

LS 116

Political and Legal Discourse 1500-1700  
Legal Studies—Spring 2007  
Professor B. Shapiro

LS 116  
SP 07

<b>Date</b>	<b>Topic for Reading and Discussion</b>	<b>Reading Assignment</b>
1-16	<b>Introduction Traditions of Legal and Political Discourse: Ancient</b>	none
1-18	<b>Traditions of Legal Discourse: Medieval</b>	<b>Begin Fortescue, <u>Praise of the Laws of England</u>, omit ch. 38-44</b>
1-23	<b>Kingship and the Law</b>	<b>Fortescue, finish <u>Praise</u>, Begin More, <u>Utopia</u></b>
1-25	<b>Renaissance Humanism: Politics, the State and the Law</b>	<b>More, <u>Utopia</u> Book I</b>
1-30	<b>Renaissance Humanism: Politics, the State and the Law</b>	<b>More, <u>Utopia</u>, Book II</b>
2-1	<b>Renaissance Humanism: Politics and the State</b>	<b>Machiavelli, <u>The Prince</u></b>
2-6	<b>Renaissance Humanism: Politics and History</b>	<b>Machiavelli, <u>Discourses</u>, sections to be assigned</b>
2-8	<b>Religion, the Law and the State: Luther, the Sects</b>	<b>Luther</b>
2-13	<b>Religion, the Law and the State Calvin and Calvinism</b>	<b>Calvin, <u>On Civil Government</u></b>
2-15	<b>Religion, the Law and the State: France</b>	<b>begin <u>Vindiciae</u> (reader)</b>

2-20	Religion, the Law and the State: France Protestant and Catholic resistance theory	<u>Vindiciae</u> Bodin, <u>On Sovereignty</u> , begin
2-22	Sovereignty	Bodin, <u>On Sovereignty</u>
2-27	Religion, the Law and the State: England 1485-1603	Reader: <u>Homily of Obedience</u> Ponet, Smith ( parts) Act of Supremecy
3-1	Religion, the Law and the State: England 1485-1603	Reader, Hooker Sommerville, <u>Royalists and</u> <u>Patriots</u> , begin 1-54
3-6	England: the Legal System c. 1600	Sommerville, to 133, Reader, Coke
3-8	England: Divine Right Kingship, Parliament, the Judiciary and the Law	Reader, James I, True Law, 1610 speech, Sommerville, to 175
3-13	No class, no office hour	Sommerville, to 214
3-15	England: Legal and Constitutional Issues to 1642	Sommerville, finish Petition of Right, Nineteen Propositions, Kings Answer
3-20	Midterm Exam	None
3-22	Political Trials, Impeachment, Treason	Reader: Impeachment of Strafford, Trial of Charles I, Sommerville, 224-265
3-27-3-31	Spring Break	
4-3	Constitutional Experiments: Commonwealth, Protectorate	Reader: Act abolishing Kingship, Engagement, Instrument of Govt.

<b>4-5 Religion and the State: Toleration Radical Political Thought: Levellers, Diggers, anti-nomians, millenarians</b>	<b>Reader: Levellers, Milton</b>
<b>4-10 Radical Thought: Republicanism, Law Reform</b>	<b>Reader: Harrington Hobbes, <u>Leviathan</u>, Bk I, begin</b>
<b>4-12 Restructuring the State</b>	<b><u>Leviathan</u>, Book I</b>
<b>4-17 Restructuring the State: Hobbes</b>	<b><u>Leviathan</u>, Book II</b>
<b>4-19 Restructuring the State: Hobbes</b>	<b><u>Leviathan</u>, Book II</b>
<b>4-24 Restoration: King, Parliament and the Courts</b>	<b>Reader: Act of Uniformity, Locke, <u>On Toleration</u>, begin</b>
<b>4-26 Natural law L. Carrier</b>	<b>Locke , On Toleration Locke, Second Treatise, begin</b>
<b>5-1 Locke</b>	<b>Locke, On Toleration Locke, Second Treatise</b>
<b>5-3 Locke The Judiciary and the Law</b>	<b>Locke, Second Treatise Reader, Habeus Corpus Act</b>
<b>5-8 1688 and Beyond Last Day of Class</b>	<b>Reader: Bill of Rights, U.S. Bill of Rights</b>
<b>5-10 Paper Due. Late papers penalized. No papers accepted after May 14.</b>	

