

PLS 4965  
Foundations of Law  
Saint Louis University  
Fall 2018

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This course provides an introduction to American law, focusing on the manner in which law has been used to organize American society. Several themes will be traced through the semester, including law's role in 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](http://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 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.

<b>Grading:</b>	Class participation /	
	Attendance	250 points
	Midterm exam	200 points
	Term Paper	300 points
	Final exam	250 points
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		1000 Total

**Percentage / Letter Grade Equivalents**

95-100	A	77-81	C
93-94	A-	75-76	C-
91-92	B+	70-74	D
86-90	B	0-69	F
84-85	B-		
82-83	C+		

[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:**

3.9 – 4.0	A	2.2 – 2.5	C+
3.6 – 3.8	A –	1.9 – 2.1	C
3.2 – 3.5	B+	1.6 – 1.8	C –
2.9 – 3.1	B	0.9 – 1.5	D
2.6 – 2.8	B –	0.0 – 0.8	F

**Syllabus Key**

Each section on the syllabus corresponds to one class period.

Introduction: Anglo Saxon Common Law  
No Reading

The Colonial Era, I: Rebellious Notions, 1600-1660  
John Winthrop, "Reasons for Puritan Migration," 1629  
The Trial of Roger Williams, 1635  
The Trial of Anne Hutchinson, 1638  
The Laws of Massachusetts, 1648  
Salem Witchcraft Trials, 1692

The Colonial Era, II: 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  
Indentured Servitude, 1750  
Indian War & the Collapse of Quaker Rule in Pennsylvania, 1755  
Soldier's Diary, 1755

The Founding, I: 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  
Slavery and the Rise of Republican Virtue [excerpt from Edmund S. Morgan,  
*Slavery & Freedom: The American Paradox*, 59 J. OF AM. HIST. 5 (1972)]

The Founding, II: 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

Jefferson, Jackson, & National Expansion  
Northwest Ordinance, 1787  
The Louisiana Purchase, 1803  
St. Louis Letters, 1804-1805  
The Acquisition of Florida, 1817  
The Missouri Compromise, 1820

## Law, Innovation, &amp; Commerce

1790 Federal Patent Act & the Genius Inventor  
1791 Jefferson, Hamilton, & the 1<sup>st</sup> National Bank  
*Marbury v. Madison* (1803)  
*McCulloch v. Maryland* (1816)  
Corporations, Contracts, & *Dartmouth College v. Woodward* (1819)  
*Gibbons v. Ogden* (1824) & the Commerce Clause  
The Rise of Bankruptcy Law [excerpt from Morton J. Horwitz, *The Transformation of American Law, 1780-1860* (1977)]  
Andrew Jackson Vetoes the Bank  
*Charles River Bridge v. Warren Bridge* (1837)  
Commerce, Materialism, & the Spread of Evangelical Faith

## The Laws of Slavery

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 Trial of Celia, Slave

## The Laws of Marriage

*Wightman v. Coates* (1833)  
Trusts, Estates, & Marriage Settlements [excerpt from Marylynn Salmon, "Women and Property in South Carolina: The Evidence of Marriage Settlements, 1730-1830," 39 *William & Mary Quarterly* (1982)]  
*Angelina Emily Grimke to Catherine Beecher* (1837)  
*Fisher v. Allen* (1837) [excerpt from Zorina Khan, "Married Women's Property Laws and Female Commercial Activity: Evidence from United States Patent Records, 1790-1895," 56 *Journal of Economic History* (1996)]  
Gender Equality: The Shakers of Pleasant Hill, Kentucky [excerpt from Lyman Tower Sargent, "The Social and Political Ideas of the American Communitarians: a Comparison of religious and Secular Communities founded Before 1850," 3 *Utopian Studies* (1991)]  
Friedrich Engels to Karl Marx, October 1844 (on American communitarianism)  
Seneca Falls Declaration of Sentiments (1848)

## Slavery, Property, &amp; the Civil War

Kansas Nebraska Act (1854)

Edward Bridgman, "A Little about the Affairs of Kansas" [letter, May 25, 1856]

*Dred Scott v. Sandford* (1857)

The Emancipation Proclamation (1863)

