

LAW 713:0004 – Topics in Legal Practice: Maritime Legal History

Spring, 2022

Instructor Information

Instructor: Lincoln Paine
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Office Hours: By appointment

Course Information

Meetings: 8:20–10:00 Monday/Wednesday (March 30–April 25)
Location: Law 506
Credit Hours: 1

Textbook/Course Materials

All course readings and other assigned material will be available on Brightspace. Assignments will be posted weekly.

I will also post a bibliography of readings, articles, and book chapters to be consulted before choosing, and while researching, a paper topic.

Course Management System

This syllabus, individual readings, and assignments will be posted on Brightspace; written assignments will be turned in via Brightspace. Please note that students are not guaranteed access to any Brightspace course page after the end of the grade contesting period for the course.

Course Description

This one-month class will introduce students to the historical background of certain issues in contemporary maritime law. The overarching theme of the course is identity, and the focus of the four weeks will be:

1. *Maritime space*: From the concepts of *res communis/privata/publica* in Roman law, the delineation of maritime space via papal bulls, to the competing doctrines of the “free sea” and “closed sea” in the seventeenth century, and on to the modern articulation of maritime space in the modern law of the sea.
2. *Ships*: Flag states and cabotage rules since the Navigation Acts; the origin of flags of convenience; the Civil War and the legislative destruction of the American merchant marine; the Jones Act; and the right of wreck and ships as cultural heritage.
3. *People and labor*: Communal identity and extraterritoriality in the ports of the medieval Mediterranean; the Navigation Acts, impressment, and the nature of citizenship; apartheid on the waterfront and the Negro Seamen’s Acts; immigration, labor restrictions, and the Jones Act.
4. *Sea tenure and the environment*: From indigenous communities and customary rights to fisheries in nearshore and inland waters to illegal, unreported, and unregulated (IUU) fishing on the high seas.

Course Goals & Learning Objectives

Goals	Objectives	Assessments
<p>Upon successful completion of this course, students will understand how in many instances maritime law has developed in response to political, economic, and cultural imperatives that fall outside the ambit of admiralty, maritime law, and ocean policy per se. They will also see how maritime law can, in turn, influence society at large.</p>	<p>Upon successful completion of this course, students will be able to think critically about the context in which laws are made, executed, and refined, as well as about the unanticipated consequences of law and legal decisions.</p>	<p>Students will be evaluated on the basis of their contributions to class discussion, three written assignments, and a twenty-minute class presentation.</p>

Assignments/Exams/Papers/Projects

Students will be evaluated on the basis of:

- Class participation and demonstrating a command of the readings assigned (30 percent).
- Two one-page reading-response papers (2 x 10 percent).
- One class presentation of 20–30 minutes plus Q&A (15 percent).
- One 5-to-7 page written assignment (35 percent).

Grading/Evaluation

Students will be evaluated on the quality of their participation in class discussions. Presentations will be judged on the clarity and substance of their exposition and the quality of answers to others' questions. Written assignments will be graded on the clarity and substance, grammar, spelling. If you need an extension, ask for one; work turned in late but without notice will be penalized.

Course Expectations & Requirements

Class preparation is extremely important. The American Bar Association standards require that students spend a very significant amount of time in out-of-class academic activities, per credit that is awarded. Maine Law has adopted a policy, consistent with the ABA's policy, that students are required to complete approximately 30 hours 20 minutes of out-of-class work per credit per semester. Therefore, for the one-credit class, you should spend approximately 2 hours 20 minutes on academic work out of class per week.

Classes are 1h40m. As a rule, we will break this into two or three sections with breaks as appropriate.

COURSE POLICIES

Academic Integrity Policy

Each student should know the standards of conduct and expectations of academic integrity. Violations of academic integrity include any actions that attempt to promote or enhance the academic standing of any student by dishonest means. Cheating on an examination, plagiarism, making statements known to be false or misleading, falsifying the results of one's research, improperly using library materials or computer files, or altering or forging academic records are examples of violations of this policy. Acts that violate academic integrity disrupt the educational process and are not acceptable.

Evidence of a violation of the academic integrity policy will normally result in disciplinary action, including referral to the UMS Student Conduct Code process. A copy of the complete Academic Integrity Policy is available on the [University of Maine System website](#) or the [MyLaw Portal](#).

Attendance & Participation Policy

Students are expected to participate actively in the class, whether in person or via Zoom.

COVID-19-Related Attendance Policy: If you have any concern about your own health or that of your immediate family, please do not come into the Law School. A health-concern based absence will not count against your grade during the COVID-19 pandemic.

