

Law and Politics in U.S. History

Johns Hopkins University - Center for Talented Youth

Course Overview

This course introduces students to the work of the historian through studying past legal disputes, and the historical controversies they represent. We will analyze the law in terms of its function, creation and boundaries to determine how people sought to resolve the country's most important political and social dilemmas. The course addresses each era in US history with an emphasis on the emergence of the market capitalism, civil rights, citizenship and equality, women's role in society, and the development of the state. Utilizing a variety of primary and secondary sources, the course engages students in issues that are fundamental to historians – evaluating sources and objectivity, causation and contingency, and change over time.

Various methodologies are used in this course with the goal of teaching students to create research-based arguments using textual evidence. The diverse methodologies include structured debate, informal lecture and note taking, discussion, research, analytical writing, role playing, and a mock trial.

Requirements

1. Lively, informed, and respectful participation in all discussions and activities.
2. Exercise leadership and integrity inside the classroom.
3. Make your best attempt to complete all written work and class exercises.
4. Openness to new ideas and perspectives.

Required Texts

- *Major Problems in American Constitutional History: Volume II, From 1870 to the Present*, Kermit Hall, ed. (Lexington, MA: D.C. Heath, 1992).
- Additional documents, essays, and texts will be made available by the instructor throughout the course.

Course Outline

(Please note that the instructor may modify the syllabus during the course.)

Day One

Themes Include: Introduction, What is History, Origins, Function of Law, Primary and Secondary Source Literature, Objectivity, Freedom and Slavery, Intellectual Origins of American Government

- a. Introductions
- b. Overview of Course (requirements, plagiarism, honor code, class rules, writing, note taking, etc.)

- c. Pre- Assessment
- d. Discussion –Law and History (readings by Bloch, Carr) Reading primary and secondary source documents. Discuss issues of objectivity, subjectivity, perspective in historical studies
- e. Activity: Orwell’s “Politics and the English Language”

Afternoon

- a. Discuss Atlantic slave trade
- b. “Virginia Slave Codes,” Excerpt of Edmund Morgan’s *American Slavery, American Freedom*

Evening

- a. Read Declaration of Independence, Articles of Confederation, U.S. Constitution, John Locke, Thomas Paine, *Federalist Paper #10*
- b. Declaration of Independence reading activity

Day Two

Themes Include: the Enlightenment, Liberalism, Republicanism, Natural Law, Constitutional Government, Private Property, Articles of Confederation, US Constitution, Bill of Rights

- a. Lecture: race, rebellion, and slavery in colonial Virginia
- b. Discussion: Grievances and political ideology of American colonists
- c. Models of Liberalism and Republicanism activity

Afternoon

- a. Articles of Confederation, strengths/weaknesses: activity
- b. Discussion: the Constitution and historicism
- c. Bill of Rights activity preparation

Evening

- a. Bill of Rights activity presentations
- b. Begin to read *Marbury v. Madison, McCulloch v. Maryland*, “To Say What the Law is” in *A Peoples’ History of the Supreme Court*

Day Three

Themes Include: John Marshall, *Marbury v Madison*, Judicial Review, Original Intent, Constitutionalism, Federalism

- a. *Marbury v. Madison, McCulloch v. Maryland*
- b. Discussion: the politics of Federalists and Jefferson’s Democratic-Republicans
- c. Library Research: using academic journals to research the origins of judicial review

Afternoon

- a. Writers workshop to compare research and writing
- b. Research essay on judicial review
- c. Complete discussion of *McCulloch v. Maryland*

Evening

- a. Complete research essay
- b. Readings, “Raoul Berger, Original Intent as a Curb on Judicial Power,” Leonard Levy, *The Failure of Original Intent*” in *Major Problems*
- c. Political cartoon drawing activity

- d. Begin reading *Dartmouth College v. Woodward*, *Charles River Bridge v. Warren Bridge*

