

American Legal History from 1860 to the Present

Legal Studies / History 262, Spring 2014

Social Sciences 6240, Tues.-Thur., 2:30 – 3:45 pm

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Office Hours: Social Sciences 7131, Tues.-Thur., 12:30 – 1:30 p.m., and by appointment

This course surveys the development of American legal ideas and institutions from the Civil War to the present. The main focus is on the interaction between law and political, economic, and social change.

Attendance: You are allowed two ‘free’ absences, which will not impact your grade. You do not earn points just for attending class, as this is expected, but after the two allowed absences, each additional absence may negatively impact your grade. Valid excuses are limited to absences for university-recognized religious observances and for well-documented major illnesses or emergencies in the immediate family.

Participation: Everyone should try to speak in class, and I will also try to call on students who do not seize the opportunity to speak up frequently. But quality of contribution counts more than quantity. Quality contributions are, ideally, clear and precise, while showing that you have understood the readings and that you are asking good critical questions about them (such as: What are the main questions the author tries to answer? What is the author’s main argument? What specific arguments or assumptions support the main argument? What specific evidence is used to support the arguments? What is left out?) Good participation also means that you listen to others and try to engage seriously but respectfully with what others say.

Computers and Electronic Devices: Due to the potential for distraction, these devices may not be used in class, except in cases of documented disabilities.

Grades: 20% each for participation and the midterm exam; 30% each for the paper and the final exam.

Exams: The two exams will be comprehensive in their coverage, emphasizing the broader ideas and themes of the course. The format will include some identification-type, shorter essays, as well as one or two longer essays.

Paper: The paper will be an essay of 6-7 pages, focusing on the assigned readings. Topics and guidelines will be given later, approximately two weeks before the paper due date. Essays will be turned in both as paper copies in class, and as electronic copies to an anti-plagiarism website. Late papers will be marked down one grade per day late.

Academic Honesty: Your written work must reflect your own ideas, and where you draw on others’ words or ideas you need to indicate this clearly with proper quotations and citations. As the UW website explains, “plagiarism means presenting the words or ideas of others without giving credit. You should know the principles of plagiarism and the correct rules for citing sources....” For this quotation and more information, see: <http://students.wisc.edu/saja/misconduct/UWS14.html#overview> . As this website notes, “if you are unsure about the proper ways to give credit to sources, ask your instructor or consult the Writing Center at 6171 Helen C. White Hall (phone: 608/263-1992, e-mail: writing@wisc.edu). For a copy of their handout ‘Acknowledging, Paraphrasing, and Quoting Sources,’ please download: http://writing.wisc.edu/Handbook/Acknowledging_Sources.pdf .

Accommodations: If you need accommodations due to any disability, please let me know within the first two weeks of class, i.e. by Jan. 30. In order to maintain confidentiality, please let me know by coming to my office hours or by emailing me to arrange a meeting. You will need to provide documentation from the McBurney Disability Resource Center, 702 West Johnson St., Suite 2104, tel. 608-263-2741, email: mcburney@studentlife.wisc.edu.

Reading Assignments and Note-Taking: Ideally you should read all of the week's assignments by Tuesday's class, but you may prioritize them according to the order in which they appear on the syllabus. More specifically, it is often helpful to start with the most general secondary source (Foner), and then proceed to the more focused secondary sources (the introductions in Hall, Woloch, and Martin). Next, go on to the primary sources (the texts of laws and cases in Hall, Woloch, or Martin), which are the most important and the most challenging readings (often part of Thursday's class will focus on them). The above steps will prepare you, finally, to get the most out of the interpretive essays in Hall, which are key for understanding ongoing debates about the material. In fact it may be helpful to skim these essays as a first step, and then read them again more carefully at the end. You should read each assignment carefully, take notes, and prepare a short summary of, response to, and critical questions provoked by it as a basis for class discussion (approx. 2 pages for each week's assignments).

Textbooks: You need to purchase these four books in the editions listed here, which are available through the UW Bookstore: <http://www.uwbookstore.com/home.aspx>. They are also on reserve at College Library. They are listed here in the order in which they are assigned.

Foner, Eric. *The Story of American Freedom*. New York: Norton, 1998.

Hall, Kermit, and Timothy Huebner, eds., *Major Problems in American Constitutional History*, 2nd ed. Boston: Wadsworth, 2010.

