



Lecture 2: Oh, Canada

by Bernard Cadogan

Purpose of lecture series

- 
- Helping policy makers put the Treaty into practice
 - Demystifying Treaty interpretation
 - Affirming current policy practices – the self-organising approach

Lecture themes

1. **Treaty and Method:-** New Zealand's Treaty Constitution and the Interpretation of the Treaty of Waitangi
2. **Oh, Canada:-** Minority Nationalisms in New Zealand and Canada
3. **The Subtle Science:-** The Hermeneutics of the Treaty of Waitangi

Lecture 2: Oh, Canada

- A solar-system of states, powers and peoples: 2 settler nations and 3 first nations
- Two sets of minority nationalisms
- Similarities and differences to NZ – e.g. French Canadians, First Nations and Maori
- Importance of convention in bridging disagreements where language fails

How will this help us understand NZ's situation?

- “We don’t know how lucky we are” – Fred Dagg
- British Empire successor-state parliamentary democracies
- Complex reconciliation, national minority rights and constitutional issues

The Canadian political system

- Old
- Multinational and multilingual
- Multi-jurisdictional
- Geo-politically sensitive
- A co-sovereign federation

What's it got to do with us?

- An example of how to avoid political breakdown
- An example of how to live without constitutional definition
- An example of how electoral politics has succeeded when formal constitutionalism has failed

General election

- Canada held a general election on May 2nd
- The Conservative party of Canada (CPOC) attained a majority after 5 years as a minority government

Canada's challenges

- So how have Canada's challenges panned out in their political system?
 - Formal Constitutionalism stalled
 - Small 'c' constitutionalism delivered
 - A binary stand-off seemed unendurable

Three positions debates

1. Inclusive liberalism
2. Intolerance of minorities
3. Resistance to colonization

NZ and Canada – comparable?

- Significance of national minorities in politics
- British successor-state democracies
- Determination to find legal and policy resolutions
- Maintenance of the rule of Law
- Popularist politics

What else could they have done?

- Quebec secession
- Not attempted the Meech Lake and Charlottetown Accords
- Continued the 1960s assimilation policy towards First Nations
- Applied to join the United States or broken up into several states

How has Canada succeeded?

- A “grand” constitutional project attempted to reshape the country
- Small “c” constitutionalism delivered
- Progress through political processes, not elite negotiations
- Elite hegemonies failed

So what are the key lessons for NZ?

- Prescriptive written constitutional solutions are elusive
- Anti-minority “let’s all be the same” popularist parties never deliver
- Liberalism can never be illiberal, “same” does not mean “equal”



Canadian Politicians



Lecture 3 – Thursday 7 July

- **The Subtle Science:-** The Hermeneutics of the Treaty of Waitangi