

UNIVERSITY OF CALIFORNIA, SAN DIEGO  
Department of History  
Fall Quarter, 2011

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## AMERICAN LEGAL-CONSTITUTIONAL HISTORY: COLONIAL ERA THROUGH CIVIL WAR

A lecture-discussion course on major issues and themes in the legal and constitutional history of the United States from the English common law-constitutional background through the American Civil War. The course examines developments in both private law (common law) and public law (constitutional developments) with particular emphasis on how social, economic and political changes influence legal rules and how the law, in turn, reshapes social, economic and political structures.

**The following books are required and may be purchased in the University Bookstore. A few copies will be placed on reserve in the Geisel Library:**

Kermit Hall, et al., **American Legal History: Cases and Materials**, 4<sup>th</sup> edition

Kent Newmyer, **The Supreme Court under Marshall and Taney**, 2<sup>nd</sup> edition.

### **Course Requirements and Grading:**

Attendance at lectures, although not mandatory, is strongly recommended. Examinations and quizzes will be based on both lectures and readings. A 50-minute, in-class mid-term will be given on Friday of the 5<sup>th</sup> week, October 28. It will count 35% of the final grade. A three-hour final exam will count for 55%. In addition, there will be two five-question quizzes, each worth 5% and given without prior notice. Students taking the course P/NP must complete all examinations and earn a final grade of C.

### **Reading Assignments and Lecture Topics**

WEEK I: October 3: The English Roots of American Law and the Colonial Era

Hall, *American Legal History*, chapter 1, pp. 1-6, 29-30; 34-39

**Special reading focus: Magna Charta; Glorious Revolution; Trial of the Seven Bishops; John Locke "On Civil Government."**

WEEK II: October 8: Law in the Colonial Era: Reception and Transformation

Hall, American Legal History, pp 6-29, 30-34; 39-80

**Special reading focus: The Laws and Liberties of Massachusetts; New York Charter of Liberties; Trial of John Peter Zenger; Slavery section (51-59); New York Conspiracy Trial; William Blackstone on Women in the Eyes of the Law.**

WEEK III: October 10: The American Revolution and the Revolution in American Law

Hall, American Legal History, pp. 81-110

**Special reading focus: James Otis, "The Rights of English Colonies;" The Declaratory Act; The Declaration and Resolves of the Continental Congress; Tom Paine "Common Sense;" Virginia Declaration of Rights; Somerset v. Stewart; Commonwealth v. Jenison**

WEEK IV: October 17: State Constitutions & the Constitution of the United States

Hall, American Legal History, pp. 111-130

Complete reading Kaminski, Federalists and Anti-federalists

**Special reading focus: The Pennsylvania Constitution of 1776; Virginia Statute for Religious Freedom; Northwest Ordinance; Articles of Confederation; the Randolph Plan; The Patterson Plan; Federalist No. 10, 78.**

WEEK V: October 24: The Federal Courts Before Marshall

Hall, American Legal History, pp. 130-147

Begin reading Newmyer, The Supreme Court, pp. 1-54

**Special reading focus: The Judiciary Act of 1789; The Sedition Act of 1798; The Virginia and Kentucky Resolutions; Calder v. Bull**

***MID-TERM EXAM IN CLASS, FRIDAY OCTOBER 28***

WEEK VI: October 31: Marshall and His Court

Hall, American Legal History, pp. 148-164, 172-175

Complete Newmyer chapters on Marshall Court, pp. 55-87

**Special reading focus: Marbury v. Madison; Livingston v. Van Ingen; Gibbons v. Ogden; McCulloch v. Maryland; Dartmouth College v. Woodward**

WEEK VII: November 7: Law and Economic Change

Hall, American Legal History, pp. 176--217

Begin reading Newmyer chapters on Taney Court, pp. 89-117

**Special reading focus: Commonwealth v. Hunt; Farwell v. Boston & Worcester Railroad; Brown v. Kendall; Seymour v. Delancy; Ryan v. New York Central**

WEEK VIII: November 14: The Taney Court

Newmyer, Taney Court, pp. 118-127  
Hall, American Legal History, pp. 218-231

**Special reading focus: Souther v. Commonwealth; State v. Hoover**

WEEK IX: November 21: Slavery, Law and Union

Hall, American Legal History, pp. 231-245  
Newmyer, Taney Court (complete), 127-152

**Special reading focus: Prigg v. Pennsylvania; Dred Scott v. Sandford; The Next Dred Scott Decision.**

WEEK X: November 28: The Constitution and the Civil War

Hall, American Legal History, pp. 245-260

**Special reading focus: Emancipation Proclamation; Lincoln's Second Inaugural.**

***FINAL EXAM: Week of December 5<sup>th</sup>***