

Annual Report

2011-2012

Fiscal Year Ending March 31, 2012



CENTRE *for* CONSTITUTIONAL STUDIES
Centre d'études constitutionnelles

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2011-2012

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2011-2012: Highlights

There is no more important legal document in Canada than the Constitution. It is the foundation for who we are and how we govern ourselves as a political society. The work of the Centre for Constitutional Studies is about conveying the importance of constitutions to Albertans as well as to the broader Canadian and international publics. The Centre's events and activities of 2011-2012 allowed it to be a hub connecting the University of Alberta, academics across the country and the Alberta public on issues of constitutional importance. It was a banner year and we enjoyed considerable success with respect to making the Constitution relevant to Albertans.

Highlighting the year, the **Patriation Negotiations Conference** commemorated the November 1981 negotiations that led to the *Charter of Rights and Freedoms* and to the patriation of our Constitution on April 17, 1982. This 30th anniversary event brought together key figures who participated in that tension-filled meeting to discuss the event and to assess its consequences. Former premiers, the Hon. Peter Lougheed, Hon. John Buchanan and Hon. Brian Peckford were joined by their colleague, the Hon. Roy Romanow along with several key civil servants and advisors from the period. Constitutional scholars from across Canada provided analysis as to what led to this historic and fateful meeting. The conference was attended by members of the public, scholars, public servants and students in law and political science.

Our Senior **Research Fellow**, Professor Howard Leeson, completed *The Patriation Minutes* which was published by the Centre and launched in November at the Patriation Negotiations conference. The book is a record of the notes taken by Professor Leeson during the negotiations of November, 1981. No other record of those discussions exists and 30 years later, Professor Leeson's account, along with his observations on the key players in the process is now available.

The Centre published three issues of its academic journal, the *Review of Constitutional Studies*. One of these, Volume 16.2 was a special issue marking the ten-year anniversary of the tragic events of September 11, 2001. It featured the critical theoretical and practical perspectives of legal scholars, political scientists and sociologists who have worked on security and rights and asked them to reflect on what has taken place in various rights regimes in this ten year, post 9/11 time frame.

Constitutional Forum, which provides the opportunity for interdisciplinary debate and dialogue on constitutional issues, began a new life as an online, open access journal. As an online publication, the *Forum* can now be published throughout the year.

For the first time, the Centre actively participated in **Law Day**, an annual event organized by the Canadian Bar Association to celebrate and commemorate our nation's adoption of the *Charter of Rights and Freedoms*. Two law students argued a mock appeal before a Court of Queen's Bench justice. The constitutional case involved the public's right to be protected against police efforts to search and seizure garbage that had been left in the back lane of a home. As the appeal was performed for a public audience, it was an outstanding teachable moment on the scope of the *Charter's* section 8 protection.

Programming

Research

The **Centre's Research Program** is intended to serve the academic community and the broader public to expand our understanding of constitutional issues. To this end, the Centre facilitates research projects, organizes conferences and symposia, hosts speakers and publishes journals and books.

The Centre's Research Program objectives are:

1. To create and maintain a multidisciplinary and interdisciplinary Centre for the study of constitutional issues at the University of Alberta;
2. To facilitate research on constitutional issues;
3. To provide an avenue for publication of high quality, peer reviewed research papers by publishing the *Review*;
4. To organize conferences, symposia, workshops and lectures which provide an opportunity for academics to collaborate and to further academic thought on constitutional issues of relevance to the courts, the public and policy makers.

Patriation Negotiations Conference – November 3-5, 2011



The Patriation Negotiations Conference held November 3-5, 2011 at the Fairmont Hotel Macdonald in Edmonton was the highlight of the Centre's 2011-2012 year. The conference commemorated the 30th anniversary of the November 1981 negotiations that led to the patriation of our Constitution on April 17, 1982.

The conference was a gathering of former premiers, public servants and political advisors, who engaged in examining the negotiations of November, 1981 that led to a final deal - one that included a *Charter of Rights and Freedoms* and the amending formula which finally allowed Canada to patriate its Constitution from Britain. It was also, significantly, a deal that the Province of Quebec refused to sign.

Participants: Many of the participants in the patriation negotiations process of 1981 presented at the conference to set the record straight - to tell their stories about what actually happened the fateful night of November 4th and in the early morning hours of November 5th, 1981. Attendees heard different stories about the 'night of the long knives' and the impact of the 'kitchen accord' and the 'Newfoundland proposals' on the final deal. Former premiers Hon. Peter Lougheed, Hon. Brian Peckford, Hon. John Buchanan and their colleague Hon. Roy Romanow, former Minister of

Intergovernmental Affairs for the Province of Saskatchewan, weighed in with their recollections and observations on the process and on its impact. They were joined by Deputy Ministers from Alberta, Saskatchewan, Ontario and Quebec, special constitutional advisors to the Government of Canada and drafters of the final deal.

Some of the best and brightest constitutional scholars from across Canada analysed the road to patriation, Trudeau's constitutional vision and the impact of Quebec's not signing the deal. Interesting and new stories were told from the perspectives of those who were excluded from the negotiations - First Nations people and women. Attendees learned about the 'Constitutional Express', a train that travelled across the country gathering Aboriginal peoples who then lobbied against patriation in Ottawa, and about their efforts in London to block the deal because they had not been consulted in Canada's bid to change its Constitution. They learned about the women's lobby for an effective equality provision in the *Charter* and about the heated argument between Hon. Judy Erola and then Prime Minister Pierre Trudeau for inclusion of section 28, an equality provision.

Attendees: The conference was attended by government lawyers from the departments of justice and intergovernmental affairs, academics in law, political science, sociology, and history, students of political science and law as well as members of the public from across Canada. Live conference proceedings were made available free of charge to students at the University of Alberta through a video link.

