

## PROPOSAL FOR COURSE CHANGE

**To:** Curriculum Committee and Graduate Council  
**From:** Department of Social Sciences and Philosophy  
**Date submitted:** 29 September 2007  
**Request for:** Course Creation  
**Submitted by:** H. Micheal Tarver  
**Approved by:** Department Head: H. Micheal Tarver  
 Dean of School: Aduncan  
**Reviewed by:** Registrar: Yammy Lewis  
 Vice President: \_\_\_\_\_

I. Catalog description: *American Legal History*. This course concerns the history and development of law, legal institutions, and legal culture in the United States from its colonial origins to the present day, with emphasis on the interaction of law with the overall development of American society.

Number: HIST 4183/5183

Title for Catalog: American Legal History

\*Title for Course Inventory (24 characters): American Legal History

Description: This course is the study and analysis of the development of legal history from the colonial era to the present. Specific issues that will be examined include how law shaped the development of the North American colonies, its influence on colonial society ~~of development~~, the primacy of law in the founding, the development and influence of law in the early republic, the transition from slavery to freedom; how law participated in creating the modern nation, the ways in which it defined and created citizenship, and how various social movements used the court as part of wider grass root campaigns. The course will treat law as both reflecting and shaping politics, society, the economy, and culture, studying not only case law and the specific facts that gave rise to particular court cases but also as a crucial element in shaping how individuals defined themselves. Readings will include a wide range of secondary scholarship and primary documents, including briefs, trial transcripts, newspaper articles, appellate court decisions, and items from popular culture.

Effective date or term: Summer One 2008

\*Course fees: NONE

Dated CC 10/22/07  
 app CC 11/19/07  
 app FS 12/3/07

## II. Justification and feasibility of course:

- A. What is the need for this course? Who will take it? *This course will serve as a upper-level elective course for students who have an interest in American history and the legal profession. The course can also be used by HIST and HISE majors to meet certain degree requirements. This course is a necessary addition to the catalog for a number of reasons. As a university that supports a Pre-Law emphasis for its students, ATU must offer sufficient topical courses to support such an emphasis. A course on the history of American law is a valuable asset to any student planning admission to law school. Additionally, it is an important addition in general for history majors, as the study of the development of law and legal institutions in American history sheds light and creates greater insight into the history of the nation in general, as well as greater insight into how the law impacts our society today. Our students benefit from exposure to different approaches to the study of history, and the study of the development of law offers theories, methodologies, and information other approaches do not.*
- B. How does it relate to other work being offered by your department? Is there an overlap with other courses in the department? *The creation of American Legal History will strengthen the offerings of the Social Sciences and Philosophy Department by further broadening the variety of courses being offered. There would be no overlap with other courses in the department. American Legal History acts as a valuable companion to history offerings such as American Economic History, History of Foreign Relations, and American Constitutional Development, topical courses which address the evolution of institutions and significant themes over the life of the nation. Additionally, American Legal History is a relatively common offering at most institutions comparable to Arkansas Tech. Though American Legal History can be seen as a companion to History 4043 American Constitutional Development, this course differs fundamentally in its area of study: whereas Constitutional Development focuses on the origins, evolution, application, and interpretation of the Constitution over American history, law is more than the Supreme Court and Constitutional Law. American Legal History offers analysis and study of every other aspect of law in American history, from the evolution of such critical issues and institutions pivotal to the understanding of the American past as property, commerce and trade, criminal law, the legal profession and the courts, the evolution of procedure, contracts, labor, torts, taxation, crime and punishment, economic regulation, and a host of other topics not addressed in the study of Constitutional development.*
- C. Is this course part of any general plan of development within your department? Explain. *Yes. The Department is attempting to broaden its offerings, in an effort to add greater depth and breadth to its courses. This course strengthens the Department's efforts at achieving the goals established by the History and Political Science Program Objectives – as detailed in the Department of Social Sciences and Philosophy Assessment Plan and the National Council for the Social Studies Matrices.*
- D. How often will the course be offered? *This course will be offered every two years.*
- E. How will the course be staffed? *The course will be taught by Dr. James Moses as part of his rotation of upper-division courses. Moses' MA thesis and doctoral dissertation both dealt with American legal history, as have several of his publications.*
- F. When applicable, state with which departments you have specifically coordinated this change? (If unable to identify coordinating departments that change affects, Academic Affairs can offer assistance in identifying course use.)

List Department Head/  
Program Director Consulted:  
(Add to list as needed)

Indicate Support  
for Proposal  
(yes/no)

Date:

1. NONE

**Assessment Note:** *It is a valuable course for assessment purposes as well, since presently there is no course offered that addresses the evolution of law and legal institutions in American history. Such an omission has adverse effects upon standardized testing scores and other measures of proficiency that our history/political science and education majors must demonstrate. The study of legal history, a writing-intensive course of study, is an excellent field for the application of techniques of critical thinking, writing, and analysis. Improvements in these areas, which this course would provide, cannot help but aid ATU in producing higher quality graduates. In specific, the course could be used to assess verbal and written communication skills and the ability to analyze, critique, and synthesize primary and secondary sources. The Departmental Assessment Committee will evaluate the course with the instructor to determine how best to incorporate the class into the Department's efforts at assessment. This course will also help build the Political Science program, as the Department moves toward the eventual creation of a B.S in Political Science.*

### **Graduate Catalog Description**

*American Legal History.* This course concerns the history and development of law, legal institutions, and legal culture in the United States from its colonial origins to the present day, with emphasis on the interaction of law with the overall development of American society. Course requires the production of substantial written work based upon disciplined inquiry and the exploration and analysis of primary and secondary sources. May not be taken for credit after completion of HIST 4183 or equivalent.

