

Law 597/Hist. 297-80/Soc 252-80
Tu: 3:00-4:50

Robert J. Cottrol
Spring 2003

Legal History Seminar, *Social and Economic History of Labor Law*.

This is a one semester seminar dealing with issues related to the social and economic history of US labor and employment law. The seminar will explore topics from the colonial period to the modern era. It will include such topics as the right to organize, worker safety, strikebreaking, contractual relations and employment discrimination. This seminar will also examine the issues of slavery, race, gender and ethnicity as special themes in the history American labor and employment law. An ongoing concern of the seminar will be to explore ways that insights from the social sciences can inform the study of legal history. The seminar requires active student participation and the writing of a substantial paper.

Requirements -- Each student will be required to help lead the discussion on part of the required reading. Students leading the discussion will be required to provide a short critique discussing the reading. In addition each student will be required to participate in a short, painless quantitative methods exercise. Finally each student should hand in an outline for a research paper, and of course do a research paper of at least 25 pages. If time permits toward the end of the semester we will try to have short presentations and critiques of paper outlines.

Readings:

I. Jan 7 -- Overview: History and Social Science

A. Theda Skocpol, *Social History and Historical Sociology: Contrasts and Complementarities* 11 SOCIAL SCIENCE HISTORY 17 (1987) ? ? reserve

B. Susan B. Carter and Stephen Cullenberg, "Labor Economics and the Historian," in *Economics and the Historian* pp 85-121

II. Jan 14 ? ? History and Social Science (cont)

A. Thomas G. Rawski, "Economics and the Historian," in Thomas G. Rawski, et. al. *Economics and the Historian* (1996), pp 1-14

B. Peter Laslett, *The Wrong Way Through the Telescope: A Note on Literary Evidence in Sociology and Historical Sociology* 27 BRITISH JOURNAL OF SOCIOLOGY 319 (1976) ? ? reserve

C. Kai T. Erikson, *Sociology and the Historical Perspective* 5 THE AMERICAN SOCIOLOGIST 331 (1970)

II. Jan 21 -- Masters, Servants and the Law

A. Robert J. Steinfeld, *The Invention of Free Labor: The Employment Relation in English and American Law and Culture*

B. David W. Galenson, "The Settlement and Growth of the Colonies, Population, Labor, and Economic Development," in Stanley L. Engerman and Robert E. Gallman, *The Cambridge Economic History of the United States, Volume I: The Colonial Era* (1996) at 135-207 ?? on reserve

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- XI. March 25 -- 20th Century ?? Labor Economics, Labor Law
A. Claudia Goldin, "Labor Markets in the Twentieth Century," in Engerman and Gallman vol. III ?? on reserve
B. Christopher L. Tomlins, "Labor Law," in id. ?? on reserve

- XII. April 1 ?? Race and Labor
A. Herbert Hill, *Black Labor and the American Legal System: Race, Work and the Law*

- XIII. April 8 ?? Race and Labor (cont).
A. *Brotherhood of Railroad Trainmen v. Howard* 343 U. S. 768 (1952)
B. W. A. Sundstrom, "Last Hired, First Fired: Unemployment and Urban Black Workers During the Great Depression," *Journal of Economic History* v. 52 pp 415-429 (1992)
or
C. Cliff Brown "Racial Conflict and Split Labor Markets: The AFL Campaign to Organize Steel Workers, 1918-1919," *Social Science History* v. 22 at 319-347 (1998)

- XIV. April 15 -- The New Deal and its Legacy
A. Marc Linder, "Farm Workers and the Fair Labor Standards Act: Racial Discrimination in the New Deal," in *Texas Law Review* vol 65 pp 1335-
B. Richard A. Epstein, "A Common Law for Labor Relations: A Critique of the New Deal Labor Legislation (Symposium: The Legacy of the New Deal; Problems and Possibilities in the Administrative State; Part 2)," *Yale Law Journal* v. 92 pp 1357-1408 (1983)
C. Julius G. Getman and Thomas C. Kohler, "The Common Law, Labor Law and Reality: A Response to Professor Epstein," pp 1415-1434, id

- XV. April 22 ?? No class constructive Monday

References (on reserve):

1. Basic Legal Method -- Recommended for graduate students in history and sociology
 - a. Steven J. Burton, *An Introduction to Law and Legal Reasoning* 2nd Edition (1995)
2. American Legal History
 - a. -- Lawrence M. Friedman, *A History of American Law*, 2nd Ed. (1985)
 - b. ?? *American Law in the Twentieth Century* (2002)
3. American Economic History
 - a. Gary M. Walton and Hugh Rockoff, *History of the American Economy*, 8th Edition (2002)
 - b. Jonathan Hughes and Louis B. Cain, *American Economic History*, 6th Edition (2003)
 - b. Jeremy Atack and Peter Passell, *A New Economic View of American History: From Colonial Times to 1940*, Second Edition (1994)
 - c. Stanley L. Engerman and Robert E. Gallman, *The Cambridge Economic History of the United States*
 1. Volume I, *The Colonial Era* (1996)

2. Volume II, *The Long Nineteenth Century* (2000)

3. Volume III, *The Twentieth Century* (2000)

4. Law and Economics

a.. A. Mitchell Polinsky, *An Introduction to Law and Economics*, 2nd Ed. (1989)

5. Quantitative Methods

a. Henry W. Fischer, *Sociologist's Statistical Tools* (1996)

b. Alan Bryman and Duncan Cramer, *Quantitative Data Analysis with SPSS for Windows: A Guide for Social Scientists* (1997)

c. Pat Hudson, *History By Numbers: An Introduction to Quantitative Approaches* (2000)

6. Historical Sociology

a. Peter Burke, *History and Social Theory* (1992)

b. Theda Skocpol, ed., *Vision and Method in Historical Sociology* (1998)