Inclement Weather Policy

Maine Law uses its own emergency alert system which will notify you when the Maine Law building is closed. When the Maine Law building is closed, classes will be held remotely on Zoom and the Zoom link will be sent to you via Brightspace. If class is canceled, I will notify you and class will be made up at a later date.

Class Recording Policy

As a general rule, the recording of all classes is prohibited without permission. If you will be absent from class and wish to record a missed class session, you must first contact me for permission. If permission is granted, you must arrange for a classmate to facilitate the recording. (Suggested mobile apps for self-directed audio recording can be found in the MyLaw Portal.) All class recordings are for personal use only and may not be uploaded to the internet or otherwise shared, transmitted, or published without the prior consent of the professor. If permission is denied, then you must find an alternative method for making up the missed material.

If you are requesting the recording of classes pursuant to the Americans with Disabilities Act or in the case of exceptional circumstances, such as severe illness or hospitalization, you should contact the Dean of Students.

If you are requesting the recording of classes for reasons related to COVID-19 isolation, quarantine, or family care, please contact me before the class to request the recording. Recordings will be provided by me for absences in these cases. If you anticipate missing multiple sessions of a class for health, family care, quarantine, or other reasons, please contact the Dean of Students.

Classroom Etiquette

I encourage you to ask questions during class. Your questions are helpful to the learning process for all. However, I may defer answers to questions until after class or to the next class in the

interests of time or for other reasons. Learning is a collaborative process. To increase the prospect that all of you will learn in a comfortable environment, I expect you to be in class on time, treat each other with respect, and avoid distractions from the subject matter at hand.

Laptop/Technology Policy

To minimize distractions from the subject matters at hand in class (a) all cell phones and similar electronic devices must be turned off, and (b) minimize your use of a laptop during class. Laptops interfere with face-to-face connectivity, and a growing number of studies demonstrate that taking handwritten notes increases how much your brain processes information and thus increases how much you are likely to remember later. So bring those legal pads (they are called that for a reason). When using a laptop in class, you may not use it for email, chatting, internet searching or any non-class discussion uses; it is not only disrespectful and unprofessional, but also is distracting to your fellow classmates. Anyone found doing so will be penalized.

Teaching Methods

I will use different teaching methods throughout the course. I will provide guidance on the material we study in each class, engage in a question and answer format with you to highlight and analyze important points in your text and supplementary materials, and have you work on problems. I will expect you to have completed the readings so that you can participate in discussions about the readings and the legal issues they raise.

Zoom Etiquette

In the case of a class held via Zoom, please log into Zoom prior to the scheduled class meeting time and make sure your headset, camera, and microphone are working properly. Please make sure that your background is appropriate while sharing video, along with how your image is displayed to the rest of the class. The class will likely be small, so you can probably jump into a conversation as you would in person. If the class is larger, we can discuss class Zoom etiquette. In any case, please refrain from "side conversations" that distract from the ongoing conversation.

MAINE LAW POLICIES AND RESOURCES

Disability Accommodations

The Law School is committed to providing students with disabilities equal access to all programs and services. If you think you have a disability and would like to request accommodations, please contact the Disability Services Center (DSC). Timely notification is essential. The Disability Services Center can be reached by calling 207-780-4706 or by email dsc-usm@maine.edu. If you have already received an accommodation letter from the Disability Services Center and would like to discuss your accommodations for this course, please contact Dean of Students Scheherazade Mason who serves as the liaison to the DSC. If you would like to discuss your accommodations with me, you can email me directly.

Wellness Resources for Maine Law Students

Maintaining your physical and mental health is essential to learning the law and succeeding in law school. Law school is a setting where mental health or substance use struggles can be exacerbated. If you ever find yourself struggling, do not hesitate to ask for help. Maine Law is committed to promoting wellness for all students. I encourage all of you to review the [Health & Wellness Resources](#) listed on the MyLaw Portal. The resources include confidential counseling through USM Counseling Services (207-780-4050) and the Maine Assistance Program for

Lawyers and Law Students (207-266-5951). You can also contact the Maine Law [Office of Student Affairs](#). Please let me know if you have any questions.

