History 305
Selected Advanced Topics in History:
Seminar on Law and Justice in the American South – Fall 2005

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Course Description and Objectives:
This course focuses on law and lawlessness in the American South from the early nineteenth century to the late twentieth century. Students will explore the development of substantive law, constitutional thought, and legal institutions in the southern states, as well as white and black southerners’ attitudes and ideas about law and justice. Specific topics will include honor and violence in the Old South, the law of slavery, communal justice and lynching, and the effect of religious values on substantive law and constitutional ideals.

This course is a seminar. That means that each student must complete the assigned readings and come to class prepared to discuss them; it also means that there will be a major research paper required of all students. After finishing this course, students should have a broad understanding of the development of the southern experience with law and justice, as well as improved written, oral, and critical thinking skills.

Common Readings:


Assignments and Grading Policies:
Your final grade in this course will be determined as follows:

Seminar participation - 30%
- In-class participation – 15%
- In-class quizzes – 5%
- Written article critique – 5%
- Paper discussion – 5%
Mid-term Examination - 20%
Final Examination - 25%
Research paper - 25%

Attendance is mandatory at all class meetings. More than two absences will adversely affect your grade in this course.

All reading assignments indicated below with a regular bullet point are required of all students. These readings will serve as the basis for lectures and discussions, and you will be responsible for these readings on quizzes, your mid-term examination, and your final examination.

All readings indicated with an asterisk (*) are optional. Each student must read and submit a critique of one of the optional assignments. This critique must be distributed electronically to the class and submitted to Prof. Huebner by 5 p.m. on the day before the seminar. Critiques should be read by all students prior to class. You will be responsible for the information in these student critiques on your mid-term and final examinations.

Make-up examinations will not be given without a verifiable medical excuse. All excuses are subject to the approval of the instructor. Late research papers will be accepted one day (not one course period) after the due date, with a one letter-grade penalty. Research papers will not be accepted more than one day after the due date. Quizzes will be unscheduled and cannot be made up under any circumstances. All work, unless otherwise indicated, is pledged under the Rhodes College Honor Code.

**Class Assignments:**

1. **The South and the Law: An Introduction**
   
   Aug. 25 – Introduction to course
   
   Aug. 30 – Exploring Southern Legal History

2. **Honor and Violence in the Old South**
   
   Sept. 1 – Honor
   - Ayers, *Vengeance and Justice*, 3-33
   
   Sept. 6 – Fighting and Dueling

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Sept. 8 – The Penitentiary and Capital Punishment
• Ayers, *Vengeance and Justice*, 34-72
• Banner, “Northern Reform, Southern Retention,” in *The Death Penalty: An American History*.

Sept. 13 – Homicide and the Antebellum Southern Judiciary

3. Slavery and the Law

Sept. 15 – Slavery and Mastery
• Stampp, “To Make Them Stand in Fear”

Sept. 20 – Law as Oppressive Force
• Tushnet, *Slave Law in the American South*, ix-122
• *State v. Mann*

Sept. 22 – Law as Humanizing Force
• *State v. Caesar*
• *State v. Will*

4. Southern Constitutionalism

Sept. 27 – Slavery and the Constitution
• Finkelman, “Making a Covenant with Death,” *Slavery and the Founders*, 3-36.
Sept. 29 – State Sovereignty and Nullification
- Calhoun, “South Carolina Exposition and Protest”

Oct. 4 – The U.S. Supreme Court and Slavery
- *Dred Scott v. Sandford*

Oct. 6 – Secession
- “Mississippi Secession Resolutions”

Oct. 11 – The Confederacy/Review
- “Confederate Constitution”

Oct. 13 - Mid-Term Examination

Oct. 18 – Fall Break

5. Reconstruction and Late Nineteenth-Century Justice

Oct. 20 – Reconstruction
- Ayers, *Vengeance and Justice*, 141-184
- “Civil Rights Act of 1866”
- “Veto of Civil Rights Act”

Oct. 25 – Race, Labor, and Law after Reconstruction
- Ayers, *Vengeance and Justice*, 185-222

Oct. 27 – Violence and Lynching
• Ayers, Vengeance and Justice, 223-276
• Wells, “Southern Horrors: Lynch Law in All its Phases”

6. Religion, Gender, and Law in the New South

Nov. 1 – The Leo Frank Case and the New Klan
• Woodward, Tom Watson, 435-450
• “The Louisiana Klan’s Manifesto”

Nov. 3 – Prohibition and Women’s Suffrage
• “The South Abolishes the Saloon”

Nov. 8 – The Scopes Trial

Nov. 10 – No class (Prof. Huebner out of town) – Research Paper Due

7. Research and Criticism

Nov. 15 – Discussion of research papers

Nov. 17 – Discussion of research papers


Nov. 20 – Sunday Night at the Movies: “Judge Horton and the Scottsboro Boys” 7 p.m.
Nov. 22 – The Scottsboro Case

Nov. 24 – Thanksgiving Recess

Nov. 29 – Brown v. Board of Education
  • Brown v. Board
  • “Southern Manifesto”

Dec. 1 – The Emmett Till Case
  • Whitfield, A Death in the Delta, vii-148

Dec. 6 – Law and the Civil Rights Movement/Review
  • King, “Letter from a Birmingham Jail”
  • Wallenstein, “Interracial Marriage on Trial,” in Gordon-Reed, Race on Trial, 177-196.

FINAL EXAMINATION: Saturday, December 10, 8:30 a.m.