

# Law and Politics in United States History

## CTY Course Syllabus

### Required Texts:

*American Legal History: Cases and Materials*, Kermit Hall, Paul Finkelman, and James W. Ely (New York: Oxford University Press, 2005).

*A People's History of the United States*, Howard Zinn (New York: HarperCollins, 2004)

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: Introduction, "What is History?" Function of Law, Intellectual Origins of American Government, Religious Freedom, Slavery

#### Morning

- Introductions and backgrounds
- Pre-"test"
- Overview of course (requirements, plagiarism, honor code, class rules, keywords, writing, note-taking, etc.)
- Discussion: what is history? law? America?

#### Afternoon

- Reading: *Magna Carta*, *Mayflower Compact*, *Second Treatise on Government*, and *Common Sense*
- Lecture: Atlantic Slave Trade and the creation of the modern world

#### Evening

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

### Day Two: Constitutional Government, Private Property, Articles of Confederation, U.S. Constitution, Bill of Rights

#### Morning

- Discussion: last night's readings; new liberties and old shackles
- Lecture: race, rebellion, and slavery in colonial Virginia
- Free writing: race and the Constitution

### Afternoon

- Discussion: free-writing essays, the Constitution and historicism, Articles of Confederation's strengths and weaknesses
- Group activity: students as Convention delegates

### Evening

- Reading: *Marbury v. Madison* (1803), materials on the impeachment of Justice Chase; New Yorker article [Election of 1800]: "*Party Time: Smear Tactics, Skullduggery, and the Début of American Democracy*" (Sept. 17, 2007).

## **Day Three: John Marshall, *Marbury v. Madison*, Judicial Review, Original Intent, Constitutionalism, Federalism**

### Morning

- Discussion: *Marbury v. Madison*, Chase Impeachment, Adams (Federalists) vs. Jefferson (Republicans)
- Preparation: debate Federalists v Republicans

### Afternoon

- Debate: Federalists v Republicans
- Follow-up discussion: political parties and democracy

### Evening

- Reading: *Stuart v. Laird* (1803) *Gibbons v. Ogden*, (1824); *McCulloch v. Maryland* (1819)

## **Day Four: Geographical Development, Slavery, "Second Class" Citizenry, Native Americans**

### Morning

- Discussion: *Laird*, *Gibbons*, and *McCulloch*; federal vs. state power
- Lecture: geographical development, culture, "second-class citizens"
- Reading: *Cherokee Nation v. State of Georgia* (1831); *Declaration of Sentiments at Seneca Falls, NY*, 1848

### Afternoon

- Lecture/discussion: status of women, Native Americans, non-propertied classes, slaves
- Exercise: Seneca Falls activity

### Evening

- Reading: Fugitive Slave Law of 1850, the Kansas-Nebraska Act, *Prigg v. Pennsylvania* (1842), *Dred Scott v. Sandford* (1857),
- Writing: begin position paper, North-South tension an "irrepressible conflict?"

## Day Five: Two Social Systems, Slave Labor v. Free Labor, Civil War

### Morning

- Discussion: politics of slavery in antebellum America; *Prigg*, *Dred Scott*
- Finish position papers

### Afternoon

- Discussion and writing analysis of papers
- Lecture: introduction to the Civil War

### Evening

- Reading: 13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup> Amendments, Reconstruction (including Eric Foner essay on Reconstruction historiography), *Ex parte Milligan* (1866), *Civil Rights Cases* (1883)

## Day Six: Reconstruction, Industrialization, Segregation, Populism, Immigration

### Morning

- Discussion: Reconstruction: a noble effort?; 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup> Amendments and Civil Rights Act of 1866.

### Afternoon

- Lecture: labor and capital in Gilded Age; immigration,
- Reading: *Munn v. Illinois* (1876), *U.S. v. E.C. Knight Co.* (1895), overview of Populism,
- Assign: small group presentation topics

### Evening

- Group work: research Gilded Age-Reconstruction Era topic

## Day Seven: Closing of the American Frontier, Property, Contract, Dependency

### Morning

- Small group presentations
- Lecture: new status, new modes of living

### Afternoon

- Reading: *Slaughterhouse Cases* (1873), *Minor v Happersett* (1874)
- Discussion: limits of 14<sup>th</sup> Amendment protections
- Role-playing: does the 14<sup>th</sup> Amendment apply to you (@ turn of twentieth century)?

### Evening

- Reading: *Plessy v Ferguson* (1896), and “The Socialist Challenge,” excerpt from Howard Zinn’s *A People’s History of the United States*

## **Day Eight: Progressive Era, Socialism, Urbanization, Retreat on Equal Protection, Beginning of Lochner Era**

### Morning

- Discussion: *Plessy v Ferguson*, W.E.B. Dubois, social vs. political equality, socialism
- Free writing: American business indifferent to racial, ethnic, and gender equality?
- Group Exercise: doubters and believers in historiography: has Professor Zinn made his case?

