

Topics in American Legal History – Seminar (602-001)

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2 credits

Prerequisites and priorities: None this time. However, beginning in the autumn 2009 semester, successful completion of the course titled “American Legal History – Survey” will be a prerequisite for enrollment in American Legal History seminars taught or co-taught by Professor Davies. So, if you want to take a Davies history seminar in autumn 2009 or the more distant future, take the survey in the nearer future.

Class size: Limited to fifteen students.

Classes: Mondays from 12 noon to 1:50 p.m., in Room 412, except for Monday, Jan. 26, when we will be downtown at the Library of Congress Manuscript Division Reading Room from 5 to 7 p.m., and Saturday, Jan. 31, when we will hold an all-day session at the Reading Room during which students will get started on research for their papers. The address is 101 Independence Ave. SE, Room LM 101, James Madison Memorial Bldg., Washington, DC 20540. Maps are attached to this course description.

Office Hours: TBA

Texts:

The assignments listed below are subject to change and will be supplemented with material tailored to the direction the course takes. All readings are available on Lexis, Westlaw, or HeinOnline, or in the GMUSL Library.

Assignments:

Jan. 12: Steven G. Calabresi & Joan L. Larsen, *One Person, One Office: Separation of Powers or Separation of Personnel?*, 79 Cornell Law Review 1045 (1994)

Feb. 9: Ralph Lerner, *The Supreme Court As Republican Schoolmaster*, 1967 Supreme Court Review 127

Feb. 16: Dennis J. Hutchinson, *Justice Jackson and the Nuremberg Trials*, 1996 Journal of Supreme Court History 105, and *The Black-Jackson Feud*, 1988 Supreme Court Review 203

Feb. 23: Alpheus T. Mason, *Extra-Judicial Work for Judges: The Views of Chief Justice Stone*, 67 Harvard Law Review 193 (1953)

Jan. 12: Calabresi article

Jan. 26, 5 pm–7 pm: Lib. of Cong.

Jan. 31, 9 am–5 pm: Lib. of Cong.

Feb. 2: Paul Haas presentation

Feb. 9: Lerner article

Feb. 16: Hutchinson articles

Feb. 23: Mason article

Mar. 16: presentations

Mar. 23: presentations

Mar. 30: presentations

Apr. 6: open paper discussion

Apr. 13: open paper discussion

Apr. 20: open paper discussion

Apr. 22: open paper discussion

May 13: paper deadline

Presentations: They are required. Three classes will be devoted to presentations by students based on outlines of their papers.

Purpose of the course: This course is an opportunity to take a close look at the various roles judges have played – on and off the bench – in the administration of the federal government. We will begin with readings about and in-class discussions of a few of the more famously active judges, and then assign paper topics. We will have one regular class session, followed by a couple of field trips (to the Library of Congress), and then an in-class presentation by Paul Haas devoted to research resources and techniques. We will spend a few more weeks discussing judicial activities and then take a break from regular meetings while students prepare outlines of their research papers for in-class presentation. We will spend a few weeks on the in-class presentations, giving students a chance to evaluate each other’s work, before they wrap up their papers before or during the exam period. By the end of the course, students should be conversant in the wide range of public services federal judges have provided over the centuries, and at least somewhat competent to gather and analyze original source materials. The main idea is to become better students, scholars, and practitioners of American legal history.

Grades: Your grade will be based on a 3,000-word paper and class participation. The instructors will assign to each student a specific paper topic involving a particular Justice’s off-the-Supreme-bench work or a particular instance or type of such work. It is your responsibility to deliver and confirm delivery of (a) your outline to every member of the class no later than the Friday before your presentation and (b) your final paper to the instructors by the deadline. An outline or paper turned in late but less than one week late will result in your grade being lowered one step (e.g., from B to B-minus), one to two weeks late, two steps (e.g., from B to C-plus), two to three weeks late, three steps (e.g., from B to C) and so on. Your grade in the class may be adjusted up or down one step from your paper grade based on class participation. **Fair warning:** Plagiarism is forbidden and the instructors reserve the right to detect plagiarists by any reasonable means, including, but not limited to, plagiarism-detection software such as Turnitin. See *George Mason University Turnitin Policies*, www.irc.gmu.edu/turnitin/policies.html (if this link does not work, consult the instructor).



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