"The life of the law has not been logic: it has been experience,"

Oliver Wendell Holmes, Jr. (1883)

This course provides an introduction to the foundations of American law. It takes the Legal Realist position that law evolves over time, and that a full understanding of American legal development is not possible without some understanding of American historical context. Several themes will be traced through the semester, including the emergence of various fields of law as a response to social, political, and/or economic pressures. Attention will also be paid to law’s role in exerting pressure, particularly vis a vis encouraging innovation and regulating social relations, in part through the elaboration of legal disciplines like property, tort, contract, criminal law, tax, business associations, administrative law, environmental law, securities regulation, commercial law, immigration, and civil rights. Emphasis will also be placed on the origins and evolution of constitutional law, from the founding to the present.

Class Preparation: Attendance and participation in class discussions count for 25% of the final grade. You will be allowed two unexcused absences and one pass (for not reading). Any absences or passes beyond that may result in a grade reduction. In the interest of fairness to all students, there will be no extensions or make-ups without a signed and dated doctor’s note. Please be aware that late assignments will lose 3 points (or one third of a grade) every day past the due date.

Your decision to participate in this course indicates your agreement to abide by all stated deadlines and requirements.

Term Essay: This essay is an extended study (8-10 pages) of a topic concerning some aspect of American law. Paper topics are due in class or via email no later than Tuesday, October 23.

Final papers are due in class on Thursday, Nov. 15.

Exams: There will be two essay exams: a midterm and a final.

ACADEMIC INTEGRITY AND HONESTY
Students are expected to be honest in their academic work. The University reserves the right to penalize any student whose academic conduct at any time is, in its judgment, detrimental to the University. Such conduct shall include cases of plagiarism, collusion, cheating, giving or
receiving or offering or soliciting information in examinations, or the use of previously prepared material in examinations or quizzes. Violations should be reported to your course instructor, who will investigate and adjudicate them according to the policy on academic honesty of the College of Arts and Sciences. If the charges are found to be true, the student may be liable for academic or disciplinary probation, suspension, or expulsion by the University. Students should review the College of Arts and Sciences policy on Academic Honesty (http://www.slu.edu/x16363.xml).

STUDENTS WITH SPECIAL NEEDS - DISABILITY SERVICES
In recognition that people learn in a variety of ways and that learning is influenced by multiple factors (e.g., prior experience, study skills, learning disability), resources to support student success are available on campus. Students who think they might benefit from these resources can find out more about:

- Course-level support (e.g., faculty member, departmental resources, etc.) by asking your course instructor.
- University-level support (e.g., tutoring/writing services, Disability Services) by visiting the Student Success Center (BSC 331) or by going to www.slu.edu/success.

Students who believe that, due to a disability, they could benefit from academic accommodations are encouraged to contact Disability Services at 314-977-8885 or visit the Student Success Center. Confidentiality will be observed in all inquiries.

Course instructors support student accommodation requests when an approved letter from Disability Services has been received and when students discuss these accommodations with the instructor after receipt of the approved letter.

COURSE CONTENT DISCLAIMER
In this course, students may be required to read text or view materials that they may consider offensive. The ideas expressed in any given text do not necessarily reflect the views of the instructor, the History Department, the Law School, the Writing Program, or Saint Louis University. Course materials are selected for their historical and/or cultural relevance, or as an example of stylistic and/or rhetorical strategies and techniques. They are meant to be examined in the context of intellectual inquiry of the sort encountered at the university level.

WRITING CENTER
I encourage you to take advantage of the writing services in the Student Success Center; getting feedback benefits writers at all skill levels. Trained writing consultants can help with any writing, multimedia project, or oral presentation. During the one-on-one consultations, you can work on everything from brainstorming and developing ideas to crafting strong sentences and documenting sources. These services do fill up, so please make an appointment! For more information, or to make, change, or cancel an appointment, call 977-3484 or visit http://www.slu.edu/writingservices.xml.

Additional Academic Honesty requirement: Please keep copies of notes and sources used for your term paper until the date of the final exam. If you cannot show the notes and sources upon request you will automatically receive a grade of zero for the term essay. Any assignment, whether written or verbal, that does not meet the University's standards of academic honesty will receive a grade of zero and will be liable to other University penalties, including a failing
course grade. Please be aware that I consider all communication, even private conversations, to be an important part of your course work, and subject to academic honesty requirements.

