The purpose of this course is to introduce you to main ideas in American legal history from colonial times through the Civil War. Unlike a constitutional law course, this class will focus on both how law shaped and was shaped by the larger historical context. Often Americans take their legal system for granted and do not question how or why it became the complex, sophisticated system it is today. In this class we will discuss the ways in which American law evolved over time and the factors that caused that evolution. Key questions we will ask include: In the past, who has benefited from American law? Have any groups—rich or poor, black or white, male or female—benefited disproportionately from our legal system? Is American law unfairly skewed in favor of businesses and property holders or is it a key factor in the development of one of the world’s most successful economies? Which civil liberties are important to U.S. citizens and why? And were those civil liberties protected during the period between the Revolution and the Civil War?

Course Requirements:
The requirements for this course will include: two response papers (5-6 pages) (10% each); a midterm exam (30%); a small research project (10%); and a final exam (30%). Participation in class discussion will also be important (10% of final grade).

Attendance:
Attendance is required and will be taken at the beginning of each class. You are allowed three absences during the semester. Four or more absences will adversely affect your grade. Late arrivals will be counted as one-half of one absence.

Students with disabilities: Students with disabilities who wish to receive accommodations in this class should contact Disability Services at 865-2990 as soon as possible so that accommodations can be implemented in a timely fashion.
PLAGIARISM:
"Plagiarism—the use of another person's ideas or wording without giving proper credit-results from the failure to document fully and accurately. Ideas and expressions of them are considered to belong to the individual who first puts them forward. Therefore, when you incorporate ideas or phrasing from any other author in your paper, whether you quote them directly or indirectly, you need to be honest and complete about indicating the source to avoid plagiarism. Whether intentional or unintentional, plagiarism can bring serious consequences, both academic, in the form of failure or expulsion, and legal, in the form of lawsuits. Plagiarism is a violation of the ethics of the academic community."

Required Readings:
Kermit Hall, Paul Finkelman, James W. Ely, eds., American Legal History: Cases and Materials (Third Edition)
William Dwyer, In The Hands of the People
Peter Hoffer, The Salem Witchcraft Trials
Melton A. McLaurin, Celia, A Slave

All five books are available in the campus bookstore.

Schedule:
WEEK OF AUGUST 25:
The European Origins of American Law
Readings:
- American Legal History, 5-10.
- In The Hand’s of the People, Chapters I, II, III, IV

No Class, Friday August 29

WEEK OF SEPTEMBER 1:
The European Origins of American Law (Continued)
Law in the Morning of America
Readings:
- American Legal History, 6-27
- Salem Witchcraft Trials, 9-44

Be prepared to discuss:
- In the Hands of the People
- Magna Charta (1215)
- Dale’s Laws (1611)
- The Mayflower Compact
- John Winthrop “A Model of Christian Charity”
- Roger Williams “The Bloudy Tenet” (1644)
- Rhode Island Patent (1643)
- The Laws and Liberties of Massachusetts (1648)

(No Class Monday September 1 LABOR DAY)
WEEK OF SEPTEMBER 8: Law, Society, and Economy in Colonial America

Readings:

American Legal History, 27-41
Salem Witchcraft Trials, 45-108

Be prepared to discuss:

Fundamental Constitutions of Carolina (1669)
New York Charter of Libertyes (1685)
English Bill of Rights (1689)
John Locke “Second Treatise of Civil Government” (1690)
William Blackstone on Reception

WEEK OF SEPTEMBER 15: Women, Morality, & the Colonial Legal System

Readings:

American Legal History, 41-50
Salem Witchcraft Trials, 109-end

Be prepared to discuss:

“A Horrible Case of Beastiality”
William Blackstone on Women in the Eyes of the Law
An Act Concerning Feme-Sole Traders
Virginia Apprenticeship Statute
South Carolina Servant Regulations

FIRST PAPER DUE WEDNESDAY SEPTEMBER 17 (Late papers will lose ½ grade for each day they are late).