Media Interest: The conference generated considerable interest from the media – the Edmonton Journal published three articles on the conference and articles were also published in the Montreal Gazette, the Vancouver Sun (two articles) and the Globe and Mail. The CBC radio program, IDEAS, aired a one hour documentary on the conference entitled, 'Pondering the Patriation'. It is available on their website as a podcast.

Edited Volume and Educational Documentary: An edited volume of papers both presented at the conference and written specifically for the volume is being edited by Professors Lois Harder and Steve Patten. The volume will be published in 2013. Also, using footage shot at the conference by the CBC, a series of short educational films on discreet aspects of the patriation negotiations will be co-produced with the National Film Board in 2012-2013. These will be available to high school, university classes and to the public.

Organizers: Co-Chairs of the conference were Patricia Paradis, Executive Director of the Centre, and Dr. Lois Harder, Associate Dean, Graduate Studies and Research, Faculty of Arts and Vice-Chair of the Board of Directors. They worked with a Conference Planning Committee which included: Peter Meekison, Howard Leeson, Steve Patten, Peter Carver, Eric Adams, Oryssia Lennie, Robert Reynolds, Janine Brodie, Linda Trimble, Dominique Clement, and graduate students Shalene Jobin-Vandervelde and Hadley Friedland.

Funding: Financial support for the conference is described in this Report at page 15 under "Organizational and Funding Structure".

Research Fellow



Dr. Howard Leeson completed his two year term as Research Fellow with the Centre in 2011. During his term with us, Professor Leeson taught constitutional law and political science classes and the Centre published his much anticipated book, *The Patriation Minutes*. The book is a record of notes Professor Leeson took during the patriation negotiations in November, 1981 when he was Deputy Minister of Intergovernmental Affairs for the province of Saskatchewan. There were no minutes taken during those meetings and Professor Leeson's notes have never before been made public. In addition to his almost verbatim recording of comments made by Prime Minister Trudeau and the Premiers during their tension-filled negotiations, Professor Leeson makes several observations about the dynamics he observed in the room. Given his history as both a high level public servant and a professor of political science, Professor Leeson's observations are particularly interesting and astute. The book was launched at the opening of the Patriation Negotiations Conference on November 3, 2011.

Dr. Leeson has extensive experience in government and academia. He was appointed the first Deputy Minister of Intergovernmental Affairs for the province of Saskatchewan in 1979, and participated in the federal-provincial discussions that led to the patriation of the Constitution in 1982. He then joined the Department of Political Science at the University of Regina and served as Department Head for over ten years. He also served as Chief Negotiator for Saskatchewan in the period leading up to the Charlottetown Accord. Dr. Leeson's publications include *Canada ... Notwithstanding*, a history of the patriation of the Canadian Constitution co-authored with Roy Romanow and John Whyte. His articles on the Constitution and the role of the courts and the provinces in the Canadian federal system have been published in journals such as *The Supreme Court Law Review* and the *Choices* series (Institute for Research on Public Policy).

Publications

Journals

The Centre publishes two journals: *Review of Constitutional Studies constitutionnelles*, a peer reviewed journal published twice yearly, and *Constitutional Forum* an online publication which provides an opportunity for interdisciplinary debate and dialogue on constitutional issues. Both journals publish articles in English and French.



The Review: The *Review* is unique in that no other interdisciplinary journal in Canada publishes academic work on constitutional issues. The journal receives submissions from around the world and those deemed appropriate are subjected to a double blind peer review process. 21 submissions were received for Volume 16.1 alone and of those, 5 were accepted for publication.

In 2011-2012, the Centre published 3 issues of the *Review*: volumes 15.2, 16.1 and 16.2. (The Tables of Contents for each of these volumes can be found at Appendix C, page 24 of this Report). Volume 16.2, guest edited by Professors Alexandra Dobrowolsky and Mark Doucet, was a special issue dedicated to reflections on the post 9/11 decade. Leading academics, both Canadian and international, were featured in this issue and they provided critical theoretical and practical reflections on what has taken place in various rights regimes in the ten year, post 9/11 time frame.

The *Review* is fortunate to have an **Editorial Board** comprised of enthusiastic academics from across Canada: Professor Margot Young, Law, UBC; Professor Steve Patten, Political Science, U of A; Professor Eric Adams, Law, U of A; Professor Donald Ipperciel, Philosophy, Faculté Saint Jean, U of A; Professor Dwight Newman, Law, U Sask; Professor Ben Berger, Law, Osgoode; Professor Robert Leckey, Law, McGill and Professor Alexandra Dobrowolsky, Political Science, St. Mary's. This Board provides policy guidance and assistance to the Managing Editor as needed.

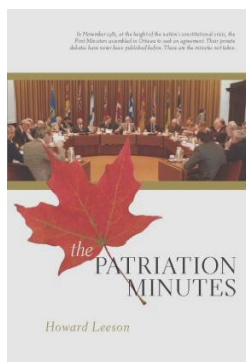
Articles published in the *Review* are available online through digital aggregators: HeinOnline, EBSCO and GALE and they are available on the Centre website one year after publication.



The **Forum** began publishing online in 2011-2012 with a new look and logo. It is now available on the Centre's website and through the University of Alberta's Online Journal System (OJS). The transition

to online publication was a difficult one for many of our subscribers as they loved the look of our print journal but the cost of printing and the desire to increase accessibility were catalysts for this transition. Articles written for the *Forum* are generally short (roughly 3000 words) and provide insightful commentary on current topics of Canadian and International constitutional importance. Two issues of the online *Forum* were published in 2011-2012 as well as the last printed issue, Volume 19.3, which was a special issue on the INSITE case. The case dealt with the constitutionality of supervised drug injection sites. This Volume was produced in collaboration with the University of Victoria Faculty of Law. In addition to our regular subscribers, the Volume was sent to lawyers arguing the INSITE case before the Supreme Court of Canada.

