



**University
of Victoria**

Graduate Studies

Notice of the Final Oral Examination
for the Degree of Doctor of Philosophy

of

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J.D. (University of British Columbia, 2014)
Ph.D. (University of Toronto, 2009)
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“Reconciliation and the Foundations of Aboriginal Law in Canada”

Faculty of Law

Wednesday, February 8th, 2017
1:00 p.m.

David Turpin Building
Room A144

Supervisory Committee:

Prof. John Borrows, Faculty of Law, University of Victoria (Supervisor)
Dr. James Tully, Faculty of Law, UVic (Co-Supervisor)
Dr. Michael Asch, Department of Anthropology, UVic (Outside Member)

External Examiner:

Prof. Larry Chartrand, Faculty of Law, University of Ottawa

Chair of Oral Examination:

Dr. Ewa Czaykowska-Higgins, Department of Linguistics, UVic

Dr. David Capson, Dean, Faculty of Graduate Studies

Abstract

The current framework for reconciliation is based on the Court's accepted the Crown's assertion of sovereignty, legislative power and underlying title. The basis of this is their interpretation of Section 91(24), which reads it as a plenary grant of power over Indians and their lands. This has led them to simply bypass the question of the inherent right of self-government and to generate a constitutional framework that amounts to little more than a proportionality check on the exercise of Crown sovereignty. I argue that if we are to find a meaningful reconciliation—and not simply one that is assigned by the logic of force that resides behind the unquestioned assumption of sovereignty—then we will need to address the history of sovereignty without assuming its foundations. My project sets out to expose the limitations of the current model by following the lines of descent and association that underlie the legal conceptualization of Aboriginal sovereignty.