Woloch, Nancy, ed., *Muller v. Oregon: A Brief History with Documents*. Boston: Bedford/St. Martins, 1996.

Martin, Waldo E., ed. *Brown v. Board of Education: A Brief History with Documents*. Boston: Bedford/St. Martin's, 1998.

SCHEDULE

Week 1, Jan. 21-23. Introduction, the Civil War, & Reconstruction.

- Foner, *American Freedom*, introduction, pp. xiii – xxii; ch. 5, pp. 95-107.
- Hall & Huebner, *ACH*, App. I, pp. 565-67 (Amendments 1-10, aka the 'Bill of Rights').

Week 2, Jan. 28-30. Reconstruction: a Constitutional Revolution?

- Foner, *American Freedom*, ch. 5, pp. 107-13.
- Hall & Huebner, *ACH*, ch. 7, pp. 229-37; 255-66.

Week 3, Feb. 4-6. The Gilded Age: Industrial Revolution, Labor, & Jim Crow.

- Foner, *American Freedom*, ch. 6, pp. 115-37.
- Hall & Huebner, *ACH*, ch. 7, pp. 238-55; 266-72; & ch. 8, pp. 274-90.
- Woloch, *Muller v. Oregon*, ch. 1-2, pp. 3-40; & documents nos. 1-2, 4-5, pp. 93-99, 105-09.

Week 4, Feb. 11-13. The Progressive Era: Police Power, Gender, & Freedom of Contract.

- Foner, *American Freedom*, ch. 7, pp. 139-61.
- Hall & Huebner, *ACH*, ch. 8, pp. 290-309.
- Woloch, *Muller v. Oregon*, ch. 3, pp. 41-57; & doc. nos. 7 & 11, pp. 133-44 & 157-65.

Midterm Exam, Tues., Feb. 18.

Week 5, Thur., Feb. 20. World War I & Social Change.

- Foner, *American Freedom*, ch. 8, pp. 163-93.

Week 6, Feb. 25-27. World War, Crime, & Civil Liberties.

- Hall & Huebner, *ACH*, ch. 9, pp. 311-44.

Week 7, March 4-6. The Great Depression, New Deal, & Early Civil Rights Cases.

- Foner, *American Freedom*, ch. 9, pp. 195-218.
- Hall & Huebner, *ACH*, ch. 10, pp. 346-81.
- Martin, *Brown v. Board*, pp. 1-19.

Week 8, March 11-13. World War II, the Cold War, and Changing Race Relations.

- Foner, *American Freedom*, ch. 10, pp. 219-47; ch. 11, pp. 249-62.
- Hall & Huebner, *ACH*, ch. 11, pp. 383-89.
- Martin, *Brown v. Board*, pp. 19-27; documents ch. 3, pp. 118-20; ch. 4, pp. 121-37.

Spring Break, March 17 – 21.

Week 9, March 25-27. The Affluent Society & the Civil Rights Movement.

- Foner, *American Freedom*, ch. 11, pp. 262-73; ch. 12, pp. 275-87.
- Martin, *Brown v. Board*, pp. 27-38.
- Hall & Huebner, *ACH*, ch. 11, pp. 389-401.

Week 10, April 1-3. Civil Rights: Popular Response and Legacy.

- Hall & Huebner, *ACH*, ch. 11, pp. 402-15.
- Martin, *Brown v. Board*, documents ch. 5, pp. 223-37 (& sample the rest of ch. 5).

Paper Due, Tues., April 8.

Week 11, Thur., April 10. Civil & Personal Liberties: The Rights Revolution.

- Foner, *American Freedom*, ch. 12, pp. 287-305.

Week 12, April 15-17. From the Right of Privacy to Abortion.

- Foner, *American Freedom*, ch. 13, pp. 307-19.
- Hall & Huebner, *ACH*, ch. 12, pp. 417-49.

Week 13, April 22-24. Freedom & Religion.

- Foner, *American Freedom*, ch. 13, pp. 320-32.
- Hall & Huebner, *ACH*, ch. 13, pp. 451-82.

Week 14, April 29 - May 1. Federalism.

- Hall & Huebner, *ACH*, ch. 14, pp. 484-516.

Week 15, May 6-8. The Presidency, Civil Liberties, & the War on Terror.

- Hall & Huebner, *ACH*, ch. 15, pp. 518-55.

Final Exam: Sunday, May 11, 10:05 am - 12:05 p.m.