Instructor: Stuart Gold
Office Hours: By email at any time; by phone, if requested. No in-person hours due to Covid-19.
Contact Information: stuart.gold@rutgers.edu

Course Description:

This is a survey course of selected topics in American legal history from the colonial period through Reconstruction: the development of the legal system in the United States; the Constitution and federalism; and slavery in the legal system. As with any survey course, we cannot cover every issue, nor can we cover even the selected issues in depth. However, I hope that by the end of the semester you will have a good working knowledge of these topics so that you can go on to more in-depth investigations in other courses.

In the segment on the development of the legal system, we will examine the sources of American law, i.e., how American law incorporated and distinguished itself from the English legal system, how law is created and implemented in a democratic republic, the role of the judiciary and the rise and training of the legal profession. In the segment on the Constitution, we will examine the sources from which the framers drew in creating the Constitution, the competing and/or complementary spheres of power for the federal and state governments under the structure created by the Constitution and the role of the federal judiciary in creating a unified nation state. In the last segment of the course, we will examine how the law supported and legitimized the enslavement of Africans, the central role of slavery in the Articles of Confederation and the Constitution, and the court battles over the Fugitive Slave Acts of 1793 and 1850. We will conclude with a close examination of the Supreme Court’s infamous decision in Dred Scott v. Sandford and the post-Civil War constitutional amendments dealing with slavery.

Course Objectives:

1. To become acquainted with the basic themes and developments in American Legal History;

2. To develop critical thinking skills about the interplay of law, politics, and social history;

3. To learn how to read historical legal documents;

4. To provide a historical perspective that facilitates better understanding and analysis of contemporary legal issues by grounding them in the debates of the past.
**Regarding Online Instruction**

This is an **asynchronous online course**, meaning we **will not** be scheduled to “meet” at a specific time each week. Students have the flexibility of completing assignments on their own time. We will, however, stick to a schedule. Students are expected to complete all readings, assignments, and discussions pertaining to the appropriate two modules per week. E-mail is the best mode of contact. While this is an online class, I hope we can have a good amount of engagement in class between students and instructor, as well as between students. The more you contribute to online discussions, share your thoughts via e-mail, and give effort to creative projects, the more rewarding this course experience will be for you.

**Voicethread**

This course will make extensive use of Voicethread, an interactive online learning software. Voicethread is integrated into Blackboard; you do not need download any software to get started. Lecture slides and primary sources will be uploaded as Voicethreads within our weekly learning modules. The software allows you ask questions and leave comment (audio, video, or textual) on all class materials. This will be one of the primary ways students can engage with the course, and one of the main ways of measuring participation.

**Policy on Office Hours**

As this is an asynchronous course, I will not have in-person office hours. The best way to communicate with me is by email. If you want a live meeting, we can set up an appointment at a mutually agreeable time for a Zoom meeting.

**Course Requirements**

1. **Attendance.** As this is a virtual class attendance means listening to all the lectures. Although you can listen to the lectures at your convenience, the due dates for tests and written assignment are fixed and not subject to adjustment. I’m not being mean, but the accelerated pace of the course requires strict adherence to deadlines. During each lecture I will pose questions at various times during the lecture. There will no more than four questions per lecture. You will demonstrate your attendance by responding to the questions in a single email which is due the day after the lecture.

2. **Participation.** As this is an asynchronous course there will no opportunity for real-time interaction. However, I will appreciate, and factor into your final grade, your sending me questions and comments by email. I will respond to questions during the lectures. You can also use the discussion board feature on Blackboard.

3. **Drop and withdrawal deadlines:**

   Last day to withdraw with “W” grade and 50% refund: 1/4/21  
   Last day to withdraw with “W” grade and no refund: 1/8/21
4. **Graded Assignments.** There will be four graded assignments. As this course of limited duration, I will have little leeway to adjust deadlines. Therefore, you will have to submit these assignments on time. While I retain the right to adjust a deadline for a student with a significant illness, your having a cold or having computer issues will not be considered permissible excuses.

**A. Two Tests. January 7 and January 15, 2021.** There will be two tests consisting of 25 short answer questions each. The test will be timed so that once you start you will have 90 minutes to complete each test and must be posted by 11:59 p.m. on each test date. The tests will be open book and will be non-cumulative. The tests will be posted on Blackboard.

**B. Case Analysis Assignment. Due January 5, 2021 @ 11:59 p.m.** I will give you a particular case to read. You are to write a summary of the facts and legal issues in the case (what we used to call in my law school days, briefing the case). The written project summary should be 500-750 words.