Books



In addition to its journals, the Centre published ***The Patriation Minutes*** by Professor Howard Leeson. This book is a record of notes taken by Professor Leeson during the patriation negotiations of November 1981 between Prime Minister Pierre Trudeau and the provincial Premiers. At the time, Professor Leeson was Deputy Minister of Intergovernmental Affairs for the Province of Saskatchewan. As there were no minutes taken during the negotiations, this book is the first public record of what was discussed. The book was launched at the Patriation Negotiations Conference in November, 2011 and is available for sale through the Centre.

Public Education

The **Centre's Public Legal Education Program** makes reliable information and resources about the Constitution available to the general public in Alberta. Its mission is: "**Making the Constitution Relevant to Albertans**". The program's objectives are:

1. To be a recognized provider of reliable, neutral, plain-language information on constitutional affairs for the general public;
2. To be a valued source of information and advice to various sectors of the public in Alberta, specifically:
 - a. Teachers, post-secondary instructors and public librarians;
 - b. Other Alberta PLE organizations;
 - c. Journalists (mainstream and social media).
3. To encourage public dialogue on issues of constitutional relevance;
4. To be a recognized developer of PLE talent among U of A law and political science students (by means of training and work experience in plain-language writing on constitutional issues);
5. To be an active, visible and sustained public education presence in Alberta.

The Centre's primary vehicle for delivery of accessible information about the Constitution to the public is its website. Each year we hire students in law and political science who work full time during the summer and part time during the academic year to research and write plain language articles on current constitutional issues for our website.

Our Website

Our website (<http://www.law.ualberta.ca/centres/ccs/>) includes the following features:

- **Constitutional Issues:** These articles discuss constitutional themes and controversies. Each article includes links to related resources and highlights the wider implications of issues to promote understanding of constitutional matters;
- **Headline Reviews:** These are plainly worded synopses of current events with constitutional significance. Particular attention is paid to topics that actually originate in Alberta; articles take a neutral tone and direct the reader to sources. Through its Headline Reviews, the Centre plays a leading – even unique -- role in pointing out and clarifying constitutional issues while they remain topical;
- **Constitutional Keywords:** Constitutional Keywords defines terms and concepts that appear in Canadian constitutional discourse, whether in the courts, legislatures, election campaigns, or the media. It is easily accessible to the general public but still useful for specialized publics such as reporters, teachers, and librarians;

- **Featured Court Rulings:** These are accessible summaries of both recently decided and “landmark” constitutional cases, emphasizing key Alberta precedents. They are written specifically for the general public but are also useful to legal practitioners, students, teachers, journalists, and other specialized groups of the public.

Summer Student Program: The Centre is fortunate to hire enthusiastic University students each summer who write plain language articles on constitutional issues for the Centre’s website. These articles are written so that interested members of the public can easily access information about the Constitution and about Canadian constitutional issues.

During the summer of 2011 the Centre students – **Brendon Legault** (3rd year Political Science), **James Raworth** (1st year JD), **Brent Thompson** (2nd year JD) worked from May 16th –August 12th. After learning about plain language writing, they produced 37 articles for our website. Particular focus was placed on aboriginal material – definitions and property rights as these relate to aboriginal peoples – federalism issues and section 15 of the *Charter of Rights and Freedoms*. Our students also worked on re-organizing website content in anticipation of a new website design for the next fiscal year. As a result, several gaps in constitutional information were noted, particularly in constitutional key words, and students ‘filled the gaps’ with many of their interesting articles. They were a prolific and enthusiastic bunch.

Thanks go to Tami Friesen for her assistance with editing, to Hadley Friedland, graduate student and to professors Adams, Garber, Harder, Lewans and Ziff for their input and guidance to our students on specific articles. The students greatly appreciated and benefitted from the expert advice they received.

Speakers and Events

During the academic year, the Centre invites professors and other experts to speak to a general audience about areas in which they have expertise. The impact of these talks is on audiences who range from students, to policy experts, legal practitioners and members of not-for-profit organizations who can benefit from the information provided. This is a significant way to establish a community/university dialogue. Professors appreciate the opportunities provided by the Centre to speak to the public. Numbers of attendees, the range of backgrounds of attendees, and questions asked of presenters are all indicators to us that these talks have a sizeable impact on a wide range of people. The Centre’s proximity to the downtown in Edmonton and the LRT makes it relatively easy for lawyers, members of the judiciary, government policy makers and members of the general public to attend events here. Most of the events hosted by the Centre are held at the Law Centre and attended by University of Alberta students, faculty and members of the public.

Speakers

- **September 20, 2011** - Lawyer **Theresa Haykowsky** presented: “Student (Internet) Expression and the *Charter*: the *Pridgen* decision”. This Alberta case considered whether the *Charter* applies to Universities.
- **March 15, 2012** - The Centre collaborated with the Sheldon Chumir Foundation in: “Civil Disobedience: Concept, Law and Practice” which featured 3 panelists: **professor Jennifer Koshan**, University of Calgary; **professor Roberta Lexier**, Mount Royal College and **Mike Huddema, Greenpeace**. This event drew a packed crowd, filling rooms 231-237 of the Law Centre.