## American Legal History

American Legal History is the study and analysis of the development of legal history from the colonial era to the present. Specific issues that will be examined include how law shaped the development of the North American colonies, its influence on colonial society, the primacy of law in the founding, the development and influence of law in the early republic, the transition from slavery to freedom; how law participated in creating the modern nation, the ways in which it defined and created citizenship, and how various social movements used the court as part of wider grass root campaigns. The course will treat law as both reflecting and shaping politics, society, the economy, and culture, studying not only case law and the specific facts that gave rise to particular court cases but also as a crucial element in shaping how individuals defined themselves. Readings will include a wide range of secondary scholarship and primary documents, including briefs, trial transcripts, newspaper articles, appellate court decisions, and items from popular culture.

### Assigned Texts

Lawrence Freidman, *The History of American Law*, 3<sup>rd</sup> ed. (2005)

Kermit L. Hall, William M. Wiecek, and Paul Finkelman, eds., *American Legal History: Cases and Materials*, 3<sup>rd</sup> ed. (2004)

### Selected Bibliography

Stuart Banner, *How the Indians Lost their Land: Law and Power on the American Frontier* (2005)

Edgar Bodenheimer et al., *An Introduction to the Anglo-American Legal System: Readings and Cases* (1992)

Anthony Chase, *Law and History: The Evolution of the American Legal System* (1999)

Robert Ferguson, *The Trial in American Life* (2007)

Lawrence Friedman and Harry Scheiber, eds., *American Law and the Constitutional Order: Historical Perspectives* (1988)

Lawrence Friedman, *American Law in the Twentieth Century* (2004)

Grant Gilmore, *The Ages of American Law* (1979)

Annette Gordon-Reed, *Race on Trial: Law and Justice in American History* (2001)

Kermit L. Hall, *The Magic Mirror: Law in American History* (1989)

Morton J. Horowitz, *The Transformation of American Law, 1780-1860* (1977)

\_\_\_\_\_, *The Transformation of American Law, 1870-1960: The Crisis of Legal Orthodoxy* (1994)

Frederick G. Kempin, *Historical Introduction to Anglo-American Law* (1986)

Robert Marcus and Anthony Marcus, eds., *On Trial: American History Through Court Proceedings and Hearings*, 2 vols. (1998)

Stephen Presser and Jamil Zainaldin, eds., *Law and Jurisprudence in American History*, 6<sup>th</sup> ed. (2005)

Mark Tushnet, *The American Law of Slavery, 1810-1860* (1981)

William M. Wiecek, *Liberty and the Law: The Supreme Court in American Life* (1988)

## **Class Schedule**

Week One:	Law, Society, and Economy in the Colonial Era to 1760
Week Two:	The Revolution in the Law and the Law in the Revolution
Week Three:	The Rise of an American Legal System
Week Four:	Law and Economy in the Early Republic
Week Five:	National Growth: Labor, Property, Contracts, and Torts
Week Six:	Race, Class, and Slavery in the 19 <sup>th</sup> Century
Week Seven:	Postbellum Criminal and Civil Law
Week Eight:	Gender and Domestic Relations in the Late 19 <sup>th</sup> Century
Week Nine:	Industrialization and the Emergence of the Regulatory State
Week Ten:	The Law in Depression and War
Week Eleven:	The Emergence of Civil Liberties and Civil Rights
Week Twelve:	Law and the Rise of Federal and Presidential Power
Week Thirteen:	Law in Modern Society

## **Addendum to American Legal History Syllabus**

Upon successful completion of this course the student shall have mastered the following specific objectives:

- An understanding of the historical development of law and legal institutions in the United States
- Knowledge of the historical relationship and interplay between legal and social, economic, cultural, and political developments in the United States
- The ability to demonstrate through writing, discussion, and analysis a comprehension of the evolution of law and legal institutions in the United States as well as specific comprehension of the primacy of American law and legal concepts and their evolution as related to:
  - Law, Society, and Economy in the Colonial Era to 1760
  - The Role of Law in the American Revolution
  - The Rise of an *American* Legal System
  - National Growth: Labor, Property, Contracts, and Torts
  - Race, Class, and Slavery in the 19<sup>th</sup> Century
  - Postbellum Criminal and Civil Law
  - Industrialization and the Emergence of the Regulatory State
  - The Law in Depression and War
  - The Emergence of Civil Liberties and Civil Rights
  - Law and the Rise of Federal and Presidential Power
  - Law in Modern Society