssia Lennie Chair of the Board	Community- Government (retired)	2010	2013	2016
James Muir Professor	U of A Faculty – Law and History	2014	2017	
Donald Padget Alberta Justice	Community – Government/Legal	2011	2014	2017
Steve Patten Associate Professor	U of A Faculty – Political Science	2013	2016	
Madam Justice June Ross Court of Queen’s Bench of Alberta	Community - Judicial	2013	2016	
Matthew Woodley Reynolds Mirth Richards & Farmer LLP	Community – Legal	2012	2015	

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SPECIAL ISSUE - CONSTITUTIONAL FORUM 23.4

SPECIAL ISSUE - COOPERATIVE FEDERALISM: FEDERALIST PERSPECTIVES FROM QUÉBEC / FÉDÉRALISME COOPÉRATIF: PERSPECTIVES FÉDÉRALISTES DU QUÉBEC.

Does Quebec have the constitutional right to keep its long-gun registry given Parliament's decision to abolish it? Three professors from Quebec-Cyr, Gaudreault-Desbiens and Daly-argue that it does and make a strong case for interpretation of our Constitution based on cooperative federalism.

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Paul Dal