Events

November 3-5, 2011 - The **Patriation Negotiations Conference** was the major event for fiscal 2011-2012. Several (30) speakers presented at the conference. These were:

Eric Adams, Associate Professor; Gerald Baier, Associate Professor; Janine Brodie, Distinguished Professor and Trudeau Fellow ; Hon. John Buchanan, former Premier of Nova Scotia; Mary Dawson, currently Conflict of Interest and Ethics Commissioner and former constitutional drafter with Canadian Department of Justice; Alexandra Dobrowolsky, Professor; Hon. Judith Erola, former Minister responsible for the Status of Women; Alain-G Gagnon, Professor; Philip Girard, Professor; Edward Goldenberg, former Special Constitutional Advisor to the Minister of Justice (1980-1982); Chantal Hebert, national affairs writer with the Toronto Star and weekly commentator for the CBC; Linda Hughes, Chancellor of the University of Alberta; Guy Laforest, Professor; Howard Leeson, Professor and former Deputy Minister of Intergovernmental Affairs for the province of Saskatchewan; Hon. Peter Lougheed, former Premier of Alberta; Louise Mandell QC, lawyer; Marilou McPhedran, Professor and Principle of Global College; J. Peter Meekison, Distinguished University Professor Emeritus, Chancellor and Board Chair of Royal Roads University and former Deputy Minister, Intergovernmental Affairs, province of Alberta; Robert Normand, former Deputy Minister of Justice and of Intergovernmental and International Affairs for the province of Quebec; Hon. A. Brian Peckford, former Premier of Newfoundland; Hon. Roy Romanow, former Premier of Saskatchewan and former Minister of Intergovernmental Affairs; Peter H. Russell, Professor Emeritus; David Schneiderman, Professor; Neil J. Sterritt, former President of the Gitxan-Carrier Tribal Council; Don Stevenson, former Deputy Minister of Intergovernmental Affairs for the province of Ontario; Barry L. Strayer, former Professor, judge of the Federal Court of Appeal and advisor to the Federal Government and Roger Tasse, former Deputy Minister of Justice and Deputy Attorney General for the Government of Canada during the patriation negotiations.

23rd Annual McDonald Lecture in Constitutional Studies

Each year the Centre organizes and hosts the McDonald Lecture in Constitutional Studies. This is an endowed lecture provided by the McDonald family in honour of the late Justice David McDonald of the Court of Appeal of Alberta. This year's 23rd annual McDonald Lecturer was **David Dyzenhaus, Professor of Law and Philosophy at the University of Toronto** who spoke on "Dignity in Administrative law: Judicial Deference in a Culture of Justification". The lecture was presented at the Law Centre on Thursday, October 6, 2011 and was well attended by members of the public, the bar, the judiciary and the University.

Law Day

The Centre participated in Law Day in April, 2011. 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 our laws and our legal system. The event brings thousands of members of the public to the Law Courts building in April of each year, to celebrate the entrenchment of our *Charter of Rights and Freedoms*. Several entertaining trials and other events are hosted throughout the day. The Centre participated by presenting the appeal of an interesting constitutional issue for the purpose of providing a 'teachable moment' about the Constitution: whether there is any protection against the search and seizure by police of garbage that has been left in the back lane of a home for collection. This issue relates to section 8 of the *Charter*, the right to be free from unreasonable search and seizure. Two law students, Matthew Turzansky and David Wolsely, acted as lawyers in the case and Justice Sheilagh Creagh, Court of Queen's Bench of Alberta generously donated her time to judge the event. Both audience and participants learned a great deal and as a result, the Centre plans to participate annually as a significant part of its public legal education mandate.

Documentary

The CBC radio program, **IDEAS**, produced a one hour documentary on the Patriation Negotiations conference of November, 2011 entitled, '**Pondering the Patriation**'. It is an excellent summary of key presentations at the Patriation Negotiations conference and addresses the fundamental historical questions that remain about the process. Questions about whether Quebec was deliberately excluded from the final deal and whether the 'Kitchen Accord' or the 'Newfoundland Proposals' allowed the group of politicians and civil servants to come to an agreement on the final deal, were discussed.

The **Ideas** documentary was produced using film footage taken by the CBC at the Patriation Negotiations conference as part of a co-production agreement between the University of Alberta and the CBC. Funding for this filming was made possible through a SSHRC Outreach grant.

The IDEAS program is available to the public on the CBC website as a podcast.

In addition, the Centre and the National Film Board will be co-producing a series of 8-10 short educational films based on the Patriation Negotiations Conference. Each of these films will deal with a discreet constitutional issue raised during the patriation negotiations. These short films will be available to the public as well as to high school and University students via the web. The purpose of producing these shorter films rather than one long documentary is to ensure the greatest possible accessibility to information about our Canadian constitutional history. The films will be produced in 2012 and 2013.

Media resource and expert commentary

The Centre is frequently consulted for information and expertise on constitutional issues by the public, the media and by other organizations. One of the Centre's greatest strengths is that it can be relied upon to provide expert, neutral commentary on current constitutional issues. In 2011-2012 the Centre received over 25 calls from newspaper and television reporters across Canada requesting information on parliamentary privilege, the national securities regulator, the Insite case and the Patriation Negotiations conference. The Centre received 14 requests from the public for assistance on constitutional questions.

Collaborations

In 2011-2012, the Centre co-hosted an event with the Sheldon Chumir Foundation and assisted the Centre for Public Legal Education of Alberta with applying for a grant to produce materials on language rights in Alberta. This grant was approved and the Centre will provide constitutional expertise to the CPLEA in 2012-2013 as part of this project.

In its role as a provider of public legal education, the Centre is a member of PLEdGE, an organization of public education providers in Edmonton that meets monthly to share information and to provide networking opportunities. Members of PLEdGE include: the Centre for Public Legal Education of Alberta, the Edmonton Community Legal Clinic, Legal Aid, the Law Courts Libraries, Student Legal Services, Native Counseling Services, the SPCA, the Law Information Centre and Family Law Office.