**Readings and exams**: The midterm and final exams will cover readings, lectures, and class discussions. All exams will be in essay form.

**Grading**: Class participation /

<table>
<thead>
<tr>
<th>Component</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attendance</td>
<td>250</td>
</tr>
<tr>
<td>Midterm exam</td>
<td>250</td>
</tr>
<tr>
<td>Term Paper</td>
<td>250</td>
</tr>
<tr>
<td>Final exam</td>
<td>250</td>
</tr>
</tbody>
</table>

-------------------------------
1000 Total

**Percentage / Letter Grade Equivalents**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Letter Grade</th>
<th>Equivalent</th>
</tr>
</thead>
<tbody>
<tr>
<td>95-100</td>
<td>A</td>
<td>77-81</td>
</tr>
<tr>
<td>93-94</td>
<td>A-</td>
<td>75-76</td>
</tr>
<tr>
<td>91-92</td>
<td>B+</td>
<td>70-74</td>
</tr>
<tr>
<td>86-90</td>
<td>B</td>
<td>0-69</td>
</tr>
<tr>
<td>84-85</td>
<td>B-</td>
<td></td>
</tr>
<tr>
<td>82-83</td>
<td>C+</td>
<td></td>
</tr>
</tbody>
</table>

[Note: Percentages assigned to course work will determine letter grades, and letter grades have the CAS stated equivalencies to the grade-point numbers listed below.]

**College of Arts and Sciences grading scale**:

<table>
<thead>
<tr>
<th>Grade</th>
<th>GPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>3.9-4.0</td>
</tr>
<tr>
<td>A-</td>
<td>3.6-3.8</td>
</tr>
<tr>
<td>B+</td>
<td>3.2-3.5</td>
</tr>
<tr>
<td>B</td>
<td>2.9-3.1</td>
</tr>
<tr>
<td>B-</td>
<td>2.6-2.8</td>
</tr>
<tr>
<td>C</td>
<td>2.2-2.5</td>
</tr>
<tr>
<td>C-</td>
<td>1.9-2.1</td>
</tr>
<tr>
<td>D</td>
<td>1.6-1.8</td>
</tr>
<tr>
<td>D-</td>
<td>0.9-1.5</td>
</tr>
<tr>
<td>F</td>
<td>0.0-0.8</td>
</tr>
</tbody>
</table>

**Syllabus Key**

Each section on the syllabus corresponds to one class period.
Introduction: Pre-Histories: Cabot/ Columbus/ Cahokia
No Reading

The Colonial Era: Rebellious Notions, 1600-1660
  John Winthrop, “Reasons for Puritan Migration,” 1629
  The Trial of Roger Williams, 1635
  The Trial of Anne Hutchinson, 1638
  A Model of Christian Charity, 1630
  The Laws of Massachusetts, 1648
  Salem Witchcraft Trials, 1692

The Colonial Era: The Decline of Religious Rule, 1660-1776
  The Trial of Robert Keaynes, 1640
  The Triangle & Bilateral Trades [map]
  The Navigation Acts, 1660-1696
  The Georgia Colony, 1733
  Slavery & the Collapse of Oglethorpe’s Vision for Georgia, 1757
  Indian War & the Collapse of Quaker Rule in Pennsylvania, 1755

The Founding: The Rise of Republican Rule, 1776-1789
  Proclamation of George III, 1763
  The Stamp Act, Lawyers, & the Revolution, 1765
  The Declaration of Independence, 1766
  The Virginia Act for Establishing Religious Freedom, 1786
  Thomas Jefferson to William Short, April 13, 1820

The Founding: Interest, Innovation, & the American Constitution
  Shay’s Rebellion, 1786
  The Federalist Position, 1787
  The Anti-Federalist Position, 1787
  The Bill of Rights, 1789
  Federalist #10, 1787
  The Constitution, Slavery, & the Doctrine of Interest, 1787

The Early Republic: National Expansion
  Northwest Ordinance, 1787
  The Louisiana Purchase, 1803
  St. Louis Letters, 1804-1805
  The Missouri Compromise, 1820
Foundations of Law

