United States Legal History
History 410/510 (CRN 17395)
Fall Term, 2011
Mondays and Wednesdays, 10:00 - 11:20am
Condon 360

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Office hours: M & W, 11:30 - 12:30
(and most any time at your request -- just ask!)

Course Description

This course in American legal history will focus on public and private law developments, on both the state and federal level, from our English origins to the present, all framed in the context of the political, social and economic times. Beginning with the intellectual origins of the Constitution, the debates and the ratification process, we will address issues that remain very much alive today, such as the separation of powers and federalism concerns. The subsequent adoption of the Bill of Rights, with all its implications for the assertion of civil rights today, provides a useful vehicle for studying the concept of original intent, with which the Supreme Court continues to struggle.

During the first half of the nineteenth century, much of the law’s development had to do with the powers of the judiciary itself and the power of our “new” federal government over the states, particularly with respect to regulating commerce. At mid-century, we will focus our attention on race relations -- the institution of slavery, the Emancipation Proclamation, the Reconstruction Amendments, etc. Two jurisprudential themes are well-developed during the first half of the twentieth century: free speech rights under the First Amendment and Congress’s expanding power in the field of economic regulations.
During the latter half of the twentieth century, we find that the modern civil rights movement dominated the legal landscape. We will examine a host of social justice issues, including affirmative action, gender and privacy, limits on free speech, and the rights of gays and lesbians. Finally, we will study the legal issues surrounding our nation’s “war on terror”.

United States Legal History is a course designed for engaged, hard-working upper division/graduate students. Those students having a particular interest in issues of social justice, who appreciate the need to learn from the mistakes of history, and/or who are entertaining the prospect of attending law school are well-advised to take this course.

**Course Requirements**


Learning the lessons of history is a collaborative process. Your class attendance and participation is extremely important to us all. I expect each of you to come to class prepared to make intelligent and informed contributions to class discussions. I intend that you get your money’s worth in the limited time that we have together; that is to say, we will not spend all of our class time simply regurgitating the assigned readings. Rather, the lectures will often address matters not included in the readings, and the readings may address matters not included in the lectures.

If it becomes necessary for you to arrive late, depart early or miss class entirely, please let me know in advance by telephone or email. (In the case of a last-minute emergency, of course, let me know as soon as possible after the class.) Also, understand that class attendance and participation may be a factor in determining your course grade. A word of caution: If you have conflicting obligations this term and think that thorough class preparation and regular class attendance could be a problem, this is probably not the course for you.

With the intention of promoting thought, deliberation and participation,
laptops will not be permitted in class. I understand that this may present an inconvenience for some hard-working students, but let me suggest that if you come to class well-prepared and print out your reading notes beforehand, heavy additional note-taking is not likely to be necessary. In short, computers in class can be a distraction. I want you to be fully engaged, to speak your mind and to contribute to our wild and provocative discussions. (For the very same reasons, all other personal electronic devices may not be used in class, as well.)

Assuming that attendance and participation requirements are met, each student’s course grade will be comprised of her/his performance on a mid-term examination (40%) and on a final examination (60%). Make-ups of the mid-term exam will be permitted only in the rarest, most extraordinary and well-documented of circumstances.

If you have a recognized disability and anticipate needing accommodations, please arrange to see me during the first week of this term and request that Disability Services provide a letter of verification.

The Professor

Michael Rooke-Ley has been a law professor for the past 30 years, having taught at seven law schools, including the University of Oregon and Willamette University, and lectured widely in the United States and abroad. As a teacher, activist and scholar, Professor Rooke-Ley’s fields of expertise include constitutional law and civil rights/liberties. He has served on the Gender Fairness Task Forces in both Oregon and Florida, as a board member of the Oregon ACLU, and as co-president of the Society of American Law Teachers, the largest membership organization of law professors in the nation. Professor Rooke-Ley has taught and consulted in Sri Lanka, Croatia and Uganda as a Fulbright professor; in other capacities, he has lectured and consulted over the years in Cuba, Germany, Bangladesh and Iraq.

Professor Rooke-Ley’s wife, Ilisa, is a trial court judge here in Eugene. The Rooke-Leys have three children, ages 21, 19 and 19.
Course Calendar and Reading Assignments

Wednesday, Sept. 28: pp.1-3m, 12m-14m, 39m-41t, 43m-49m, 51-66m.

Mon, October 3: pp.77m-83b, 90m-94t, 110b-112m, 127b-132t, 138b-147.
Wed, October 5: pp.148-151t, 155t-164t, 206m-217.

Mon, October 10: pp.218-225m, 232-233m, 237m-243m, 244b-255m.
Wed, October 12: pp.255m-282t.

Mon, October 17: pp.282t-306.
Wed, October 19: pp.307-332m.

Mon, October 24: pp.332m-336b, 367t-388b.
Wed, October 26: MID-TERM EXAM

Mon, October 31: pp.388b-413.
Wed, November 2: pp.414-437b.

Mon, November 7: pp.437b-462.

Mon, November 14: pp.518b-540b.
Wed, November 16: pp.540b-559m.

Mon, November 21: pp.588b-611t.
Wed, November 23: pp.611t-629b.

Mon, November 28: pp.661b-678m.
Wed, November 30: Review.

FINAL EXAMINATION -- Date & Time TBA