Other organizations with which the Centre communicates and collaborates include: Parkland Institute; John Humphrey Centre for Peace and Human Rights and the Legal Education Society of Alberta.

Other

Laskin Moot

Each year the Centre Executive Director coaches the Laskin - a national, bilingual constitutional moot - for the U of A Faculty of Law. This coaching is provided as a service to the law school. Importantly, it provides the Centre with the opportunity to work with law students who are interested in constitutional issues. It also provides the Centre with visibility across the country and with the opportunity to meet with like minds at the moot competition. In 2012, the Laskin Moot competition was held in New Brunswick and while the Faculty of Law students did not take home any prizes, they did an excellent job of advocacy. The Laskin Moot Team included: Russell Ault (2nd year JD), James Raworth (2nd year JD), Paul Tonita (2nd year JD), and Mark Zion (3rd year JD).

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 county 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 of the University of Alberta, and thus accountable to the University through the Provost. It is situated in and reports to the Dean in the Faculty of Law. The Centre’s strategic direction is governed by a Board of Directors with academic representatives from law, political science and business as well as representatives of the legal profession, the not-for-profit sector, the judiciary and government.

Board of Directors

The **Board of Directors** 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 with respect to budget and sets strategic direction for the organization. The Centre is extremely fortunate to have this group of interested, engaged and hardworking board directors 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 Directors met four times in fiscal 2011-2012 and diligently followed the Strategic Plan it set for 2009-2012. The Board will meet in June, 2012 to craft its next three year Strategic Plan. A list of Board Directors (to March 2012) and their biographies can be found at Appendix A, page 19 of this report.

Staff

The Centre has three full-time staff members, plus part-time student employees. In 2011-2012, the Program Manager position was not filled. Staff members were:

- **Patricia Paradis**, Executive Director, responsible for the planning, coordination, 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*;
- **Theresa Percheson**, Centre Administrator, is responsible for financial reporting, journal typesetting and production, promotions, and assistance with event planning;
- Three students, **Brendon Legault** (3rd year Political Science), **James Raworth** (1st year JD), **Brent Thompson** (2nd year JD) were hired from May 16th – August 12th, 2011 to write plain language articles for our website. Other students were employed on a casual basis during the academic year to provide assistance with editing.

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, 2012, the grant approved from the ALF was for \$320,132.00. However, as the Program Manager position was not filled, the Centre received \$255,132.00 from the ALF and of this amount, \$30,911.00 was returned to ALF as unspent. Total operating expenditures for the Centre in fiscal 2011-2012 then were \$224,221.00.

Publications revenue was \$14,628.00. This was a reduction from the previous year as the Centre no longer receives subscription revenues for its publication, the *Constitutional Forum*, since it is now published online.

Conference and Documentary: The Centre worked with Professor Lois Harder, one of our Board Directors, in applying for a Social Sciences and Humanities (SSHRC) Outreach Grant for the Patriation Negotiations Conference and documentary. The grant received for the conference and the production of a documentary was \$126,000.00. Other funds received for the conference and documentary were: Alberta Government (\$25,000.00); the Alberta Law Foundation (\$30,000.00 for a documentary); the University of Alberta - Law, Arts, Political Science, Sociology (\$6000.00 for the conference) and University Relations (\$8,000.00 for the documentary); Trudeau Fellow, Janine Brodie (\$2000.00); the law firms of Bennett Jones (\$1,500.00) and Field LLP (\$2500.00); the Institute for Public Administration (\$1000.00) and the Centre for Canadian Studies (\$500.00). The Enjoy Centre generously donated flowers for the Friday evening banquet. The Centre is extremely grateful to all funders for their generosity.



Thanking our Contributors

The Centre creates an international hub for collaboration among academics from several disciplines - law, political science, history, philosophy and sociology - through its publications, conferences, events and planning committees. It is the fortunate recipient of much donated time by academics across the country and around the world as well as by members of the legal profession and of the public who generously donate their time to the Centre's work.

The Centre would like to thank the following **academics** for their work as Board Directors, Editorial Board members, Peer Reviewers, Journal contributors, Conference presenters, Conference Planning Committee members, Symposium Planning Committee members and for assistance with our summer students in fiscal 2011-2012:

Annalise Acorn – Law, U of A
Eric Adams – Law, U of A
Gerald Baier – Political Science, UBC
Natasha Bakht – Law, U Ottawa
Nigel Bankes – Law, U of Calgary
Richard Bauman – Law, U of A
Ben Berger – Law, Osgoode
Barbara Billingsley – Law, U of A
Kathy Brock – Law, Queen's
Janine Brodie – Political Science, U of A
Gillian Calder – Law, UVic
Jamie Cameron – Law, Osgoode
Peter Carver – Law, U of A
Larry Chartrand – Law, U Ottawa
Dominique Clement – Sociology, U of A
Patricia Cochran – Law, U Vic
David Cooper – Business, U of A
Elaine Craig – Law, Dalhousie
Robert Currie – Law, Dalhousie
Catherine Dauvergne – Law, UBC
Alexandra Dobrowolsky – Political Science, St. Mary's
Mark Doucet – Political Science, St. Mary's
David Dyzenhaus – Law, U of T
Robin Elliot – Law, UBC
Jaye Ellis – Law, McGill
Tami Friesen – Law, U of A
Alain-G Gagnon – Political Science, UQAM
J. Donald C. Galloway – Law, U Vic
Judith Garber – Political Science, U of A

