

UNIVERSITY OF CALIFORNIA, SAN DIEGO

Department of History

**HIUS 150: AMERICAN LEGAL AND CONSTITUTIONAL HISTORY,
COLONIAL ERA TO CIVIL WAR**

Professor Michael Parrish

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CSB 002; MWF 1-1:50

Office: 6073 H&SS

Consultation: MW 2-3

This lecture course surveys major issues and topics in the legal and constitutional history of British North America and the United States from the pre-colonial period to the Civil War. The course examines developments in both the civil law (property, torts, and contract) and public law (constitutionalism) with emphasis on the relationship of economic, social and political change to the evolution of legal rules and how, in turn, the law influences social, economic, and political developments.

Two books are required for the course, both available in the University bookstore; a few copies will be placed on reserve in the Geisel Library.

Kermit Hall, Paul Finkelman, et al., *American Legal History: Cases and Materials*, 4th edition (Oxford University Press)

Kermit Hall and Peter Karsten, *The Magic Mirror*, 2nd edition (Oxford University Press)

(NOTE: If you are unable to secure these editions (4th and 2nd), earlier ones may be used.)

Course Requirements: Attendance at lectures is not mandatory, but highly recommended, because quizzes and exams will be based on both readings and lectures. A 50-minute, in-class midterm will be given at the end of the fifth week (November 2nd). It will count 35% of the final grade. The three-hour final exam (the week of December 10th) will count for 55%. Two unannounced quizzes will be given during the quarter, usually on Fridays; each will count 5% and no make ups will be offered without a medical excuse.

NOTE: Students taking the course P/NP must complete all exams and quizzes and receive a final grade of C.)

READING ASSIGNMENTS AND LECTURE TOPICS

WEEK I (October 1) Introduction to Legal History & The Roots of Anglo-American Law and the Colonial Era

Hall, American Legal History, pp. 1-43

Hall, Magic Mirror, pp. 1-27

Key Documents to Review: Magna Charta; Dale's Laws; Winthrop, "A Model of Christian Charity"; Williams, "The Bloody Tenent of Persecution"; The Laws and Liberties of Massachusetts; William Penn, First Frame of Government; The Case of the Seven Bishops; The English Bill of Rights; Locke, "Second Treatise of Civil Government"

WEEK II (October 7) Law in the Colonial Era: The Economy, Crime & Punishment, Slavery

Hall, American Legal History, pp. 44-80

Hall, Magic Mirror, pp. 29-50

Key Documents to Review: Blackstone on Women; In re William Wootton; Slavery; The Incident of the Roxbury Carters; The Laws and Liberties of Massachusetts; The Laws of South Carolina; The Salem Witch Trials

WEEK III (October 15) The American Revolution & Revolution in American Law

Hall, American Legal History, pp. 83-110

Hall, Magic Mirror, pp. 51-62

Key Documents: James Otis, "The Rights of the British Colonies"; Blackstone, "The Imperial Constitution"; Tom Paine, *Common Sense*; The Declaration of Independence.

WEEK IV: (October 22) Republican Constitutionalism: States & National

Hall, American Legal History, pp. 94-130

Hall, Magic Mirror, pp. 62-78

Key Documents: Virginia Declaration of Rights; Somerset v. Stewart (1772); Massachusetts Constitution of 1780; Virginia Statute for Religious Freedom; Articles of Confederation; Antifederalist Critique of Constitution; Federalist No. 10; Federalist No. 78; The Bill of Rights.

WEEK V: (October 29) The Federal Courts Before Marshall

Hall, American Legal History, pp. 130-143

Hall, Magic Mirror, pp. 78-91

Key Documents: The Judiciary Act of 1789; The Sedition Act of 1798; The Virginia and Kentucky Resolves; Calder v. Bull.

MID-TERM EXAMINATION IN CLASS ON FRIDAY, NOVEMBER 1

WEEK VI: (November 5) Marshall and His Court

Hall, American Legal History, pp. 143-47; 155-164; 172-176.

Hall, Magic Mirror, pp. 86-99

Key Documents: Marbury v. Madison; Gibbons v Ogden; McCulloch v. Maryland; Dartmouth College v. Woodward.

WEEK VII (November 12) The State, the Law & the Economy

Hall, American Legal History, pp. 149-155; 164-172; 176-187

Hall, Magic Mirror, pp. 100-112.

Key Documents: Livingston v. Van Ingen; Jackson, Veto Message; A Federal Common Law; Canals, Internal Improvements and the States; Charles River Bridge v. Warren Bridge; Commonwealth v. Hunt; Farwell v The Boston and Worcester Railroad; Chief Justice Shaw and Labor.

WEEK VIII: (November 19) Property, Contract & Torts

Hall, American Legal History, pp. 187-217

Hall, Magic Mirror, pp. 113-141

Key Documents: Van Ness v. Pacard; Barron v. Baltimore; Seixas and Seixas v. Woods; Seymour v. Delancy; Brown v. Kendall; Ryan v. New York Central Railroad; Wrongful Death and Tort Law.

WEEK IX: (November 26) Slavery, Law and the States

Hall, American Legal History, pp. 221-231

Hall, Magic Mirror, pp. 142-153

Key Documents: State v. Mann; Souther v. Commonwealth; State v. Hoover; Mitchell v. Wells.

WEEK X: (December 3): Slavery & the Constitution

Hall, American Legal History, pp. 232-258

Hall, Magic Mirror, pp. 153-158

Key Documents: Prigg v. Pennsylvania; Dred Scott v. Sandford; The Next Dred Scott; Declaration of the Immediate Causes Which Induce and Justify the Secession of South Carolina.

FINAL EXAMINATION, WEEK OF DECEMBER 10