Welcome to Political Science 308. This course is an introduction to the study of Canadian courts and law from a political science perspective. In Canada, our courts appear to be becoming more involved in the political issues of the day. Gay marriage, aboriginal claims, and election spending are just a few of the battles that have reached the courts in recent years. In this course we will seek to explore the realm of law, courts and the judicial process with the aim of better understanding how and why courts can be seen as political. We will consider the extent to which the politicization of the courts is a recent trend and examine the consequences of our findings for our political system.

Organization and Contact Information

The course will be taught through a mixture of lectures and discussion. The size of the class will mean that lectures will dominate, but we will also devote considerable time to class discussion and debate. I also hope to bring in the occasional guest.

A central part of the learning process will be a student-led mock Supreme Court case (see below). Students should be prepared for a dynamic course where there may be changes, additions and modifications as we move through the term. Your success in the course (and how enjoyable it will be for everyone) will rest on your willingness to attend, participate and keep up with the readings.

I will hold regular office hours during the term (see above). Feel free to drop by if you have any questions or you can contact me to arrange another time if my office hours are inconvenient. The best way to reach me is by email. During the term I try to return email as promptly as possible, usually within a day or so.

Course Evaluation:

The evaluation for the course will have three main components:

Midterm: 20% of the final grade
Supreme Court Assignment: 40%
Final Exam: 40%
The midterm will take place in class on **October 21**. The final will be held during the exam period in December. Please do not schedule travel during the exam period as I have no control over the scheduling of the exam.

**The Mock Trial**

For the written assignment portion of the course you will be asked to participate in the simulation of a Supreme Court case. Early in the term students will be assigned the role of a lawyer, Supreme Court Justice or clerk in a fictitious case to be heard before the Supreme Court. Those assigned roles as lawyers will be part of a team responsible for writing and presenting briefs to Court on behalf of an appellant, appellee or one of the named intervenors. Those assigned as Justices or clerks will be part of a team responsible for questioning and authoring opinions based on these briefs. As a part of this assignment we will also hold a mock hearing with oral arguments. Details will be provided at the beginning of the term, but students should be comfortable with the prospect of participating as a member in a group project.

Students should familiarize themselves with the university’s policy on plagiarism and be prepared to submit papers to an online plagiarism checking service. The department policy is that all undergraduate papers be submitted to Turnitin.com a service which evaluates the originality of papers. This policy will be applied to written briefs and opinions.

For the success of the simulation it is vital that all assignments be submitted on time. A late penalty of 3% per day will be applied to all late assignments.

**Readings and required text:**

The majority of the readings will be found in the required text, which will be available for purchase in the bookstore and on reserve in the law library.


I also make frequent reference to relevant legal cases. Additional or supplemental readings or cases will be announced in class and be available via the website or on reserve.

**Website:**

The course website is: www.politics.ubc.ca/anderson/poli308. I hope to make this the central resource centre for the course. You will find an updated syllabus, lecture notes will be added as we move along, as will supplemental readings and resources for each topic. A special page will also be set up for the assignment. The details of the assignment, sample briefs and other resources will be found here and your legal briefs and opinions will be posted for circulation as they are finished.

**Course Schedule and Readings**

The following is an outline of the course schedule and required readings. Note that this is a tentative schedule only. At various points we may change the order or adjust the readings to accommodate the assignment or to incorporate relevant current events and cases of interest. Also, while the topics are divided neatly here, we will be discussing cases and encountering legal reasoning throughout the course and not just in the later sections. At various points class time will also be devoted to the assignment.
Introduction: Political Jurisprudence

We begin the course by looking at the role of courts and law in a broad perspective: what is the place of courts in our system and under the rule of law? How have political scientists approached the study of courts and in what sense are courts political?

Week I: Introduction and overview (Week of September 5)
Morton, ch 1

Week II: Political Jurisprudence (Week of September 12)
Morton ch. 2

The Courts

In this section we focus on particular aspects of the courts, their operation and judging. How are and should judges be appointed? How do we understand notions like judicial independence and impartiality? What are the sources and limits on judicial power?

Week III: organization and structure of Canada’s courts (week of September 19)
Morton, ch 3

Week IV: choosing judges (week of September 26)
Morton, ch. 4

Week V: judicial independence and judicial misconduct (week of October 3)
Morton, ch, 5

Week VI: judicial power (week of October 10)
Morton ch. 6
Note: No Class Monday October 10 (Thanksgiving)

Week VII: lawyers, interest groups and legal advocacy (Week of October 17)
Morton ch. 7
Midterm October 21

The Law

In this section we take a closer look at the law and the process of legal reasoning. What is legal reasoning and how is it distinct from other forms of reasoning? How much of a constraint is legal reasoning on judicial decisionmaking? In this context we will also touch on the variety of different substantive areas of the law and as how (and if) reasoning and discretion changes across these areas.

Week VIII: fact finding and the law (week of October 24)
Morton, ch. 8

Week IX: legal reasoning: common law and statutory (week of October 31)
Morton ch. 9

Week X: legal reasoning in the constitutional context (week of November 7)
Morton ch. 10
Briefs due: November 7
Note: No Class Friday November 11 (Remembrance Day)
Week XI: legal reasoning (con’t) and oral hearing (week of November 14)
Morton ch. 11
Oral hearing: November 18

Week XII: the process of judicial decisionmaking (week of November 21)
Morton ch. 12

Conclusion

Here we will have a chance to look back and consider the implications of our findings concerning the courts and law. Are critics of the courts correct in their assertions that the courts and judges are becoming too powerful?

Week XIII: courts and constitutional democracy (week of November 28)

(Opinions Due: November 28)
Morton ch. 13