Phillip Girard - Law, Dalhousie
Ian Greene – Political Science, York
Jonnelle Hamilton – Law, U of Calgary
Lois Harder – Political Science, U of A
Joanna Harrington – Law, U of A
Maureen S. Hiebert – Political Science, U Calgary
Alicia Hinarejos – Law, Cambridge
Donald Ipperciel – Philosophy, U of A
Cameron Jeffries – Law, U of A
Rebecca Johnson – Law, U Vic
James Kelly – Political Science, Concordia
Andy Knight – Political Science, U of A
Hoi Kong – Law, McGill
Jennifer Koshan – Law, U of Calgary
Guy Laforest – Political Science, McGill
Robert Leckey – Law, McGill
Howard Leeson – Emeritus, Political Science, U Sask
Hester Lessard – Law, U Vic
Roberta Lexier – Mount Royal College
Matthew Lewans – Law, U of A
Gayle MacDonald – Political Science, St. Thomas
Emmett MacFarlane – Political Science, U Vic
Constance MacIntosh – Law, Dalhousie
Diane Majury – Law, Carleton
Giuseppe Martinico – Political Science, European University, Florence

Carissima Mathen – Law, U Ottawa
 June McCue – Law, UBC
 Wayne MacKay – Law, Dalhousie
 John McLaren – Law, U Vic
 Marilou McPhedran – Global College, Manitoba
 Peter Meekison – Emeritus, U of A
 Frederick Mégret – Law, McGill
 Richard Moon – Law, U Windsor
 Benjamin J Muller – Political Science, Kings Western U
 Christopher Murphy – Sociology & Social Anthropology, Dalhousie
 Dwight Newman – Law, U Sask
 Steve Patten – Political Science, U of A
 Ian Peach – Law, UNB
 Steven Penney – Law, U of A
 David Percy – Law, U of A
 Linda Reif – Law, U of A
 Kent Roach – Law, U of T

Peter Russell – Political Science, U of T
 Bruce Ryder – Law, Osgoode
 Kim Rygiel – Political Science, W Laurier U
 Denis Saint-Martin – Political Science, Université de Montréal
 Mark B Salter – Political Science, U Ottawa
 David Schneiderman – Law, U of T
 Hamish Stewart – Law, U of T
 Lori Thorlakson – Political Science, U of A
 Adam Tomkins – Law, Glasgow
 Mark Tushnet – Law, Harvard
 Linda Trimble – Political Science, U of A
 Wesley Wark – History, U Toronto
 Jeremy Webber – Law, U Vic
 Daniel Weinstock – Political Science, U de Montreal
 Reg Whittaker – Political Science, U Vic
 John Whyte – Emeritus, Queen's
 Margot Young – Law, UBC
 Bruce Ziff – Law, U of A

The Centre thanks the following students and graduate students for their work on our website, our conference, our journals and Law Day:

Aaron Aitken – Political science
 Adam Badari – Student-at-Law
 Jason Buttuls – Law
 Katherine Clackson – Law
 Brendon Legault – Political science
 Nicole Patterson – Law
 James Raworth – Law
 Brent Thompson – Law
 Matthew Turchansky – Law
 David Woolsey – Law

Graduate Students:

James Bowden – MA candidate, U Ottawa
 Sarah Hamill – Law, U of A
 Hadley Friedland – Law, U of A
 Nicolas MacDonald – MPM candidate, Carleton
 Shalene Jobin-Vandervelde – Political Science, U of A
 Gabrielle Mason – Political Science, Carleton

The Centre thanks the following lawyers and justices who were Board Directors, members of the Conference Planning Committee, members of the upcoming Symposium Planning Committee, conference presenters and contributors to our Journals in 2011-2012:

Rahool Agarwaal – Norton Rose LLP
 David Baker – Baker Law
 Alexis Belanger – Dept. Int’g Affairs, Gov’t of Quebec
 Karine Deschamplains – Ackroyd LLP

Christine Enns – Alberta Justice
 Vanita Goela – Ontario Dept. of Justice
 Janet Keeping – Sheldon Chumir Foundation
 Ritu Khullar – Chivers Carpenter
 Theresa Haykowski – McLennan Ross

Peter Hogg – Blake, Cassels & Graydon LLP
Hon. Frank Iacobucci – Former Justice, SCC,
counsel Tory’s LLP
Kirk Lambrecht – Justice Canada
Louise Mandell QC – Mandell Pinder
Don Padget – Alberta Justice

Rob Reynolds – Law Clerk and Director of
Interparliamentary Relations, Legislative
Assembly of Alberta
Justice June Ross – Court of Queen’s Bench
of Alberta
Bronwyn Shoush – Aboriginal Relations
Margaret Unsworth – Alberta Justice
Cara Wilkie – Baker Law

The Centre thanks the following Members of the Public, Civil Servants, Politicians, Former Politicians and Former Civil Servants for the donation of their time to the Centre as Board Directors, conference presenters and contributors to the *Forum*.

Hon. John Buchanan, PC, QC, LLB
Mary Dawson, QC, OC
Hon. Jim Edwards
Hon. Judith Erola, PC
Eddie Goldenberg, MA BCL
Chantal Hebert
Mike Huddema
Linda Hughes, Chancellor
Hon. Jim Horsman
Oryssia Lennie

Hon. Peter Lougheed PC, CC, QC
Hon. Anne McLellan PC, OC
J. Peter Meekison OC
Robert Normand QC
Hon. A. Brian Peckford PC
Hon. Roy Romanow PC, OC, SOM, QC
Neil J. Sterritt
Don Stevenson
Barry L. Strayer BCL, SJD, OC, QC
Roger Tasse OC, QC

Appendix A

Board of Directors - 2011-2012

Eric Adams, Assistant Professor

Faculty of Law, University of Alberta

Professor Eric Adams', (PhD, U of T) current teaching and research interests are in the areas of constitutional, employment law, and legal history. His latest project, "The Idea of Constitutional Rights and the Transformation of Canadian Constitutional Law", locates a critical strand of Canada's rights revolution in the constitutional thinking of legal scholars, lawyers, and judges.