### Afternoon

- Return to free writing: class-based critiques and racial/ethnic/gender analysis
- Reading: *Lochner v. New York* (1905) and *Muller v. Oregon* (1908).
- Note taking for tomorrow's debate

### Evening

- Reading: Charlotte Perkins-Gilman ("The Socialist and the Suffragist,"), excerpts from Upton Sinclair (*The Jungle*), Hamlin Garland (*A Spoil of Office*), and Jacob Riis (*How the Other Half Lives*).
- Film: Charlie Chaplin's "The Immigrant"

## **Day Nine: Early Feminism and Suffragettes, Trust-Busting, WWI, Civil Liberties**

### Morning

- Debate: *Muller v Oregon*
- Follow-up discussion: 19<sup>th</sup> Amendment, Victorian gender roles

### Afternoon

- Lecture: progressivism and pragmatism lecture; reforms under Theodore Roosevelt, Taft and Wilson; simultaneous continuation of Lochner Era
- Discussion: reforms and revolution, World War I, civil liberties in war time

### Evening

- Reading: *In re Debs* (1895), Espionage Act, *Schenk v. U.S* (1919), *Abrams v. U.S. (1919)*,
- Begin exercise: devise a new "free speech" test, beginning with O.W. Holmes up thru domestic terrorism

## **Day Ten: Free Speech, Depression, FDR, New Deal, Executive Power, WWII**

### Morning

- Focused presentations, question and answer session: free speech test, Smith Act; comparing *Debs*, *Schenk*, and *Abrams* to *Dennis* (1951), *Yates* (1957), and *Brandenburg v. Ohio* (1969)

### Afternoon

- Lecture and discussion: New Deal, Wagner Act, Keynesian government, *A.L.A. Schechter Poultry* (1935), *Wickard v. Filburn* (1942), court packing
- Listen: FDR Fireside Chat

### Evening

- Reading: *Curtis-Wright* (1936), *Korematsu* (1944), and *Youngstown Sheet and Tube* (1952),
- Free writing: extent of executive power?

## **Day Eleven: Postwar Culture, Cold War, Anti-Communism, Civil Rights Movement**

### Morning

- Discuss free-writing essays, civil liberties in cold war era/age of terrorism
- View: television footage of McCarthy hearings; Alger Hiss; film clip: “Good Night and Good Luck”

### Afternoon

- Reading and discussion: civil rights, “Double V,” *Shelley v. Kramer* (1948), Montgomery Bus Boycott, *Brown v. Board of Education* (1954), Warren Court, Martin Luther King and Malcolm X
- Discuss final project

### Evening

- Reading: *Regents of the University of California v. Bakke* (1978); debate preparation
- Listen: audio clips of Martin Luther King speeches (including Riverside Church speech opposing the Vietnam War), RFK, Malcolm X’s “The Ballet or the Bullet”
- View: images of the Watts Riot

## **Day Twelve: Civil Rights (continued), Election of Richard Nixon, Vietnam, New Protests**

### Morning

- Debate: Bakke’s placement, merits of affirmative action programs
- Wrap up discussion of race, protest, legislation

### Afternoon

- Lecture/discussion: transitional politics, Vietnam War, election of Richard Nixon
- Compare/contrast: *United States v. Nixon* (1974) to Clinton impeachment and trial (1998-99)
- Final project work

### Evening

- Reading: *Griswold v. Connecticut* (1965), *Roe v. Wade* (1973), *Bowers v. Hardwick* (1986), and *Lawrence v. Texas* (2003)

## **Day Thirteen: Privacy, Gender, Politics of *Roe v. Wade***

### Morning

- Discussion: gender, sex, politics and marriage; *Griswold*, et al., Equal Rights Amendment
- Listen: audio recording of oral arguments in *Roe v. Wade*
- Discuss opinion, legal reasoning, and impact of *Roe*; look at current justices, cases

### Afternoon

- Final project work
- Library research

### Evening

- Final project work
- Reading: *Hamdi v. Rumsfeld* (2004) *Hamdan v. Rumsfeld* (2006), *Boumediene v. Bush* (2008)

## **Day Fourteen: The War on Terror**

### Morning

- Lecture and discussion; 9/11, enemy combatants, torture
- Free write: treatment of enemy combatants

### Afternoon

- Discussion: social movements, politics and the law
- Group Decision
- Reflection/wrap-up/post-test

### Evening

- Final project work

## **Day Fifteen: Conclusion**

- Final presentations
- Final discussions