Syllabus: Part II

The Early Republic: Law, Innovation, & Commerce
- 1791 Jefferson, Hamilton, & the 1st National Bank
- Marbury v. Madison (1803)
- McCulloch v. Maryland (1816)
- Corporations, Contracts, & Dartmouth College v. Woodward (1819)
- Gibbons v. Ogden (1824) & the Commerce Clause
- Andrew Jackson Vetoes the Bank
- Charles River Bridge v. Warren Bridge (1837)

The Laws of Slavery
- Leviticus 25: 44-46
- Ephesians 6:5
- Aristotle, Politics, Part V (350 BC)
- Thomas Jefferson, Notes on the State of Virginia (1782)
- "Joseph Emory Davis: A Mississippi Planter Patriarch"
- Solomon Northrup, Twelve Years a Slave (1853)
- Slave Code of the State of Georgia (1848)
- The Crimes of Jesse Ruffin (1835) [excerpt from Laura Edwards, The People & Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South (2009)]
- Theft, Arson, & the Law the Slaves Made [excerpt from Eugene D. Genovese, Roll Jordan Roll: The World the Slaves Made (1976)]

The Laws of Marriage
- Wightman v. Coates (1833)
- Angelina Emily Grimke to Catherine Beecher (1837)
- Friedrich Engels to Karl Marx, October 1844 (on American communitarianism)
- Seneca Falls Declaration of Sentiments (1848)
The Civil War
  Kansas Nebraska Act (1854)
  Edward Bridgman, “A Little about the Affairs of Kansas” [letter, May 25, 1856]
  Oregon Exclusion Act (1857)
  Dred Scott v. Sandford (1857)
  Lincoln-Douglas Debate, Charleston, Illinois (1858)
  The Emancipation Proclamation (1863)
  South Carolina Declaration of Secession (1860)
  Abraham Lincoln’s Proclamation of War (1861)
  Crittenden-Johnson Resolution (1861)
  Gettysburg Address (1863)
  The Official Surrender Document of Lee’s Troops (1865)

The Indian Wars
  The Ohio Valley Confederacy (1809)
  The Battle of Tippecanoe (1811)
  The Conquest of Florida (1817)
  Johnson v. M’Intosh (1823)
  The Indian Removal Act (1830)
  Cherokee Nation v. Georgia (1831)
  Worcester v. Georgia (1832)
  Navajo Wars, 1861-64
  Apache Wars, 1861-1886
  Sioux Wars, 1862-1864
  Cheyenne Wars, 1864-1879
  Comanche Wars, 1867-1875
  The Indian Appropriations Act (1871)
  Lone Wolf v. Hitchcock (1903)

Railroads, Rebellions, & the Rise of Tort Law
  Bill for the Construction of a Transcontinental Railroad (1862) [excerpt from Heather Cox Richardson, The Greatest Nation of the Earth: Republican Economic Policies During the Civil War (1997)]
  Railroads & the Rise of Negligence: Fent et al. v. Toledo 59 Ill. 349 (1871)
  Law, Outlaws, & Railroads: The Case of Missouri [excerpt from David Thelen, Paths of Resistance: Tradition & Dignity in Industrializing Missouri (1986)]
  An Act to Establish the Responsibility of Railroad Corporations (1887)
Reconstruction
The Thirteenth Amendment (1865)
The Mississippi Black Code (1865)
The Impeachment of Andrew Johnson (1867)
The Fourteenth Amendment (1868)
The Fifteenth Amendment (1870)
The Slaughterhouse Cases (1873)
United States v. Cruickshank (1874)
Minor v. Happersett (1875)

Segregation
Senator Hiram Revels (1871), Governor Pinckney Benton Stewart (1872)
Senator Blanche Bruce (1874)
Pace v. Alabama (1881)
Charles A. Gardiner “The Future of the Negro” (1884)
The Laws of Segregation
Henry Grady, “The New South” (1886)
1890 Mississippi Constitution
Tom Watson, “The Negro Question in the South”
Booker T. Washington, Atlanta Exposition Address (1895)
Plessy v. Ferguson (1896)
Lift Every Voice and Sing (1900)
Powell v. Alabama (1932)
Brown v. Mississippi (1936)

The Specter of Socialism
Strike of 1877
The Haymarket Trial (1886)
Red Ribbon Mourners: The Anarchists of St. Louis Hold a Memorial Meeting, St. Louis Globe Democrat, Nov. 14, 1887
Illinois Criminal Syndicalism Act (1887)
In re Debs (1895)
The Gilded Age