Peter Carver (Chair), Associate Professor

Faculty of Law, University of Alberta

Professor Carver (M.A., LL.M., UBC) – has a cross-appointment to Faculty of Rehabilitation Medicine. He teaches and researches in the areas of Canadian constitutional, administrative and immigration law, and in disability studies and mental health law.

David J. Cooper (Treasurer), Professor

School of Business, University of Alberta

Professor David Cooper is the Certified General Accountants of Alberta Chair in Accounting at the University of Alberta, and Director of the PhD Program for the School of Business.

He now serves as an Editor of *Accounting Organizations and Society*. Among his many awards, Professor Cooper most recently won the J. Gordin Kaplan Award for Excellence in Research in 2010 and is 2010-2015 Honorary Professor, Cardiff University. He was a founding member of the Parkland Institute.

L. Christine Enns

Alberta Justice and Solicitor General

L. Christine Enns is a litigator with Constitutional and Aboriginal Law, Alberta Justice and Solicitor General. On behalf of the Attorney General of Alberta, she defends provincial legislation at all levels of Court against jurisdictional challenges (division of powers), and challenges based on Charter of Rights and Freedoms and the Alberta Bill of Rights. She has also intervened at the Supreme Court of Canada in constitutional cases. She is active in the Canadian Bar Association, sitting as the Chair for the Constitutional and Civil Liberties section and previously on the executive committee for Civil Litigation.

Judith A. Garber, Associate Professor

Department of Political Science, University of Alberta

Professor Judith Garber (PhD) teaches in the areas of law and politics, US constitutional law, US politics, and urban politics at the University of Alberta. Her in-progress research concerns the

role of US cities in the “war on terrorism,” the role of “the street” in political theories of cities and space, and the constitutional conflicts between local land use regulations and religious rights claims in the US.

Lois Harder (Vice-Chair), Professor, Department of Political Science and Associate Chair, Graduate Studies, University of Alberta

Professor Lois Harder’s main areas of study and teaching are political economy, social theory and gender and politics. Her current research concerns the law and politics of family relationships and citizenship in Canada, and the United States.

Janet Keeping, President

Sheldon Chumir Foundation for Ethics in Leadership

Janet Keeping graduated in architecture from MIT (1971), studied environmental design (1973-1975), did an MA in Philosophy (1977) and graduated from the University of Calgary’s Faculty of Law (1981). Janet was a co-founder (in 1982 with Sheldon Chumir) and first Executive Director of the Alberta Civil Liberties Research Centre. Before going to work at the Chumir Foundation, Janet was a Research Associate for many years with the Canadian Institute of Resources Law where she wrote on various topics connected with the law on development of natural resources, including the intersection of human rights law with the law governing the oil and gas industry in Alberta.

Janet’s resources law work took her to Russia dozens of times between 1992 and 2006. That experience inspired an intense interest in the rule of law, a subject on which she continues to speak and write.

Ritu Khullar

Chivers Carpenter

Ritu Khullar practices in the areas of labour and employment law, public law (constitutional law, human rights, and administrative law), and related civil litigation. She has been counsel for various administrative tribunals including the Canadian Human Rights Commission and the Information and Privacy Commissioner of Alberta. Ritu has appeared before a variety of boards and tribunals, all levels of court in Alberta, the Federal Court of Canada and in the Supreme Court of Canada. She has been a lecturer in Constitutional Law and in Labour Arbitration at the University of Alberta, Faculty of Law.

A graduate of the University of Toronto Law School, Ritu has published several articles in the area of constitutional law. Prior to her career in law, she was an Intergovernmental Officer with the Alberta Department of Federal and Intergovernmental Affairs in both the international and constitutional divisions. She has been extensively involved in a variety of capacities with the Constitutional Law Section of the Canadian Bar Association both nationally and locally. Ritu has also been very active with the Women’s Legal Education Action Fund (LEAF) both as counsel for

LEAF at the Supreme Court of Canada (*Ewanchuk, Shearing*), and on the national and local Boards.

Oryssia Lennie

Ms. Lennie was Deputy Minister of Western Economic Diversification Canada (WD) from 1997 until her retirement from the Public Service of Canada in June, 2009.

Prior to joining the Federal Government, she was the Deputy Minister of Federal and Intergovernmental Affairs, Government of Alberta (1990-97). From 1971-1990, she progressed through various positions in Alberta Federal and Intergovernmental Affairs. Throughout her career in the Alberta Government, she was extensively involved in constitutional negotiations as a member of the Alberta delegation in the discussions leading up to the *Constitution Act, 1982* and as head of the Alberta delegation of officials in the Meech Lake Accord and Charlottetown Accord negotiations.

She is a recipient of numerous awards, including the Lieutenant-Governor's Gold Medal for Excellence in Public Administration and the YWCA Women of Distinction Award for excellence in business and management.

Bronwyn Shoush

Alberta Aboriginal Relations

Bronwyn Shoush is Director, Aboriginal Justice Initiatives with the ministry of Aboriginal Relations, Government of Alberta. She is an Aboriginal lawyer, member of the Law Society of Alberta, and the Indigenous Bar Association of Canada. Ms. Shoush has a strong interest in federalism and constitutional studies. An important part of her work is building relationships with Aboriginal communities in urban, rural and remote locations, and working with them and others towards safe, secure communities.

Appendix B

The Patriation Negotiations

*conference
program*

All conference sessions will take place in the Empire
Ballroom unless otherwise noted.

