

History 350
Selected Advanced Topics in History:
Law and Justice in the American South - Spring, 1999

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Course Description and Objectives:

This course focuses on southerners' notions of law and justice from the antebellum period to the present. By looking at both primary and secondary sources, students will explore how southerners thought about and engaged in extra-legal activities, including vigilantism and lynching, as well as how they established and utilized formal legal institutions such as courts. Thus, the class will examine both popular attitudes and legal doctrine relating to such issues as slavery, violence, secession, racial control, religious life, and civil rights.

This course is a seminar. That means that each student must complete the assigned readings and come to class prepared to discuss them.

After completing this course, students should have a broad understanding of the development of southern experience with law and justice, as well as improved written, oral, and critical thinking skills.

Readings:

Edward Ayers, Vengeance and Justice: Crime and Punishment in the 19th Century American South, 1984.

Phillip Shaw Paludan, Victims: A True Story of the Civil War, 1981.

Ray Ginger, Six Days or Forever: Tennessee v. John Thomas Scopes, 1958.

James R. McGovern, Anatomy of a Lynching: The Killing of Claude Neal, 1982.

Eric W. Rise, The Martinsville Seven: Race, Rape, and Capital Punishment, 1995.

Supplementary course packet, including primary and secondary sources.

Assignments and Grading Policies:

Attendance is mandatory; if you must miss class because of illness, please notify me immediately, either by phone or by e-mail. Final grades will reflect attendance. You may assume that your final grade in this class will be no higher than the percentage of classes you attend. Final grades will be determined as follows:

Seminar participation - 25%

Mid-term Examination - 20%
Final Examination - 20%
Research paper - 20%
Review(s)/Presentation(s) - 15%

Detailed explanations of these assignments will follow. Copies of this syllabus as well as all handouts and assignment sheets, will be available in the Academic Volume in the file marked "Huebner."

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

Class Assignments:

1. The South and the Law: An Introduction

Jan. 13 - Introduction to course

Jan. 15 - Southerners and the Law
(Sydnor, "The Southerner and the Laws")

Jan. 18 - King Holiday

Jan. 20 - Law in the South
(Finkelman, "Exploring Southern Legal History")

2. Honor and Violence in the Old South

Jan. 22 - Honor
(Ayers, Vengeance and Justice, 3-33)

*Jan. 25 - Fighting
(Gorn, "Gouge and Bite, Pull Hair and Scratch")

*Jan. 27 - Dueling
(Greenberg, "The Nose, the Lie, and the Duel")

*Jan. 29 - The Penitentiary
(Ayers, Vengeance and Justice, 34-72)

*Feb. 1 - Homicide and the Antebellum Southern Judiciary
(Huebner, Southern Judicial Tradition, excerpts from chaps. 2-3)

Presentations:

David Hackett Fischer, Albion's Seed: Four British Folkways in America, 605-782.

Edward R. Crowther, "Holy Honor: Sacred and Secular in the Old South," Journal of Southern History, 58 (19

W. J. Cash, The Mind of the South, Book One.

John Hope Franklin, The Militant South, 1800-1861.

3. Slavery and the Law

*Feb. 3 - Masters as Lawgivers
(Stamp, "To Make Them Stand in Fear")

*Feb. 5 - Law as Oppressive Force
(Genovese, "Hegemonic Function of the Law"; State v. Mann)

*Feb. 8 - Law as Humanizing Force
(Flanigan, "Criminal Procedure in Slave Trials"; State v. Will)

Feb. 10 - Fairness: A Case Study
(Huebner, "Roots of Fairness"; State v. Caesar)

Presentations:

William W. Fisher, "Ideology and Imagery in the Law of Slavery," reserve.

Mason W. Stephenson and D. Grier Stephenson, Jr., "'To Protect and Defend': Joseph Henry Lumpkin, The Testamentary M

Arthur Howington, "'Not in the Condition of a Horse or an Ox': Ford v. Ford, the Law of

4. Antebellum Southern Constitutionalism

*Feb. 12 - State Sovereignty
(John Taylor of Caroline, "Defense of States' Rights"; Calhoun, "South Carolina Exposition")

*Feb. 15 - Nullification and Indian Removal
(Huebner, "Divided Loyalties"; State v. Foreman)

*Feb. 17 - Constitutionalism and Slavery
(Dred Scott v. Sandford, Ableman v. Booth)

Feb. 19 - No class.