If you are facing illness, injury, the birth of a child, death in the family, or other extraordinary circumstances that may impact your participation in this course, you should contact me in advance of missing classes or any assignment deadlines. Stressful situations like these may lead to diminished academic performance or may reduce your ability to participate in daily classroom activities. Law School services are available to assist students with handling these stressful events. In an emergency situation and in cases of unforeseen circumstances, you should contact the Dean of Students Scheherazade Mason as soon as possible. *For examination conflicts or emergency situations during the examination period, please see the Registrar.*

Statement on Religious Observance for Maine Law Students

Maine Law respects the religious beliefs of all members of the community, affirms their rights to observe significant religious holy days, and will make reasonable accommodations, upon request, for such observances. If your religious observance is in conflict with the academic experience, you should inform me of the class or other functions that will be affected. It is your responsibility to make the necessary arrangements and follow our agreed upon accommodation.

Title IX Statement

The University of Maine School of Law is committed to making our campuses safer places for students. Because of this commitment, and our federal obligations, faculty and other employees are considered mandated reporters when it comes to experiences of interpersonal violence (sexual assault, sexual harassment, dating or domestic violence, and stalking). Disclosures of interpersonal violence must be passed along to members of the University of Maine System's Title IX team who can help provide support and academic remedies for students who have been impacted. More information can be found online at <https://mainelaw.maine.edu/student-life/title-ix/>. You may contact USM's Deputy Title IX Coordinator, Sarah E. Holmes at usm.TitleIX@maine.edu or 207-780-5767 or the UMS Title IX Coordinator, Liz Lavoie at titleix@maine.edu or 207-581-5866. You can also reach out to Maine Law's Office of Student Affairs for support and referrals.

If students want to speak with someone confidentially, the following resources are available on and off campus: University Counseling Services (207-780-4050); 24 Hour Sexual Assault Hotline (1-800-871-7741); 24 Hour Domestic Violence Hotline (1-866-834-4357).

COURSE SCHEDULE

The schedule, policies, procedures, and assignments in this course are subject to change in the event of extenuating circumstances, by mutual agreement, and/or to ensure better student learning.

Date	General Topic	Reading or Other Assignment
Wed., March 30	Introduction to the course. Maritime space 1/2	Elizabeth Mancke, "Oceanic Space and the Creation of a Global International System, 1450–1800," in <i>Maritime History as World History</i> , ed. by Daniel Finamore, 149–66.

		<p>Lincoln Paine, “A Sea-Change for the Classroom: Maritime Identities—Seas, Ships, and Sailors, the Law, and Teaching World History,” <i>World History Connected</i> 19:1 (2022): 1–19. https://tinyurl.com/2jfc9y4</p> <p>Percy Thomas Fenn, Jr. “Justinian and the Freedom of the Sea.” <i>American Journal of International Law</i> 19:4 (1925): 716–27.</p>
Mon., April 4	Maritime space 2/2	<p>David Bosco, “The Oceans Become Global,” in <i>The Poseidon Project: The Struggle to Govern the World’s Oceans</i>, 16–38.</p> <p>1st 1-page reading response paper due</p>
Wed., April 6	Ships 1/2	<p>Seafarers Rights International, <i>Cabotage Laws of the World</i>, 22–62 (shorter than it looks) https://tinyurl.com/bdkmrn5e</p>
Mon., April 11	Ships 2/2	<p>Roland, Alex, W. Jeffrey Bolster, and Alexander Keyssar, <i>The Way of the Ship: America’s Maritime History Reenvisioned, 1600–2000</i>, 194–217.</p> <p>2nd 1-page reading response paper due</p>
Wed., April 13	People and labor 1/2	<p>Nathan Perl-Rosenthal, “Sailors into Citizens,” chap. 7 of <i>Citizen Sailors: Becoming American in the Age of Revolution</i>, 208–43.</p>
Mon., April 18	People and labor 2/2	<p>“The Colored Seamen’s Acts”: A Case Study. In <i>American Constitutionalism</i>, Vol. 1 <i>Structures of Government</i>, ed. by Howard Gillman, Mark A. Graber, and Keith E. Whittington, 1–13.</p>
Wed., April 20	Sea tenure, indigenous rights, and the environment 1/2	<p>White, Hannah. “Indigenous Peoples, the International Trend Toward Legal Personhood for Nature, and the United States.” <i>American Indian Law Review</i> 43:1 (2018): 129–65.</p>
Mon., April 25	Sea tenure, indigenous rights, and the environment 1/2	<p>Francis P. Bowles and Margaret C. Bowles, “Holding the Line: Property Rights in the Lobster and Herring Fisheries of Matinicus Island, Maine.” In <i>A Sea of Small Boats</i>, ed. John Cordell, 228–57.</p> <p>5–7-page paper due.</p>