THURSDAY, NOVEMBER 3, 2011

CONFERENCE OPENING

- | | |
|---------------|--|
| 16:00 – 19:00 | Registration |
| 17:00 – 20:00 | Welcome Reception and Conference Opening |
| 18:00 – 19:00 | Opening Remarks
Emcee: Peter Meekison |
| | ■ Greetings from the University of Alberta
Linda Hughes, Chancellor, University of Alberta |
| | ■ Greetings from the Province of Alberta
Minister Ted Morton |
| | ■ Greetings from the Centre for Constitutional Studies
Peter Carver, Chair, Board of Directors |
| | ■ Book Launch – <i>The Patriation Minutes</i>
Howard Leeson, Research Fellow, Centre for Constitutional
Studies; Professor, University of Regina |
| | ■ Presentation on the purpose and meaning of the conference
Janine Brodie, University of Alberta Political Science,
Trudeau Fellow |

FRIDAY, NOVEMBER 4, 2011

- | | |
|---------------|-----------------------|
| 08:00 – 16:30 | Registration |
| 08:00 – 09:00 | Continental Breakfast |

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Friday, November 4, 2011 continued

HOW DID WE GET THERE? Setting the Political/Constitutional Stage

- | | |
|---------------|--|
| 09:00 – 10:30 | PART 1:
Session chair: Steve Patten |
| | ■ Constitutional Nationalism: The Road to Patriation
Eric Adams, Faculty of Law, University of Alberta |
| | ■ Trudeau's Constitutional Vision
David Schneiderman, Faculty of Law, University of Toronto |
| | ■ Québec and Constitutional Change
Guy Laforest, Political Science, Université Laval, Québec |
| 10:30 – 11:00 | Refreshment Break |
| 11:00 – 12:30 | PART 2:
Session chair: Peter Carver |
| | ■ First Nations Fight Patriation
Louise Mandell, Mandell Pinder, Vancouver, British Columbia |
| | ■ The Women's Rights Lobby
Marilou McPhedran, President, Global College, Winnipeg,
Manitoba
Hon. Judy Erola, (1981, Minister Responsible for the Status
of Women, Government of Canada) |
| | ■ Executive Federalism and First Ministers Conferences
Richard Simeon, Professor, Political Science,
University of Toronto |
| | ■ The Supreme Court of Canada Reference
Philip Girard, Professor, Schulich School of Law,
Dalhousie University |
| 12:30 – 13:30 | Lunch (provided) |

WHAT HAPPENED: Political Dynamics and Outcomes

- | | |
|-------|--|
| | Session Chair: Hon. Jim Edwards |
| 13:30 | Introduction
Oryssia Lennie, Board Director, Centre for Constitutional Studies |

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- 13:30 – 14:15 **PANEL 1:**
 ■ **Reflections on the Kitchen Accord**
Hon. Roy Romanow (1981, Minister of Intergovernmental Affairs, Government of Canada)
- 14:15 – 14:30 Refreshment Break
- 14:30 – 15:45 **PANEL 2:**
 ■ **The Public Servants**
Howard Leeson (1981, Deputy Minister of Intergovernmental Affairs, Province of Saskatchewan)
Peter Meekison (1981, Deputy Minister of Federal and Intergovernmental Affairs, Province of Alberta)
Robert Normand (1981, Deputy of Intergovernmental Affairs, Province of Québec)
Eddie Goldenberg (1981, Special Constitutional Advisor to the Minister of Justice, Government of Canada)
Don Stevenson (1981, Deputy Minister of Intergovernmental Affairs, Province of Ontario)
- 15:45 – 16:30 ■ **The Drafters and Advisors**
Mary Dawson (1981, Associate Chief Legislative Counsel; Chair of the Statute Revision Commission)
Bary Strayer (1981, Adviser to the Government of Canada on the patriation of the Constitution)
Roger Tassé (1981, Deputy Minister of Justice and Deputy Attorney General, Government of Canada)

18:00 – 21:30

**Dinner and Arm Chair Discussion
with the First Ministers**

- **Greetings from the University of Alberta**
Debra Pozega Osburn, Vice-President, University Relations
- **Introduction**
Hon. Jim Horsman
- **Discussion**
 Moderator: *Hon. Jim Edwards*
Hon. John Buchanan, Former Premier of Nova Scotia
Hon. Peter Lougheed, Former Premier of Alberta
Hon. Brian Peckford, Former Premier of Newfoundland and Labrador

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SATURDAY, NOVEMBER 5, 2011

- 08:00 – 14:00 Registration
 08:00 – 09:00 Continental Breakfast

**WHAT DYNAMICS
WERE SET INTO MOTION?**

- 09:00 – 09:30 **Introduction**
Peter Russell, Professor, Political Science, University of Toronto
- 09:30 – 10:45 **PART 1:**
 Session Chair: *Linda Trimble*
 ■ **Aboriginal Issues**
Neil Sterritt (1981, President of the Gitksan-Wet'suwet'en Tribal Council)
 ■ **Evaluating the Condition of Canadian Federalism Since Patriation: A Québec Reading**
Alain-G. Gagnon, Département de sciences politiques, Université du Québec à Montréal
- 10:45 – 11:00 Refreshment Break
- 11:00 – 12:15 **PART 2:**
 Session Chair: *Lois Harder*
 ■ **That Was Then and This Is Now: The Sad but True Story of a Shrinking Equality Opportunity Structure**
Alexandra Dobrowolsky, Professor, Political Science, St. Mary's University
 ■ **Executive Federalism Post Patriation**
Gerald Baier, Professor, Political Science, University of British Columbia
- 12:15 – 13:30 **Farewell Lunch**
 Session Chair: *Patricia Paradis*
- 13:00 ■ **It was a moment of high politics, not necessarily in keeping with Canada's democratic traditions. How did this moment in time change Canadian politics?**
Chantal Hébert, Political Columnist, Toronto Star

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