

UNIVERSITY OF WISCONSIN-MADISON  
Department of History  
Semester I, 1991

History 331

American Legal and Constitutional  
History

Mr. Kutler  
Mr. Solovey

This class meets on Monday and Wednesday for lectures. In addition, there will be a discussion hour with the teaching assistant.

You will have two mid-term examinations, a paper due on Dec. 9, and, of course, a final examination. Because we miss two class days at the outset of the semester, the mid-terms will be given on the evenings of October 16 and November 11. You are expected to attend the discussion sections. Your performance in the section will help determine your grade. Obviously: no attendance, poor grade.

The basic texts are:

Wiecek, LIBERTY UNDER LAW

Kutler, THE SUPREME COURT AND THE CONSTITUTION (3rd edition)

Levy & Mahoney, FRAMING & RATIFICATION OF THE CONSTITUTION

- September 4 Introduction
- September 9 NO CLASS
- September 11 The Old World and English Background, Murrin essay
- September 16 Colonial Constitutional Development, Greene essay
- September 18 NO CLASS
- September 23 The American Revolution, Levy essay
- September 25 The Declaration and Development of Nationality, Mahoney essay
- September 30 The Articles of Confederation, Lutz & Onuf essays
- October 2 The Constitution: Ideological Background, Original Intention Articles, Rakove essay
- October 7 The Constitution: The Convention and Ratification, Banning essay
- October 9 The Constitution: Language and Meaning, Kutler, 741-756, Belz essay
- October 14 1789: The First Government, Rutland & Cooke essays
- October 16 **EXAMINATION**
- October 16 The Supreme Court, 1789-1801, Kutler, 3-24; Wiecek, 1-32
- October 21 The Marshall and Taney Courts: Judicial Power, Kutler, 25-49, 101-114; Wiecek, 32-82
- October 23 The Marshall and Taney Courts: Political Economy  
Kutler, 63-89, 114-119; Hurst, "The Release of Energy"

October 28 The Marshall and Taney Courts: National Powers  
Kutler, 50-62, 90-100, 126-138

October 30 Slavery and the Constitution: Fugitive Slaves,  
Kutler 145-149; Wiecek, 70-82

November 4 Slavery and the Constitution: The Territories and Dred Scott,  
Kutler, 150-160

November 6 Reconstruction: Southern Policy, Amendments  
Kutler, 164-182, 192-193, 197-224; Wiecek, 82-110

November 11 Reconstruction; Impeachment; New Judicial Power, Kutler, 183-191

November 11 **EXAMINATION**

November 13 Industrialism and the Constitution, 1865-1941,  
Kutler, 225-257; Wiecek, 110-140

November 18 Due Process and Social Legislation,  
Kutler, 282-293, 309-320, 337-358

November 20 The Commerce Clause, Kutler, 264-281, 359-364

November 25 The New Deal and Constitutional Crisis, 1933-1937,  
Kutler, 365-386

November 27 The Court Fight: 1937, Kutler, 387-428

December 2 Freedom of Speech: A Historical Survey,  
Kutler, 324-336, 429-441, 472-484; Wiecek, 156-195

December 9 The Civil Rights Revolution, Kutler, 548-577

December 11 Presidential Power, Watergate, and the Constitution  
Kutler, 703-728, Wiecek, 140-156

December 19 **FINAL EXAMINATION**  
7:45 a.m.!