

HISTORY 4060/ AMERICAN LEGAL HISTORY/ FALL 2007  
SYLLABUS  
PROF. HOFFER

In this course we study the history of the law in America, from the Salem witchcraft trials to the Nazis marching in Skokie, Illinois and affirmative action on trial. We'll focus on a series of "landmark" cases, each of which gives us a chance to examine not only the law, but the people who made it and the people who were effected by it. Some of the cases are "public," involving the government, others are "private," and feature various groups and individuals attempting to use the law and the courts to further their aims or establish their rights. The landmark case approach allows us to see the legal system at its best and its worst handling cases that tested the mettle of individuals and the values of entire communities.

We have no textbook, but we will do a lot of reading. We have seven short books designed explicitly for a course like ours. They are all available in the University Bookstore and are priced reasonably. They are Winship, Times and Trials of Anne Hutchinson, Hoffer, Salem Witchcraft Trials; Maltz, Dred Scott and the Politics of Slavery; Kens, Lochner v. New York, Cottrol et al., Brown v. Board of Education, Strum, When the Nazis Came to Skokie, and Urofsky, Affirmative Action on Trial.

The assigned readings follow the order of topics we will cover. It's a very good idea for you to do the reading before we get to the topic in class. If we deviate, you'll be informed in advance. The university requires the following statements on the syllabus: *All academic work must meet the standards contained in A Culture of Honesty. Each student is responsible [for informing himself or herself] ...about those standards before performing any academic work. The course syllabus is a general plan for the course; deviations announced to the class by the instructor may be necessary.* In plain terms, feel free to discuss your work with your classmates, but do your own research, reading, and writing. Do not plagiarize from printed sources. Fully annotate your dependence on any source, in or out of copyright, and use direct quotations with proper citations rather than close paraphrase. Cite everything you use that is not common knowledge.

Grades are based on two hourly exams, a "case report," a final exam, and participation in the discussions. All the exams are essays.

A very tentative schedule of lecture topics and reading assignments:

Week One: What is law and what is legal history? The origins of American law; colonial law and courts. Religion and courts. Start Times and Trials.

Week Two: What is your verdict? Finish Times and Trials. Choose your case note.

Week Three: Criminal law and deviance theory; law and community. Read Salem.

Week Four: The revolution in the law; the revolution and the law. First essay exam.

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Week Five: Slavery and the Constitution; slavery in the states. Begin Dred Scott. Bibliographies for case notes due.

Week Six: Slavery and the crisis of the Union. Finish Dred Scott.

Week Seven: the Fourteenth Amendment and substantive due process; labor vs. capital; economic theory and law. Begin Lochner.

Week Eight: The rise of the regulatory state; legislatures and courts. Finish Lochner. Outline of case notes due.

Week Nine: Jim Crow and legal racism; the NAACP campaign against segregation. Begin Brown.

Week Ten: The meaning of integration; from massive resistance to busing. Finish Brown. Rough draft of case note due. Second essay exam.

Week Eleven: The long road to freedom of speech. Begin Skokie.

Week Twelve: Freedom of speech matures. Finish Skokie.

Week Thirteen: The origins of affirmative action; the Bakke case. Begin Affirmative Action.

Week Fourteen: The fate of affirmative action. Finish Affirmative Action. Case notes due.

Week Fifteen: Review and summary.