Christopher Tiedemann, Treatise on the Limitations of the Police Power (1886)

In re Jacobs (1885)
Santa Clara County v. Southern Pacific Railroad (1886)
Andrew Carnegie, The Gospel of Wealth (1889)

Holden v. Hardy (1897)
John Jay Chapman, “This Pressure of Self-Interest” (1898)
Theodore Roosevelt, The Strenuous Life (1899)
George Santayana, “The Love of Business,” (1904)

Lochner v. New York (1906)
Muller v. Oregon (1908)

The Progressive Era

Sherman Act (1890)

Pollock v. Farmers Loan and Trust Co. (1895)
Northern Securities Co. v. United States (1904)

Upton Sinclair, The Jungle (1906)
Pure Food and Drug Act (1906)

Theodore Roosevelt, Conference on Conservation of Natural Resources (1908)

Sixteenth Amendment (1913)

World War I: Speech, Suffrage, & Anti-German Sentiment

Espionage Act (1917)

“Nobody Would Eat Kraut” (1917)

Schenck v. United States (1919), Debs v. United States (1919)

Mitchell Palmer, “The Case Against the Reds” (1920)

The War & Women’s Suffrage (1917)

Woodrow Wilson, Speech to Congress (1918)

The Nineteenth Amendment (1920)

Meyer v. Nebraska (1923), Pierce v. Society of Sisters (1925)


Prohibition, Immigration, & Eugenics

18th Amendment (1919)

Richard Hofstadter, The Age of Reform: From Bryan to FDR (1955)

Warren G. Harding, “The President’s Appeal to Halt Law-Breaking,” (1922)

Immigration Act (1924)

“Guarding the Gates Against Undesirables,” (1924)

Klansman’s Manual (1925)

Tennessee v. Scopes (1925), Buck v. Bell (1927)

Margarete Sanger, “The Eugenic of Birth Control Propaganda”

“Warning Against the ‘Roman Catholic Party,’” (1928)
The New Deal
1934 Securities Exchange Act
1934 Indian Reorganization Act
1935 National Labor Relations Act (The Wagner Act)
1937 Franklin D. Roosevelt, “Fireside Chat on the Court-Packing Bill,”
West Coast Hotel v. Parrish (1937)

World War II: Internment, Integration, International Law
Adolf Hitler, Mein Kampf
The Nuremberg Laws (1935)
Executive Order #8802 (1941)
Japanese Internment & Ex. Order # 9066 (1942)
Korematsu v. United States (1944)
Taft-Hartley Act (1947)
The Truman Doctrine (1947)
Harry S. Truman, “To Secure These Rights” (1948)

The Cold War, Civil Rights
Ex rel. Gaines v. Canada (1938)
Sipuel v. Board of Regents of Oklahoma (1948)
Shelley v. Kraemer (1948)
Sweatt v. Painter (1950)
Brown v. Board of Education (1954)
Mary Dudziak, “Desegregation as a Cold War Imperative”
The Southern Manifesto (1956)
Letter from Birmingham Jail (1963)
The Civil Rights Act of 1964

The Urban Crisis
National Housing Act (1934)
Servicemen’s Readjustment Act (The G.I. Bill) (1944)
The Second Great Migration
The St. Louis Fairground Park Pool Riot (1949)
“Why They Built the Pruitt-Igoe Project” (1956)
National Interstate and Defense Highways Act (1956)
Kerner Commission Report (1968)
Keyes v. Denver (1973)
San Antonio v. Rodriguez (1973)
Regents v. Bakke (1978)
Cold War III: The Rise of Privacy
  The Kinsey Report (1948)
  Betty Friedan, The Feminine Mystique (1957)
  Mapp v. Ohio (1961)
  Griswold v. Connecticut (1965)
  Stanley v. Georgia (1969)

Christian Coalitions
  Roe v. Wade (1973)

The Culture Wars
  Prince, “Darling Nikki,” 1984
  National Endowment for the Arts v. Finley (1998)
  Romer v. Evans (1996)
  The Impeachment of William Jefferson Clinton, 1998

The New Economy
  Apple Computer v. Microsoft Corporation (1992)
  Facebook v. Winklevoss (2011)