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**Grading**

Midterm exam 1/4

Discussion section—1/4

Final paper 1/4

Final exam 1/4

**Reading—to be completed on day indicated**

**Students are expected to bring assigned readings to class and discussion section.**

**Regular attendance and class participation are required.**

**Discussion section attendance is required.**

**Midterm—closed book**

**Final examination—for date see exam schedule. Makeup will be given during the second or third week of the fall semester. No exceptions. Seniors please note.**

**Office hours**

**Shapiro— 11-12 Tuesdays, Simon Hall 886**

**GSI—to be arranged**

## **Recommended Reading**

### **General**

**J.H. Burns, Mark Goldie, eds, The Cambridge History of Political Thought 1450-1700**  
**W.H. Greenleaf, Order, Empiricism and Politics**  
**P. Zagorin, Rebels and Rulers in Early Modern England**  
**Sheldon Wolin, Politics and Vision**  
**Quentin Skinner, The Foundations of Modern Political Thought, 2 vols.**

### **Documents**

**S. R. Gardiner, death Constitutional Documents of the Puritan Revolution**  
**J.R. Tanner, ed. Constitutional Documents of the Reign of James I**  
**G.R. Elton, The Tudor Constitution**  
**J.P. Kenyon, The Stuart Constitution**

### **Constitutional Conflict and Constitutional Theory**

**Margaret Judson, The Crisis of the Constitution**  
**Howard Nenner, By Colour of Law: Legal Culture and Constitutional Politics in England 1660-1689**  
**Howard Nenner, The Right to be King: the Succession to the Crown: England 1603-1714**  
**Glenn Burgess, The Politics of the Ancient Constitution**  
**Glenn Burgess, Absolute Monarchy and the Stuart Constitution**  
**J.N. Figgis, The Divine Right of Kings**  
**C. Weston and J. Greenberg, Subjects and Sovereigns: the grand controversy over legal sovereignty in England**

### **Law and the Courts**

**J. G.A. Pocock, The Ancient Constitution and the Feudal Law**  
**Barbara Shapiro, Beyond Reason Doubt and Probable Cause: Historical Studies in the Anglo-American Law of Evidence**  
**Peter Hoffer, Law and People in Colonial America**  
**Cynthia Herrup, The Common Peace: Participation and the Criminal Law in 17<sup>th</sup> Century England**  
**John Langbein, Prosecuting Crime in the Renaissance**  
**Thomas Green, Verdict According to Conscience: Perspectives on the England Criminal Trial Jury, 1200-1800**  
**W. J. Jones, Politics and the bench: The Judges and the Origins of the English Civil War.**  
**J. A. Sharpe, Crime in Early Modern England**  
**Donald Veall, The Popular Movement for Law Reform 1640-1660**  
**James Stoner, Common Law and Liberal Theory: Coke, Hobbes and the Origin Of American Constitutionalism**

**J.W. Tubbs, The Common Law Mind: Medieval and Early Modern Conceptions**  
**J. H. Baker, An Introduction to English Legal History**  
**John Langbein, The Origins of Adversary Criminal Trial**  
**Donald Kelley, The Human Measure: Social Thought in the Western Legal Tradition**  
**Ellis Sandoz, ed. The Roots of Liberty, Magna Carta, Ancient Constitution and the Anglo-American Tradition of the Rule of Law**  
**J.S. Cockburn, A History of the English Assizes 1558-1714**  
**Brian Levack, The Civil Lawyers in England 1603-1641**  
**W. Prest, The Rise of the Barristers**  
**Thomas Hobbes, A Dialogue Between a Philosopher and a Student of the Laws of England**  
**Sir Matthew Hale, The History of the Common Law**  
**Sir Edward Coke, The Selected Writing**

**Machiavelli,**

**JGA Pocock, The Machiavellian Moment**  
**Harvey Mansfield, Machiavelli's New Model and Orders**  
**Victoria Kahn, Machiavellian Rhetoric**

**Miscellaneous**

**Richard Tuck, The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant**  
**J.G.A. Pocock, The Machiavellian Moment, Florentine Political Thought and the Atlantic Republican Tradition**  
**Michael Walzer, The Revolution of the Saints**  
**Gordon Schochet, Patriarchalism in Political Thought**  
**Sir Robert Filmer, Patriarcha , ed J.P Sommerville**  
**James Harrington, Oceana, ed. JGA Pocock**  
**Richard Tuck, Philosophy and Government 1572-1651**  
**Richard Tuck, Natural Right Theories: Origins and Development**  
**Thomas Clancy, Papist Pamphleteers**  
**Conal Condren, The Languages of Politics in Seventeenth Century England**