**C. Book Report. Due January 14, 2021 @ 11:59 p.m.** Rather than have you do a research paper, I want you to read one complete book as part of the course. You will read the book and write an analytical essay in which you will identify the primary argument made by the author, review the historical evidence that the author used in support of that argument and provide a critical reaction to the book. Feel free to disagree with the author, but be prepared to back up your argument. To assist you, I have posted to Blackboard a guide for writing a book report. The book report should be 4 to 6 pages, or 1,000 to 1,500 words.

Here is a list of books from which you can choose. All are readily available either through the Rutgers Library system or from booksellers, virtual or brick and mortar. (If you are looking for used books try [www.abebooks.com](http://www.abebooks.com) or [www.exlibris.com](http://www.exlibris.com).) Feel free to send me an email if you have any questions about these choices. (I am open to suggestions if there is a legal history that is not on the list but that you are eager to read.) Please let me know by January 4, 2021 which book you have selected.


Gordon-Reed, Annette, *Thomas Jefferson and Sally Hemings: An American Controversy*, Charlottesville (VA) and London, University of Virginia Press, 1997. A forensic analysis of the evidence concerning the sexual relationship between Thomas Jefferson and his enslaved mistress, Sally Hemings. This is a prequel to Prof. Gordon-Reeds multiple
award winning The Hemings of Monticello. While perhaps not as well known, this earlier book is a wonderful example of how the lawyer’s forensic techniques can be applied to history.


**A note on written assignments.** The case assignment and the book report should be sent to my Rutgers email address, stuart.gold@rutgers.edu. All written assignments should be emailed to me in Word format, no pdfs, tifs or hard copies.

**Grading**

Your final grade will be based on your performance on the following components of the course:

- Test 1 – 20%
- Test 2 – 20%
- Book Report: 35%
- Case Assignment: 20%
- Participation: 5%

The grading scale is as follows.

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<th>Score Range</th>
<th>Grade</th>
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<tr>
<td>90 - 100</td>
<td>A</td>
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<td>87 - 89</td>
<td>B+</td>
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<tr>
<td>80 - 86</td>
<td>B</td>
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<td>77 - 79</td>
<td>C+</td>
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<td>70 - 76</td>
<td>C</td>
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<tr>
<td>60 - 69</td>
<td>D</td>
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<tr>
<td>59 or less</td>
<td>F</td>
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Your grades are not subject to negotiation. I will adjust grades only if I have made an error. If you feel I have made an error, submit your written argument to me within one week of receiving your grade. If I have made an error, I will gladly correct it. However, I cannot and will not adjust grades based on consequences, such as hurt pride, lost scholarships, lost tuition reimbursement,
lost job opportunities, or dismissals. Do not ask me to do so. It is dishonest to attempt to influence faculty in an effort to obtain a grade that you did not earn, and it will not work.

**Required Readings.** You do not have to spend any money on the written materials. The assigned readings, along with the power point lectures, will be posted as pdf files on Blackboard.

I will also post on Blackboard, Gold, Stuart, *Law for Historians*. This is my introduction to the law for the uninitiated. You can use it as a reference and for background but it is not required reading.

**Policy on Academic Integrity (Cheating and Plagiarism)**

All students are required to sign the Rutgers Honor Code Pledge. To receive credit, every assignment must have your signature under the following phrase: “On my honor, I have neither received nor given any unauthorized assistance on this examination / assignment.”

Plagiarism will not be tolerated. Any use of the ideas or words of another person without proper acknowledgment of credit will result in penalties up to and possibly including a course grade of F. Cheating will result in an automatic F. I use software to test your work for plagiarism. Note that the uncited usage of uncopyrighted material such as Wikipedia entries still constitutes plagiarism.

**Accommodation and Support Statement**

Rutgers University Newark (RU-N) is committed to the creation of an inclusive and safe learning environment for all students and the University as a whole. RU-N has identified the following resources to further the mission of access and support:

**For Individuals with Disabilities:** The Office of Disability Services (ODS) is responsible for the determination of appropriate accommodations for students who encounter barriers due to disability. Once a student has completed the ODS process (registration, initial appointment, and submitted documentation) and reasonable accommodations are determined to be necessary and appropriate, a Letter of Accommodation (LOA) will be provided. The LOA must be given to each course instructor by the student and followed up with a discussion. This should be done as early in the semester as possible as accommodations are not retroactive. More information can be found at ods.rutgers.edu. Contact ODS at (973)353-5375 or via email at ods@newark.rutgers.edu.

**For Individuals who are Pregnant:** The Office of Title IX and ADA Compliance is available to assist with any concerns or potential accommodations related to pregnancy. Students may contact the Office of Title IX and ADA Compliance at (973) 353-1906 or via email at TitleIX@newark.rutgers.edu.