Day Four

Themes Include: Political Economy, Geographical Development, Slavery, Fugitive Slave Act, the Court under Justice Taney

Cases: *Dartmouth College v. Woodward*, *Charles River Bridge*, *Dred Scott v. Sanford*

- a. Read and discuss *Dartmouth College v. Woodward*, *Charles River Bridge*, *Major Problems*, pp 407-414, 417-440
- b. Lecture on geographical development, culture
- c. Discussion: contracts and the rights of the public

Afternoon

Debate rearguing the case *Charles River Bridge v. Warren Bridge*

Evening

- a. Read the Fugitive Slave Law of 1850, the Kansas Nebraska Act, *Dred Scott v. Sandford*, Lincoln Douglas Debates, South Carolina's act of Succession, Constitution of the Confederate States of America, biographical essay on the Dred Scott

Day Five

Themes Include: Freedom and Slavery, Citizenship, Civil War, Reconstruction, *Plessy v. Ferguson*, *Jim Crow*, *Segregation*, 13th, 14th, 15th Amendments

- a. Complete readings and read Genovese, "The Hegemonic Function of the Law"
- b. Discussion: politics of slavery in antebellum America

Afternoon

- a. Student presentations of group work focusing on subtopics relating to *Dred Scott*, Lincoln, slave politics, and secession

Evening (Sunday)

- a. Read W.E.B. DuBois' *The Souls of Black Folk*, Booker T. Washington's *Up From Slavery*
- b. Mock trial prep

Day Six

Themes Include: Industrialism, Labor, Trusts, Sherman Antitrust Act, Immigration, Populism, Chinese Exclusion, Strikebreaking,

Cases: *the Slaughterhouse Cases*, *Munn v. Illinois*, *US v. E.C. Knight*, *In Re Debs*

- a. Discuss 13th, 14th, 15th Amendments and Civil Rights Act of 1866.
- b. Lecture on labor, capital in Gilded Age U.S.
- c. Read *Slaughterhouse Cases*, *Munn v. Illinois*, *US v. E.C. Knight*, *In Re Debs*, *Populism*, *Major Problems*, pp 7-41, 44-53

Afternoon

Discuss Herbert Spencer, Social Darwinism, *Buck v. Bell*, immigration law

Evening

- a. Finish discussion of 14th Amendment, Civil Rights cases
- b. Mock trial rehearsal
- c. Position paper- Lincoln's strict adherence to the law and civil disobedience
- d. Begin reading *Slaughterhouse Cases*

Day Seven

Themes Include: Labor, Contracts, Political Economy, Welfare Capitalism, Progressive Era, Cities

- a. Discuss Capitalism and the U.S. Constitution: does the Constitution mandate a particular type of economic system?
- b. Lecture on labor in the Gilded Age, discussion of crop-lien system, monopolies, the Grangers
- c. Read cases, discuss issue of police power, 14th Amendment

Afternoon

Review and discuss *Slaughterhouse Cases*, *Munn*, *E.C. Knight*, *Pollock v. Farmers' Loan and Trust Co.*

Evening

- a. Mock trial Prep
- b. Reading

Day Eight

Themes Include: Gender, Declaration of Sentiments, Feminism, Paternalism, Dependency, Brandeis Brief, Equal Protection

- a. Industrialism and labor in the Gilded Age
- b. Labor timeline and strikes
- c. *Allgeyer*, *Holden v. Hardy*
- d. White Supremacy, Spencer, Social Darwinism, and scientific racism

Afternoon

- a. Discuss *Lochner v. New York*, Substantive vs. Procedural due process in 14th Amendment
- b. Lesson *Buck v. Bell*, Eugenics

Evening

- a. Read The Espionage Act, *Scheck*, *Abrams* in *Major Problems*, pp 143-148, 166-189, and "The Birth of Civil Liberties" by Eric Foner
- b. Mock Trial Prep

Day Nine

Themes Include: Free Speech, Civil Liberties, Police Power, Repression, Security, Immigration Communism

