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 historical development of law and justice in the American South, an appreciation for the competing interpretation of historians on the topic, as well as improved written, oral, critical thinking, and research skills.

Common Readings:


Nicholas Lemann, Redemption: The Last Battle of the Civil War, 2006.


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%
Attendance is mandatory at all class meetings. More than two absences will adversely affect your grade in this course. You should make all travel and holiday plans in accordance with the schedule below. Airline arrangements, in other words, are no excuse for missing classes, deadlines, or exams.

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. Some readings will be distributed as handouts, while others will be distributed in electronic form. A few others you will need to retrieve through JSTOR, via the Barret Library’s webpage. You should keep all of these readings together, probably in a three-ring binder. (To facilitate this, all readings that come as handouts will be three-hole punched.)

All readings indicated with an asterisk (*) are recommended. Each student must read and submit a critique of one of the recommended assignments. This critique must be submitted to Prof. Huebner and distributed to the class in electronic format 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. Research papers will not be accepted 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. 23 – Introduction to course

Aug. 28 – Exploring Southern Legal History


2. Honor and Violence in the Old South

Aug. 30 – Honor

- Ayers, Vengeance and Justice, 3-33
Sept. 4 – Fighting and Dueling


Sept. 6 – The Penitentiary and Capital Punishment

- Ayers, *Vengeance and Justice*, 34-72
- Banner, “Northern Reform, Southern Retention,” in *The Death Penalty: An American History*.

Sept. 11 – Homicide and the Antebellum Southern Judiciary


3. Slavery and the Law

Sept. 13 – Slavery and Mastery

- Stampp, “To Make Them Stand in Fear”

Sept. 18 – Law as Oppressive Force

- Tushnet, *Slave Law in the American South*, ix-122
- *State v. Mann*

Sept. 20 – Law as Humanizing Force

- *State v. Caesar*
- *State v. Will*

4. Southern Constitutionalism

Sept. 25 – Slavery and the Constitution

Sept. 27 – The U.S. Supreme Court and Slavery – **Guest speaker: Prof. Paul Finkelman**

Oct. 2 – Secession
- “Mississippi Secession Resolutions”

Oct. 4 – The Confederacy/Review
- “Confederate Constitution”

### Oct. 9 - Mid-Term Examination

#### 5. Reconstruction and Late Nineteenth-Century Justice

Oct. 11 – Reconstruction
- Ayers, *Vengeance and Justice*, 141-184
- “Civil Rights Act of 1866”
- “Veto of Civil Rights Act”

Oct. 16 – Fall Break

Oct. 18 – Redemption
- Lemann, *Redemption, all*

Oct. 23 – Race, Labor, and Law after Reconstruction
- Ayers, *Vengeance and Justice*, 185-222
- *Plessy v. Ferguson*

Oct. 25 – 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

Oct. 30 – The Leo Frank Case and the New Klan
- Woodward, *Tom Watson*, 435-450
- “The Louisiana Klan’s Manifesto”

Nov. 1 – No class – Prof. Huebner out of town

Nov. 6 – Prohibition and Women’s Suffrage
- “The South Abolishes the Saloon”

Nov. 8 – The Scopes Trial – **Research Papers Due, 5 p.m.**

**Interlude: Research and Criticism**

Nov. 13 – Discussion of research papers

Nov. 15 – Discussion of research papers

7. Racial Justice and Civil Rights

Nov. 18 – Sunday Night at the Movies: “Judge Horton and the Scottsboro Boys” 7 p.m.

Nov. 20 – Scottsboro and Martinsville

Nov. 22 – Thanksgiving Recess
Nov. 27 – Brown v. Board of Education
• Patterson, Brown v. Board of Education, xiii-117
• Brown v. Board
• “Southern Manifesto”

Nov. 29 – Responses to Brown
• Patterson, Brown v. Board of Education, 118-146, 170-223.

Dec. 4 – Law, Justice, and Civil Rights / Summary and Review – Research Papers Due, 5 p.m.
• King, “Letter from a Birmingham Jail”

FINAL EXAMINATION: Wednesday, December 12, 8:30 a.m.