*Feb. 22 - Secession
(“Mississippi Secession Resolutions”; Confederate Constitution)

Feb. 24 - Summary and Review

Feb. 26 - Mid-Term Examination

Presentations:

Don E. Fehrenbacher, "The South and the Federal Constitution," reserve.

William Freehling, Prelude to Civil War: The Nullification Crisis in South Carolina.

Paul Finkelman, "'Hooted Down the Page of History': Reconsidering the Greatness of Chief Justice Taney,"

Bertram Wyatt-Brown, "Honor and Secession," in Yankee Saints and Southern Sinners.

5. War, Reconstruction, and Justice

Mar. 1 - Unionism

("Grievances and Memorial of the Greeneville Convention"; Paludan, Victims, ix-30)

Mar. 3 -Guerilla Warfare

(Paludan, Victims, 31-133)

*Mar. 5 - Reconstruction and the Law

(Ayers, Vengeance and Justice, 141-184)

March 8-12: Spring Break

*Mar. 15 - Reconstruction and the Constitution

("Civil Rights Act," "Veto of Civil Rights Act," "Articles of Impeachment")

Mar. 17 - Race and Labor after Reconstruction

(Ayers, Vengeance and Justice, 185-222)

*Mar. 19 - Lynching and Anti-Lynching

(Ayers, Vengeance and Justice, 223-276; Wells, "The Remedy")

Mar. 22 - Homicide and the Postbellum Southern Judiciary

(Bell v. State; Huebner, Southern Judicial Tradition, excerpt from chapter 6)

Presentations:

Lou F. Williams, The Great South Carolina Ku Klux Klan Trials.

Michael Les Benedict, Impeachment and Trial of Andrew Johnson.

Jacquelyn Dowd Hall, Revolt Against Chivalry: Jessie Daniel Ames and the Women's Campaign Against Lynching.

6. Religion and Law in the New South

*Mar. 24 - The Leo Frank Case and the New Klan

(Woodward, Tom Watson, 435-450; "Ku Klux Klan Speaks"; "The Louisiana Klan's Manifesto)

Mar. 26 - Fundamentalism and Anti-Evolution

(Ginger, Six Days or Forever, 1-110)

Mar. 29 - Fundamentalism and Anti-Evolution
(Ginger, Six Days or Forever, 111-241)

Mar. 31 - Prohibition
(Iglehart, "The South Abolishes the Saloon")

Apr. 2 - Easter Break

Presentations:

Nancy MacLean, "The Leo Frank Case Reconsidered: Gender and Sexual Politics in the Making of Reactionary Populism," Journal of American History, 78 (1991), 817-948.

7. Racial Justice in the Modern South

Apr. 5 - The Lynching of Claude Neal
(McGovern, Anatomy of a Lynching, ix-157)

Apr. 7- Video: The Scottsboro Boys

Apr. 9 - Video: The Scottsboro Boys

Apr. 12 - The Martinsville Seven
(Rise, Martinsville Seven, 1-69)

Apr. 14 - The Martinsville Seven
(Rise, Martinsville Seven, 70-161)

*Apr. 16 - Brown and Legal Resistance
(“Southern Manifesto”; Byrnes, “Supreme Court Must be Curbed”)

*Apr. 19 - Desegregation and Extra-Legal Resistance
(Belknap, “The Violent Aftermath of the Brown Decision”)

*Apr. 21 - Religion and Civil Rights
(King, “Letter from a Birmingham Jail”)

*Apr. 23 - Federal Courts and Enforcement
(Heart of Atlanta Motel v. United States, Loving v. Virginia)

Presentations:

C. Van Woodward, Strange Career of Jim Crow.

Richard Klarman, “How Brown Changed Race Relations: The Backlash Thesis,” Journal of American History

Lillian Smith, Killers of the Dream.

J. W. Peltason, Fifty-Eight Lonely Men: Southern Federal Judges and School Desegregation.

8. Law and Justice in the Contemporary South

*Apr. 26 - Violence

(Reed, “‘To Live and Die in Dixie’: Southern Violence”)

Apr. 28 - Religion

(Reed, “‘The Bible Belt’: Southern Religion”)

Apr. 30 - Summary and Review

Presentations:

Sheldon Hackney, “Southern Violence,” American Historical Review, 74 (1969), 906-925.

FINAL EXAMINATION: WEDNESDAY, MAY 5, 8:30-11:00 A.M.