

McGill University
Department of Political Science
Political Science 160-623B

Judicial Politics and the Charter

Winter 2010

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Office Hours: By appointment.

Required Texts (Available in Bookstore)

Roy B. Flemming, Tournament of Appeals: Granting Judicial Review in Canada.

James B. Kelly and Christopher Manfredi, eds., Contested Constitutionalism: Reflections on the Charter of Rights and Freedoms.

Christopher Manfredi and Mark Rush, Judging Democracy.

C.L. Ostberg and Matthew E. Wetstein, Attitudinal Decisionmaking in the Supreme Court of Canada.

Donald R. Songer, The Transformation of the Supreme Court of Canada: An Empirical Examination.

Description and Requirements

The purpose of this seminar is to introduce students to recent work in political science on the Supreme Court and the Charter, as well as to discuss recent decisions in key areas of importance. Students are expected to participate actively in the seminar. Evaluation of students will be based on general seminar participation (35%), a project presentation (25%), and a research paper (40%).

Schedule and Reading Assignments

January 5: No class scheduled.

January 12: The Charter @25

Kelly and Manfredi, Contested Constitutionalism.

January 19: The Transformation of the Supreme Court

Songer, The Transformation of the Supreme Court of Canada.

Roy B. Flemming, "Review of The Transformation of the Supreme Court of Canada," Law and Politics Book Review 19:6 (2009), 380-385.

Benjamin Alarie, "Review of The Transformation of the Supreme Court of Canada," University of Toronto Faculty of Law, Legal Studies Research Series, No. 09-07 (June 2009).

January 26: Agenda Setting

Flemming, Tournament of Appeals.

Richard Brisbin, "Review of Tournament of Appeals," Law and Politics Book Review 14:7 (2004), 538-542.

Lorne Sossin, "Review of Tournament of Appeals," Queen's Law Journal 30 (2005), 900-911.

February 2: Judicial Decision-Making

Ostberg and Wettstein, Attitudinal Decisionmaking in the Supreme Court of Canada.

Roy B. Flemming, "Review of Attitudinal Decisionmaking in the Supreme Court of Canada," Law and Politics Book Review 18:6 (2008), 500-504.

February 9: No class scheduled.

February 16: The Charter and Democracy

Manfredi and Rush, Judging Democracy.

Yasmin Dawood, "Judging the Law of Democracy," Election Law Journal 8:2 (2009), 141-146.

Robert G. Boatright, "Review of Judging Democracy," American Review of Canadian Studies 39:1 (2009), 52-54.

Jamie Cameron, "Review of Judging Democracy," Law and Politics Book Review 19:1 (2009), 46-49.

Colin D. Pearce, "Review of Judging Democracy," SSRN id-372304.

February 23: Study Break (no class scheduled).

March 2: Recent Cases: Expression and Religion

Alberta v. Hutterian Brethren of Wilson Colony, 2009 SCC 37

Multani v. Commission scolaire Marguerite-Bourgeoys, 2006 SCC 6, [2006] 1 S.C.R. 256

Canada (Attorney General) v. JTI-Macdonald Corp., 2007 SCC 30, [2007] 2 S.C.R. 610

Baier v. Alberta, 2007 SCC 31, [2007] 2 S.C.R. 673

March 9: Recent Cases: Legal Rights

Charkaoui v. Canada (Citizenship and Immigration), 2008 SCC 38, [2008] 2 S.C.R. 326

Canada (Justice) v. Khadr, 2008 SCC 28, [2008] 2 S.C.R. 125

A.C. v. Manitoba (Director of Child and Family Services), 2009 SCC 30

March 16: Recent Cases: Social Rights

Chaoulli v. Quebec (Attorney General), 2005 SCC 35, [2005] 1 S.C.R. 791

Auton (Guardian ad litem of) v. British Columbia (Attorney General), 2004 SCC 78, [2004] 3 S.C.R. 657

Gosselin v. Québec (Attorney General), 2002 SCC 84, [2002] 4 S.C.R. 429

March 23: Recent Cases: Equality Rights

Gosselin (Tutor of) v. Quebec (Attorney General), 2005 SCC 15, [2005] 1 S.C.R. 238

Newfoundland (Treasury Board) v. N.A.P.E., 2004 SCC 66, [2004] 3 S.C.R. 381

Reference re Same-Sex Marriage, 2004 SCC 79, [2004] 3 S.C.R. 698

March 30: Recent Cases: Language Rights

Arsenault-Cameron v. Prince Edward Island, 2000 SCC 1, [2000] 1 S.C.R. 3

Nguyen v. Quebec (Education, Recreation and Sports), 2009 SCC 47

Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v. Canada, 2008 SCC 15, [2008] 1 S.C.R. 383

April 6: Project presentations.

April 13: Project presentations.