

Course Syllabus

Syllabus for LS 177 - Legal and Constitutional History

Spring 2016

The readings for the course are either from Melvin Urofsky's *Supreme Decisions* or from materials on my website: <http://www.benbrownsdhistoryandlaw.com/>

U.S. Supreme Court Cases, underlined below, are arranged alphabetically under the "Supreme Court Cases – Edited" tab on my website; other materials, including non-Supreme Court cases, are under the Survey of U.S. - LS 177 tab and arranged in the order that we will address them.

Week of January 18 - Introduction. Colonial law and road to revolution.

Readings – John Winthrop, "Little Speech on Liberty;" Case of Thomas Granger; Pyncheon Court Records; Maryland Servants and Pigs; Pope Aluey Trials; Virginia Statutes on Slavery; General Laws of Massachusetts; Declaration of Independence.

Jan. 19 - Introduction to American Law; Colonial Law.

Jan. 21 - Events leading to Revolution.

Week of January 25 - State building and Republican Ideology.

Readings – Pennsylvania Constitution of 1776; Articles of Confederation; United States Constitution, 1787; Thomas Jefferson to James Madison on the Constitution; Federalist Papers: 10, 78; Virginia Ratification Message; New York's Ratification Message; Bill of Rights.

Jan. 26 - Classical Republicanism and creating American states.

Jan. 28 - Weak central government and the 1787 constitution; Liberalism and Bill of Rights.

Week of February 1 - Local Law and Creative Destruction.

Readings – Calder v. Bull; Fitch v. Hamlin; Sands v. Taylor; Ogden v. Saunders; Merrit v. Parker; Martin v. Bigelow; Snow v. Parsons; Charles River Bridge v. Warren Bridge; Jackson Veto message; Fifty Associates v. Tudor; Hellen v. Noe.

Urofsky: Chapter 1 – Marbury v. Madison; Chap. 2 – M'Culloch v. Maryland; Chap. 3 – Gibbons v. Odgen.

Feb 2 - From Local Law to Centralized Law.

Feb. 4 - Creative Destruction and the Rejection of Blackstone's Common Law.

Week of February 8 - Creating Rights, Creating Oppression.

Readings – John Belton O'Neill "Negro Law of South Carolina" chapter 2 pp. 17 -28; Somerset v. Stewart; State v. Mann; State v. Boyce; Married Women's Property Act. Tecumseh Speech to Governor Harrison; Johnson v. McIntosh; Fugitive Slave Act of 1850; Dred Scott v. Sandford; Ableman v. Booth.

Urofsky: Chapter 4 – Worcester v. Georgia; Chap. 5 – Prigg v. Pennsylvania; Chap. 6 – Dred Scott v. Sandford.

Feb. 9 - Creating Rights; Creating Oppression - White Male Legal Rights and the Exploitation of African-American Labor, the Control of Women and the Displacing of Native Americans.

Feb. 11 - Slave expansion in the territories as a flashpoint for conflict. The Supreme Court steps in - **Dred Scott**.

Week of February 15 - The Election of Lincoln, the Civil War and the Expansion of Federal Power.

Readings – South Carolina Secession Resolution; Abraham Lincoln's First Inaugural Address; Abraham Lincoln, "Gettysburg Address"; Abraham Lincoln, Second Inaugural Address; Freedman's Bureau Act; Mississippi Black Codes; 1866 Civil Rights Act; 1875 Civil Rights Act.

Feb. 16 - Secession and War

Feb 18 – Reconstruction and the Southern Response.

Week of February 22 - Abandoning the Freed-people.

Readings – **Slaughterhouse Cases**; **Bradwell v. Illinois**; **Civil Rights Cases**; **Plessy v. Ferguson**; **Bailey v. Alabama**.

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Urofsky: Chapter 8 – The Slaughterhouse Cases; Chap. 9 – Bradwell v. Illinois; Chap. 12 – Plessy v. Ferguson.

Feb. 23 - Supreme Court Reacts to the Civil War Amendments

Feb. 25 - Southern Whites use law to create Jim Crow.

Week of February 29 - Midterm; Organizing Capital, Disorganizing Labor.

Readings – **In re Debs**; **Mugler v. Kansas**; **Chicago, Milwaukee Railway v. Minnesota**; **Loewe v. Lawlor**.

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Urofsky: Chapter 11 – In re Debs.