**For Absence Verification:** The Office of the Dean of Students can provide assistance for absences related to religious observance, emergency or unavoidable conflict (e.g., illness,
personal or family emergency, etc.). Students should refer to University Policy 10.2.7 for information about expectations and responsibilities. The Office of the Dean of Students can be contacted by calling (973) 353-5063 or emailing deanofstudents@newark.rutgers.edu.

For Individuals with temporary conditions/injuries: The Office of the Dean of Students can assist students who are experiencing a temporary condition or injury (e.g., broken or sprained limbs, concussions, or recovery from surgery). Students experiencing a temporary condition or injury should submit a request using the following link: https://temporaryconditions.rutgers.edu.

For English as a Second Language (ESL): The Program in American Language Studies (PALS) can support students experiencing difficulty in courses due to English as a Second Language (ESL) and can be reached by emailing PALS@newark.rutgers.edu to discuss potential supports.

For Gender or Sex-Based Discrimination or Harassment: The Office of Title IX and ADA Compliance can assist students who are experiencing any form of gender or sex-based discrimination or harassment, including sexual assault, sexual harassment, relationship violence, or stalking. Students can report an incident to the Office of Title IX and ADA Compliance by calling (973) 353-1906 or emailing TitleIX@newark.rutgers.edu. Incidents may also be reported by using the following link: tinyurl.com/RUNReportingForm. For more information, students should refer to the University’s Student Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking and Related Misconduct located at http://compliance.rutgers.edu/title-ix/about-title-ix/title-ix-policies/.

For support related to interpersonal violence: The Office for Violence Prevention and Victim Assistance can provide any student with confidential support. The office is a confidential resource and does not have an obligation to report information to the University’s Title IX Coordinator. Students can contact the office by calling (973) 353-1918 or emailing run.vpva@rutgers.edu. There is also a confidential text-based line available to students; students can text (973) 339-0734 for support.

For Crisis and Concerns: The Campus Awareness Response and Education (CARE) Team works with students in crisis to develop a support plan to address personal situations that might impact their academic performance. Students, faculty and staff may contact the CARE Team by using the following link: tinyurl.com/RUNCARE or emailing careteam@rutgers.edu.

For Stress, Worry, or Concerns about Well-being: The Counseling Center has confidential therapists available to support students. Students should reach out to the Counseling Center to schedule an appointment: counseling@newark.rutgers.edu or (973) 353-5805. If you are not quite ready to make an appointment with a therapist but are interested in self-help, check out TAO at Rutgers-Newark for an easy, web-based approach to self-care and support: https://tinyurl.com/RUN-TAO.

For emergencies, call 911 or contact Rutgers University Police Department (RUPD) by calling (973) 353-5111.
SESSIONS

1. December 22, 2020 – Introduction

An overview of the course. An introduction to the legal system. How to read a legal opinion.

*Integrated Solutions, Inc. v. Service Support Specialties, Inc.*, 124 F.3d 487, (3rd Cir. 1997). Just skim the case to see the format of reported decisions.

Green Bag, *How to Read a Case*


Excerpt from Vanderbilt, *Jersey Justice*

The Mayflower Compact

The Virginia Charter – Ordinance of 1621


HOLIDAY BREAK – DECEMBER 25, 2020 THROUGH JANUARY 3, 2021


Declaration of Independence

Constitution of Pennsylvania (1776)

Constitution of New Jersey (1776)

Articles of Confederation

*January 4, 2021 – Advise of book report selection*


Constitutional Highlights

*January 5, 2021 – Case Analysis Due*


Dartmouth College v. Woodward, 17 U.S. 518 (1819) Excerpt

McCulloch v. Maryland (1821) Excerpt


The Bill of Rights – Constitution Amendments I-X
The Alien and Sedition Acts
Marbury v. Madison - Excerpts

January 7, 2021 Test 1 due by 11:59 p.m.


North Carolina Cases on Corporal Punishment
Brown v. Kendall, 60 Mass. 292 (1850)
Farwell v. Boston & Worcester R.R. Corp, 45 Mass. 49 (1842),
No Guarantees: Lessons From The Property Rights Gained And Lost By Married Women In Two American Colonies


Virginia Slave Code of 1705
New Jersey Slave Code of 1798
Pennsylvania’s Act for Gradual Emancipation – 1780
State v. Mann 2 North Carolina 263 (1829)

9. January 12, 2021 – Divisions between North and South and the Collapse of Constitutional Compromise

Prigg v. Pennsylvania - Excerpt
The Fugitive Slave Act of 1850
Excerpts from the Cornerstone Speech

10. January 13, 2021 - Dred Scott and its Meaning

Dred Scott - Excerpts


January 14, 2021 – Book Report Due


13th, 14th and 15th Amendments
The Slaughterhouse Cases – Excerpt
In re Cruikshank
The Civil Rights Acts of 1866 and 1875

January 15, 2021 – Test 2 due by 11:59 p.m.