WEEK OF SEPTEMBER 22: Slavery, Race, and the Law in Colonial America

Readings:

American Legal History, 50-61

Be prepared to discuss:

Germantown Protest Against Slavery
South Carolina Slave Code (1740)
New York Negro Plot (1741)

WEEK OF SEPTEMBER 29: Law in a Republican Revolution

Readings:

American Legal History, 75-91

Be Prepared to Discuss:

The Zenger Trial
James Otis, “The Rights of the British Colonies” (1764)
William Blackstone on the Imperial Constitution (1765)
The Declaratory Act
Thomas Paine “Common Sense” (1776)
The Declaration of Independence

WEEK OF OCTOBER 6: Republican State Constitutionalism/ Slavery & the New Nation

MID-TERM EXAMINATION FRIDAY, OCTOBER 10 IN CLASS (Please bring blue books)

Readings: 

American Legal History, 91-107

Be prepared to Discuss:

Virginia Declaration of Rights (1770)
Somerset v. Stewart (1772)
Pennsylvania Gradual Abolition Act (1780)
Commonwealth v. Jennison (1783)
Virginia Manumission Act (1782)
Notes on the State of Virginia (1784)
Virginia Statute on Religious Freedom (1780)

WEEK OF OCTOBER 13: The Post-Revolutionary Struggle Over Law and Politics/ Framing the Constitution

Readings: 

American Legal History, 107-125, Appendix 676-686

Be prepared to discuss:

The Articles of Confederation
The Randolph or Virginia Plan
The Paterson or Small States Plan
The Slave Trade Debate
Antifederalist Critiques of the Constitution
Federalist No. 10
Federalist No. 78
The Bill of Rights
Northwest Ordinances (1787)

No Class Monday October 13 Fall Break

WEEK OF OCTOBER 20: Establishing the National Legal Order & The Jeffersonian Crisis

Readings: 

American Legal History, 126-144
Marbury v. Madison, 41-71

Be prepared to discuss:

James Madison, “Property”
Hamilton Versus Madison on Presidential Power
Washington’s Farewell Address
The Sedition Act of 1798
The Virginia and Kentucky Resolutions
The Judiciary Act (1789)
Jefferson v. Hamilton on the Bank (1791)
*Calder v. Bull* (1798)
*Marbury v. Madison* (1803)

WEEK OF OCTOBER 27: *The Active State and the Mixed Economy*

Readings:

American Legal History, 145-177

Be prepared to discuss:

* Livingston v. Van Ingen* (1812)
* Gibbons v. Ogden* (1824)
* McCulloch v. Maryland* (1819)
* Andrew Jackson’s Veto Message*
* Dartmouth College v. Woodward* (1819)
* Charles River Bridge Company v. Warren Bridge Company* (1837)
* Barron v. Baltimore* (1833)

WEEK OF NOVEMBER 3: *Nineteenth-Century Women & The Law*

Readings:

American Legal History, 312-315, 321-325  
Celia, A Slave, 1-61

Be prepared to discuss:

The Seneca Falls Declaration of Sentiments  
The New York Married Women’s Property Acts  
“The Nature of Marriage and How Defined”  
Wightman v. Coates (1833)

WEEK OF NOVEMBER 10: *Native-Americans & The Law*

The Law of Slavery in the Antebellum Period  
The Coming Crisis

Readings:

American Legal History, 286-289, 220-222, 230-234, 242-249  
Celia, A Slave, 62-143

Be prepared to discuss:

*Cherokee Nation v. Georgia* (1831)  
*State v. Mann* (1829)  
*Prigg v. Pennsylvania* (1842)  
South Carolina Ordinance of Nullification (1832)  
President Jackson’s Proclamation (1832)
SHORT RESEARCH PROJECT DUE IN CLASS, FRIDAY, NOVEMBER 14

WEEK OF NOVEMBER 17, NOVEMBER 24, DECEMBER 1: The Coming Storm & The Civil War As A Legal Crisis

PAPERS ON CELIA, A SLAVE, DUE FRIDAY NOVEMBER 21 (Late papers receive ½ grade off for each day they are late)

Readings:

American Legal History, 234-243, 249-255

Be prepared to discuss:

Dred Scott v. Sandford (1857)
Lincoln’s “House Divided” Speech (1858)
“Declaration of the Immediate Causes Which Induce and Justify the Secession of South Carolina” (1860)
Abraham Lincoln’s First Inaugural Address (1861)
Ex Parte Merryman (On reserve)

FINAL EXAM FRIDAY DECEMBER 12 9-11 (Please bring blue books)