War, Innovation, & the Rise of Women Inventors [excerpt from Zorina Khan, "Married Women's Property Laws and Female Commercial Activity: Evidence from United States Patent Records, 1790-1895," 56 *Journal of Economic History* (1996)]

## Railroads, Rebellions, &amp; 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, Redemption, Segregation

The Mississippi Black Codes (1865)

The 13<sup>th</sup>, 14<sup>th</sup>, & 15<sup>th</sup> Amendments

Race War: *United States v. Cruickshank* (1874)

Booker T. Washington, Atlanta Exposition Address (1895)

*Plessy v. Ferguson* (1896)

The Race War Continues: North Carolina & Mississippi (1898)

Senator Benjamin Tillman, Senate Address, March 23, 1900

The Laws of Segregation

## 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 Evangelical Response to Socialism, Communism, & Anarchism [excerpt from Rev. James Crawford, "The Dangers of the Republic from Atheism, Communism, and Socialism," *Reformed Quarterly Review*, April 1879, 302.]

## The Gilded Age: The Defense of Business

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)  
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: Antitrust, Environmental Law, &amp; Federal Tax

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)  
Eugene V. Debs, "The Monstrous System of Capitalism," (1912)  
Sixteenth Amendment (1913)

## World War I: Speech, Suffrage, &amp; 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)  
*Gitlow v. New York* (1925)  
*Whitney v. California* (1927)

## Prohibition, Immigration, &amp; Organized Crime

18<sup>th</sup> Amendment (1919)

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

Immigration Act (1924)

“Guarding Against Undesirables,” (1924)

*Klansman’s Manual* (1925)

1925 *Tennessee v. Scopes*

1927 *Buck v. Bell*

1921 Margaret Sanger, “The Eugenic Value of Birth Control Propaganda”

“Warning Against the ‘Roman Catholic Party,’” (1928)

## The New Deal: Capitalism in Crisis

“Stock Prices Slump,” *New York Times*, Oct. 29, 1929

1934 Securities Exchange Act

1934 Federal Housing Administration

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)

Maurice Spector, “The Collapse of the New Deal,” (1938)

## The “Indian New Deal”: Native Americans, Congress, &amp; the Court

1924 Indian Citizenship Act

*Johnson v. McIntosh* (1823)

*Cherokee Nation v. Georgia* (1831)

*Worcester v. Georgia* (1832)

*Lone Wolf v. Hitchcock* (1903)

1934 Indian Reorganization Act

## World War II: Internment, Integration, International Law

Adolf Hitler, *Mein Kampf*

1935 Nuremberg Laws

1941 Executive Order 8802

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)



Cold War, Civil Rights

1938 *Ex Rel. Gaines v. Canada*

1948 *Sipuel v. Board of Regents of Oklahoma*

1948 *Shelley v. Kraemer*

1950 *Sweatt v. Painter*

1954 *Brown v. Board of Education*

Mary Dudziak, "Desegregation as a Cold War Imperative," 41 *Stan. L. Rev.* 61 (1988)

1956 The Southern Manifesto

1963 Letter from Birmingham Jail

1964 Civil Rights Act

Origins of the Urban Crisis

1944 Servicemen's Readjustment Act (The G.I. Bill)

1949 The Fairground Park Pool Riot

1956 Why They Built the Pruitt-Igoe Project

1956 National Interstate Defense Highways Act

1968 Kerner Commission Report

1968 *Terry v. Ohio*

1973 *Keyes v. School District No. 1, Denver*

1973 *San Antonio v. Rodriguez*

1974 *Milliken v. Bradley*

1978 *Regents v. Bakke*

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

*Engel v. Vitale*, 370 U.S. 421 (1962)

*Roe v. Wade* (1973)

Phyllis Schlafly, "A Choice not an Echo"

*Bowers v. Hardwick* (1986)

The Culture Wars

Prince, "Darling Nikki," 1984

Tipper Gore, *Raising PG Kids in an X-Rated Society*

1998 *National Endowment for the Arts v. Finley*

1996 *Romer v. Evans*

The Impeachment of William Jefferson Clinton, 1998

The New Economy

1992 *Apple Computer Inc. v. Microsoft Corporation*

2008 Emergency Economic Stabilization Act

2011 *Facebook v. Winklevoss*