- a. Discussion: Arbitrary interference to protect some groups or occupations
- b. Victorian women: stereotypes, and ideas about themselves.
- c. Seneca Falls, *Bradwell*,
- d. Ethics Morality Skits

Afternoon

- a. Debate sexist protective legislation in *Muller v. Oregon*
- b. 19th Amendment
- c. *Adkins v. Children's Hospital*

Evening

- a. Discuss World War I, Committee on Public Information, rights in a time of war
- b. Read Espionage Act, *Schenck, Abrams, Gitlow*, Thomas Cooley
- c. Mock trial prep

Day Ten

Themes Include: Red Scare, New Deal, FDR, Internment, Smith Act, Wagner Act, Cold War

- a. Discussion, national security and civil liberties
- b. Reading and discussion – devising a new free speech test, beginning with Holmes and ending on today’s threats

Afternoon

- a. Group study of: Smith Act, Dewey’s essay on Liberalism’s contradictions, *Dennis et al, Yates, Brandenburg v. Ohio*
- b. Focused presentations, question and answer session

Evening (Sunday)

- a. Introduce final projects
- b. Mock trial prep
- c. Read Civil Rights Act, *Plessy v. Ferguson, Brown v. Board of Ed.*, Southern Manifesto, essays

Day Eleven

Themes Include: Civil Rights, Desegregation, Equality, Southern Manifesto, Affirmative Action, MLK, Malcolm X

Cases: *Brown v. Board, the Regents of the University of California v. Bakke*

- a. Lesson on Korematsu and internment
- b. Discuss cases: *Brown v. Board of Ed., Bakke*. Read Peter Irons’ *Jim Crow’s Children*, Southern Manifesto, The Civil Rights Act of 1964 and the Voting Rights Act
- c. Discuss legacy/impact of school desegregation, busing

Afternoon

Debate Bakke’s placement, merits of affirmative action programs

Evening

- a. Media: Audio clips of Martin Luther King speech, RFK, Malcolm X’s *The Ballet or the Bullet*, images of the Watts Riot
- b. Wrap up discussion of race, protest, legislation

Day Twelve

Themes Include: Privacy, Gender, Equal Rights Amendment, Feminism, Final Projects

Cases: *Griswold v. Connecticut, Roe v. Wade*

- a. Discuss format, presentations, and documentation for final projects. Potential topics include, but are not limited to: the death penalty, the USA PATRIOT Act, gun ownership, gay marriage, prayer in public schools, corporate regulation, environmental law, animal rights, physician-assisted suicide, or flag burning.
- b. Read *Griswold v. Connecticut*, discuss privacy and the Constitution.

Afternoon

Read *Roe v. Wade*, supplementary readings

Evening

- a. Conclude *Roe* discussion with look at current justices, cases
- b. Read *Bowers v. Hardwick*, *Lawrence v. Texas*

Day Thirteen

Themes Include: Gender, Sex Politics and Marriage

Cases: *Bowers v. Hardwick*, *Lawrence v. Texas*

- a. Hear portion of oral arguments in *Roe v. Wade*
- b. Discuss *Griswold v. Connecticut*, *Frontiero*, Equal Rights Amendments and documents
- c. Discuss opinion, legal reasoning, and impact of *Roe*
- d. Library research

Afternoon

- a. Mock Trial Held
- b. Reflection and wrap-up

Evening

- a. Library Research
- b. FINAL PROJECTS DUE
- c. Read *Bowers v. Hardwick*, *Lawrence v. Texas*, *Gay New York*(ch 1)

Day Fourteen

Themes Include: Final Projects, Research

- a. Post Test, SPE's
- b. Discuss *Bowers*, *Lawrence*, Same-Sex Marriage,
- c. Lesson: Cultural Redefinition
- d. Library Research
- e. Presentation and discussion of Final Projects

Day Fifteen

- a. Final Presentations
- b. Final Discussions