March 1 - **Midterm Examination**.

March 3 - How American law allowed Capital to organize while forbidding labor to organize.

Week of March 7 - Triumph of Liberty of Contract Liberalism, Progressive Reaction, Speech rights; Eugenics.

Readings – **Lochner v. New York**; Comstock Law; **Schenck v. U.S.**; **Abrams v. U.S.**; Eugenics Statistics; **Buck v. Bell**.

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Urofsky: Chapter 13 – Lochner v. New York; Chap. 14 – Abrams v. United States.

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March 8 - Lochnerism and the Progressive Response.

March 10 - Speech rights and reproductive rights.

Week of March 14 - The Coming of the Great Depression and the New Deal. The Court Abandons Economic Rights.

Readings – Roosevelt’s First Inaugural Address; Schechter v. U.S.; Carter v. Carter Coal; West Coast Hotel v. Parrish; Preamble to National Labor Relations Act; N.L.R.B. v. Jones & Laughlin Steel Corp.; U.S. v. Carolene Products (Carolene Products).

Urofsky: Chapter 16 – The New Deal Cases.

March 15 - Liberty of Contract in the 1920’s. The Great Depression and the New Deal.

March 17 - Court’s reaction to the New Deal. The Court reverses course.

Week of March 21 - Have a great spring break!!!

Week of March 28 - Search for Values and Brown v. Board.

Readings – Minersville School District v. Gobitis; West Virginia State Board of Education v. Barnette; Korematsu v. U.S.; Michael Klarman, “Brown v. Board of Education: Law or Politics;” Brown v. Board of Education; Michael Klarman, “Why Massive Resistance;” Cooper v. Aaron; The Civil Rights Act of 1964; Voting Rights Act of 1965; Heart of Atlanta Motel v. U.S.; Reynolds v. Sims.

Urofsky: Chapter 17 – The Flag-Salute Cases; Chap. 18 – Brown v. Board of Education.

March 29 - The Roosevelt Court searches for a new way. Road to Brown.

March 31 - Implementing Brown. Civil Rights, Voting Rights.

Week of April 4 – The Supreme Court and Criminal Defendant Rights; Reproductive Rights and Women’s rights.

Readings – Gideon v. Wainwright; Miranda v. Arizona; Dennis v. United States; Brandenburg v. Ohio; LBJ’s address to Howard University; Heart of Atlanta Hotel, Inc. v. United States; Reynolds v. Sims; Griswold v. Connecticut; Sarah Weddington’s argument to Court in Roe; Roe v. Wade; Serena Mayeri, “When the Trouble Started: The Story of Frontiero v. Richardson.”

Urofsky: Chapter 19 – New York Times v. Sullivan; Chap. 20 – Miranda v. Arizona; Chap. 21 – Roe v. Wade.

April 5 - Criminal Defendant Rights and Incorporation

April 7 - Reproductive Rights and Women’s Equality

Week of April 11 - Retreat from Brown and Roe.

Readings – Milliken v. Bradley; Washington v. Davis; Regents of the University of California v. Bakke (Bakke); Ronald Reagan’s First Inaugural Address; Planned Parenthood v. Casey (Casey).

April 12 - Retreat from Brown

April 14 - Retreat from Roe

Week of April 18 - Subverting Criminal Defendant's Rights. The unlikely victory of Gay marriage.

Readings: Michelle Alexander on the New Jim Crow – interview on Fresh Air; United States v. Whren; Michael H. v. Gerald D.; Bowers v. Hardwick; Defense of Marriage Act; Lawrence v. Texas; Perry v. Schwarzenegger; United States v. Windsor (Windsor).

Urofsky: Chapter 22 – The Gay Rights Cases.

April 19 - The new Jim Crow

April 21 - Explaining the Gay Rights victory

Week of April 25 – The Roberts' Court conservative activism.

Readings: Parents Involved v. Seattle School District; Gonzales v. Carhart; Lisa McElroy, "Citizen's United History;" Reva Siegel, "Dead or Alive: Originalism as Popular Constitutionalism in Heller." (Siegel on Heller).

April 26 - Roberts overturns Brown. Attack on voting rights.

April 28 - The last incorporation and originalism as a rhetorical device to facilitate activism; Citizen's United.

Final Examination Friday, May 13 – 7:00 p.m. to 10:00 p.m.

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Date

Details
