

SYLLABUS

U.S. SUPREME COURT: LANDMARK CASES, GREAT JUSTICES

OLLI-LAFAYETTE – FALL 2018

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In this course we will explore several momentous decisions made by the United States Supreme Court, placed in their historical context to demonstrate how the Court reacted to rapidly changing social and political realities. We will also focus on several remarkable Justices who have served the country on its highest tribunal. Here is our schedule and a brief summary of subjects anticipated to be covered in each class session:

Class One, September 27. The Supreme Court Then and Now. The structure and functioning of the Court as it has changed over time, including the appointment process; how it determines its agenda; the procedures for briefing and oral argument; the internal process of decision-making; the composition and publication of opinions; and various colorful traditions of the institution and its members.

Class Two, October 4. John Marshall, *Marbury* and *Dred Scott*. Development of the powerful tool of “constitutional judicial review” in *Marbury* and later cases, demonstrating the Court’s ability to invalidate acts of the legislative and executive branches at both federal and state levels. Working out the contours of federalism---the relationship between the national and state governments---in Marshall’s time and in later cases like *Dred Scott*. Spotlight on John Marshall.

Class Three, October 11. Post-Civil War Cases on Race and *Lochner v. New York*. How the Court dealt with the post-slavery era ushered in by the major amendments to the Constitution after the War Between the States. The resulting negative impact of the “separate but equal” doctrine on the status of black Americans. Spotlight on the heroic dissenting opinions of Justice John Marshall Harlan. The pro-business, anti-reform doctrine of “liberty of contract” announced in the infamous 1909 *Lochner* decision.

Class Four, October 18. More on Federalism, Congressional Power Under the Commerce Clause and the New Deal Constitutional Crisis. The further evolution of federalism in light of the post-Civil War Constitutional amendments extending rights of due process and equal protection. The waxing and waning of the Court's view on the extent of Congressional power to regulate "commerce among the several States." Roosevelt's frustration with the Court's treatment of New Deal legislation and "the switch in time that saved Nine." Spotlight on Justices Louis Brandeis and Felix Frankfurter.

Class Five, October 25. Why They Wanted to "Impeach Earl Warren." A survey of the major decisions made during the 16 year tenure of the Warren Court. The legacy of criminal rights opinions, including *Gideon*, *Miranda* and *Katz*. The pivotal voting rights opinion in *Baker v. Carr* ("one man, one vote"). The civil rights breakthrough in *Brown v. Board of Education*. The seminal privacy ruling in *Griswold v. Connecticut*. Spotlight on Chief Justice Earl Warren.

Class Six, Modern Blockbusters, November 1. Some decisions of the Court have such immediate, and then continuously ongoing, consequences that they never cease to be debated. So it is with *Roe v. Wade* (1973), *Bush v. Gore* (2000), *Heller v. District of Columbia* (2008), and *Citizens United v. Federal Election Commission* (2010). Spotlight on the political and social dynamics surrounding these cases and the Justices involved in deciding them.

I will leave time before the break, and at the end of each class, for questions. If there is not sufficient time to deal with your question, I am happy to answer inquiries sent to me by e-mail at curt.caton@gmail.com

There are no assigned readings for this course. For those interested in doing collateral research, the official website of the U.S. Supreme Court is supremecourt.gov where decisions of the Court and other resources may be found. Another useful site that offers informed commentary on matters before the Court is Scotusblog.com

Some non-technical sources on the Supreme Court you may enjoy reading for additional enrichment are the following:

Rehnquist, William H., *The Supreme Court*. New York: Knopf, 2001 (covers the entire history of the Court up until the early 1970's).

Lewis, Anthony, *Gideon's Trumpet*. New York: Random House, 1964 (a clear exposition of the Court's internal procedures in the context of a famous case in the annals of American criminal law).

Woodward, Bob and Scott Armstrong, *The Brethren: Inside the Supreme Court*. New York: Simon & Schuster, 1979 (an inside look at the first ten years of the Court under Chief Justice Warren Burger beginning in 1969).

Toobin, Jeffrey, *The Nine: Inside the Secret World of the Supreme Court*. New York: Doubleday/Random House, 2007 (extends the inside look through the years of the Rehnquist and Roberts courts until 2008).