Senior Writing Seminar: Legal History

Time: MW 1:30–2:45 P.M. Room: 104i
Instructor: Steven J. Macias Office: 234
Office Hours: MW 3:30–5:00 P.M. Phone: 618-536-8464

Course Description: This is a course that seeks to provide an overview of U.S. legal history from the colonial period to the present day. We will survey the field of legal history rather than narrowly focusing on just a few topics. Thus, we will cover the history of substantive fields of private law, criminal law, and public law, as well as the history of legal institutions such as the bar, the bench, and law schools. We will use narrative histories as well as primary sources to understand the changes in law over time.

Goals: At the conclusion of this course you should:
- Have a textbook understanding of American Legal History.
- Be able to explain what it means for law to be a product of its time.
- Be able to describe instances where law was the driving force of historical change.
- Have an appreciation of major legal personalities throughout history.
- Know in depth the historiography of a topic of your choosing.
- Appreciate how to use legal documents as historical archives as distinct from legal precedent.
- Have honed your narrative, explanatory, and analytical writing skills through focused and consistent work on a major seminar paper.

Senior Writing Requirement: Because this course is designated as a Senior Writing Seminar, students are required to produce “a paper of the quality of a Law Journal comment” (School of Law Rules, Art. IV, § 5(b)(i)). This means that students will be required to turn in a final written product of 30–40 pages. Various preliminary assignments and drafts will be due over the course of the semester.

Required Books:
Perry Miller, ed., The Legal Mind in America: From Independence to the Civil War (out-of-print; any used edition will do)

Class Sessions—Generally: Monday class sessions will be devoted to discussing a broad topic or time period, informed in part by the assigned textbook reading and additional readings that individual students bring to the table. Wednesday class sessions will be devoted to discussing primary, historical, documents as the products of their time. In
contextualizing the primary documents, it will be necessary to draw upon the general lessons from the previous class session.

**Monday Classes:** On Mondays, we will read a chapter from the textbook, *The Magic Mirror*, usually around 20 pages. Additionally, two students per week will each read an additional article/chapter that is related to the topic under discussion. The additional readings should be ones that supplement our discussion, whether because of a different interpretive perspective than the textbook or because they consider different historical figures or events. Lists of suggested readings will be provided early in the semester, but the “Bibliographical Essay” beginning on p. 419 of the textbook is a good starting point.

**Wednesday Classes:** On Wednesdays, we will read primary historical sources from two document books, *American Legal History* and *The Legal Mind in America*. You will be required to contextualize these documents—cases, speeches, statutes, etc.—using the background reading and discussion from the preceding Monday class. At the beginning of each Wednesday class, you will submit a one-page paper in which you discuss one of the assigned documents of your choice and explain how it is the product of its time.

**Attendance:** Because we are allowed to cancel some class sessions in order to devote our time to writing, and because this is a small seminar where everyone’s participation is vital, you will only be permitted two (2) absences for the semester. The failure to turn in a Wednesday response paper will count as an absence.

**The Paper:** Your final paper will be a synthetic treatment of a topic of your choice. That is, you will synthesize the main secondary literature on your selected topic. Additionally, you must: cover the history of the topic from the Colonial Era to the present; examine, first-hand, a range of primary sources upon which the secondary literature relies; and explain how the history of your topic fits into the more general historical narrative we cover during class sessions. The final paper will be due the final day of exams, Dec. 18, by 5:00 P.M.

**Interim Assignment Due Dates:** Combined, the three papers listed below will form a rough draft of your final paper. You will be expected to rewrite, combine, and respond to critiques of the drafts in your final version.

- **Paper #1:** A 5–7-page paper on the history of your topic up through the colonial era. You must use the readings from class, both the text and selected documents, in addition to at least 2 articles/chapters and 3–5 primary documents of your choosing. DUE Fri., Sept. 11, 5:00 P.M.

- **Paper #2:** A 10-page paper, similar to the first, but covering the early republic through the antebellum era. DUE Fri., Oct. 23, 5:00 P.M.

- **Paper #3:** A 7–10-page paper, similar to the first two, but covering the late-nineteenth century through the current period. DUE Fri., Nov. 13, 5:00 P.M.
Schedule of Classes: The following approximates our reading schedule for the semester. On each Monday, I will specify on which documents you should focus, and we might divide the documents among students to assure complete coverage during our discussion. At that time I will also specify which essays from *The Legal Mind in America* you should read.

**Week 1: English Foundations**
Mon., Aug. 24
- *Magic Mirror*, pp. 1–27
- *American Legal History*, pp. 30–32 (We will use the Carolina Constitution to demonstrate how to write the sort of response paper that will be due each Wednesday.)

Wed., Aug. 26
- *American Legal History*, pp. 1–39

**Week 2: Colonial Era**
Mon., Aug. 31
- *Magic Mirror*, pp. 28–50

Wed., Sept. 2
- *American Legal History*, pp. 39–80

**Week 3: No Class (Work on First Writing Assignment)**
Mon., Sept. 7 (Labor Day Holiday)

Wed., Sept. 9

Fri., Sept. 11
- Paper #1 DUE

**Week 4: Revolutionary Era**
Mon., Sept. 14
- *Magic Mirror*, pp. 51–69

Wed., Sept. 16
- *American Legal History*, pp. 81–127

**Week 5: Early Republic**
Mon., Sept. 21
- *Magic Mirror*, pp. 70–91

Wed., Sept. 23
- *American Legal History*, pp. 127–47
Week 6: Law & the Economy  
Mon., Sept. 28  
- *Magic Mirror*, pp. 92–141  

Wed., Sept. 30  
- *American Legal History*, ch. 3

Week 7: Law & Race  
Mon., Oct. 5  

Wed., Oct. 7  
- *American Legal History*, ch. 4 

Week 8: Domestic Relations  
Mon., Oct. 12  
- *Magic Mirror*, pp. 168–86  

Wed., Oct. 14  
- *American Legal History*, pp. 316–36

Week 9: Criminal Law  
Mon., Oct. 19  

Wed., Oct. 21  
- *American Legal History*, pp. 336–54  

Fri., Oct. 23  
- Paper #2 DUE

Week 10: Industrialization  
Mon., Oct. 26  

Wed., Oct. 28  
- *American Legal History*, pp. 367–413

Week 11: The Bench & Bar  
Mon., Nov. 2  
- *Magic Mirror*, pp. 231–46  

Wed., Nov. 4  
- *American Legal History*, pp. 355–67
Week 12: No Class (Work on Third Writing Assignment)
Mon., Nov. 9

Wed., Nov. 11 (Veterans Day Holiday)

Fri., Nov. 13
- Paper #3 DUE

Week 13: WWI
Mon., Nov. 16
- *Magic Mirror*, pp. 268–89

Wed., Nov. 18
- *American Legal History*, ch. 7

Week 14: The Great Depression
Mon., Nov. 30

Wed., Dec. 2
- *American Legal History*, ch. 8
Emergency Procedures
Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (“BERT”) program. Emergency response information is available on posters in buildings on campus, available on BERT’s website, Department of Safety’s website (disaster drop down) and in the Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The BERT will provide assistance to your instructor in evacuating the building or sheltering within the facility.

Disability Support Services
Disability Support Services (“DSS”) provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

Saluki Cares
The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is (618) 453-3135.