**HIST 4990-1 TOPICS: History of Wyoming Law**

﻿Students will use the online chapters of History of Wyoming Law for organizing materials chronologically. The chapters will be posted week by week. For more information, contact the instructor, Phil Roberts: philr@uwyo.edu

**Time:**Wed.,6-8:25 p.m.

**Place:**History ground floor seminar room.

**Instructor:**Phil Robertsphilr@uwyo.edu

**Office:**356 History Bldg**.**766-5311, 745-8205

**Office Hours:**Tues., 11 a.m.- 12:30 p.m.; Wed., 4:30-5:30 p.m., and by appointment

**Websites:**www.wyomingalmanac.com; www.uwyo.edu/robertshistory

**Course Objective:**

We will be considering the history of Wyoming law, lawyers, courts, law officers, and jails/prisons in this topics course.  Thus, by necessity, this class will survey the law, but not provide in-depth consideration of specific trial or appellate practices, procedural or substantive law. The course will consider the history of Wyoming law thematically--how historic events influenced current legal principles. Further, the readings and discussions will provide students, many of whom may become legal practitioners in Wyoming, with an understanding of the evolution of the legal culture in the state, how various lawyers and judges influenced legal developments and how the growth of professionalism and legal ethics evolved in the state. One feature will be consideration of interesting and/or celebrated cases in the state's history--the "trials of the century" that became part of the state's conversations, traditions, and folklore. One important element in the class is for students to learn how the legal community dealt with various unique Wyoming problems associated with law practice in a lightly-populated state and how the results may impact practices of current and future lawyers in the state.

**Requirements:**This history-numbered topics course is a hybrid--neither specifically organized as a law course nor developed as a history course. Consequently, the reading load, in its totality and week to week, has been calculated to maximize student learning and interest, but also to promote class interaction.Each student will be responsible for the common readings indicated on the syllabus, including **three books**(Davis, Hudson, Muller), **a primary document** (now in published form), a half dozen**court opinions**, and **12 articles**of varying lengths and difficulty. Additionally, each student will select monographs and articles as individual readings during the course of the term.  The readings are neither particularly technical nor lengthy. While students will not be expected to provide a comprehensive oral review of the works (and no written review is required), each will be expected to contribute significantly to the discussions over the particular topics about which they had individually-assigned readings. Ideally, each student will read one individually assigned monograph and one article before the mid-semester break and one of each after the break.The class will take a thematic approach to the history of Wyoming law. For instance, we will discuss an overview of the general topic. In the next session, we might have interactive discussions of specific cases/issues from that general topic. Additionally, we will have an occasional guest speaker/participant who, as experts on particular subjects, will provide unique approaches to various topics.

**Grading:**

The class grade will be based on informed participation (20%), recitation of individual assigned reading (30%) and completion of a well-written paper (50%) based on a topic in Wyoming legal history and suitable for publication as "legal history."

**Common Readings (in the order in which each will be considered):**

  Marie Erwin, Virginia Trenholm, et al.*Wyoming Bluebook, vol. I*, pp. 111-36

*Wyoming Almanac*, p. 256; pp. 261-64; pp. 274-78.

  Robert B. Keiter and Tim Newcomb, *The Wyoming State Constitution*. (New York: Oxford University Press, 2011). "The History of the Wyoming Constitution," pp. 3-34. KFW4601 1890.A6 K445 1992

  Rebecca Wunder Thomson, “History of Territorial Federal Judges for the Territory of Wyoming, 1869-1890,” *Land and Water Law Review* 17 (1982) pp. 567-619.﻿

     http://www.supremecourthistory.org/history-of-the-court/associate-justices/willis-van-devanter-1911-1937/

http://www.uwyo.edu/lawlib/blume-justinian/\_files/docs/blumellj.pdf

Phil Roberts, "Regulating Liquor: Prohibition Enforcement, Official Corruption, and State Effort to Control Alcohol after Prohibition Repeal," *Wyoming Law Review* 12 (2012), pp. 389-451.

  John W. Davis, *Wyoming Range War: The Infamous Invasion of Johnson County.*(Norman: University of Oklahoma Press, 2010).  F767.J8 D38 2010

  Ward v. Race Horse, 163 U. S. 504 (1896); Dawes Act, Burke Act; Indian Reorganization Act

Gabriel Chin, "Citizenship and Exclusion: Wyoming's Anti-Japanese Alien Land Law in Context," 1 *Wyoming Law Journal* 497 (2001)

  Eric Muller, *Free to Die for Their Country: The Story of the Japanese American Draft Resisters in World War II.* (Chicago: University of Chicago Press, 2001).  D810.C82 M85 2001

  Roger Hardaway, "Prohibiting Interracial Marriage: Miscegenation Law in Wyoming," *Annals of Wyoming* 52 (Spring 1980), pp. 55-60.

  Cliff Bullock, "Fired by Conscience: The Black 14 Incident at the University of Wyoming and Black Protest in the Western Athletic Conference," *Readings in Wyoming* (Laramie: Skyline West, all eds.)

  Phil White, "Black 14," *Online Encyclopedia of Wyoming History*.

Todd Guenther, "The List of Good Negroes: African American Lynchings in the Equality State," *Annals of Wyoming* (Spring 2009), pp. 2-33.                                                 http://www.cwc.edu/c/document\_library/get\_file?uuid=37c3ab35-e349-42ea-af71-13fc7b669687&groupId=472984

  *Wyoming Almanac*. 7th rev. ed. (Laramie: Skyline West, 2013), pp. 261-64

William Stanley Hudson?, *The Sweet Smell of Sagebrush: A Prisoner's Diary, 1903-12*. (Rawlins: Friends of the Old Penitentiary, 1994). HV9475.W82 P465 1990   In essence, this is a primary document, written in memoir form by a former prisoner .

Rick Ewig, “E. T. Payton: Savior or Madman?” *Annals of Wyoming* 79 (Winter 2007), pp. 18-36.

Alan Brinkley, “The Antimonopoly Ideals and the Liberal State: The Case of Thurman Arnold,” *Journal of American History* 80 (Sept. 1993), pp. 557-79.

  Michael Golden, "Journey for the Pole: The Life and Times of Fred Blume, Justice of the Wyoming Supreme Court" (pts. 1&2), *Land and Water Law Review*  28 (1993), pp. 195, et seq. & 511 et seq.

  Phil Roberts, "A History of the Wyoming Sales Tax: How Lawmakers Chose It from Among Severance Taxes, an Income Tax, Gambling, and a Lottery," *Wyoming Law Review* 4 (2004), pp. 157-245.

  Sarah Gorin, "Wyoming's Wealth for Wyoming's People: Ernest Wilkerson and the Severance Tax," *Annals of Wyoming*  (1988).

Teapot Dome cases:                                      http://academic.brooklyn.cuny.edu/history/johnson/teapotdome.htm

  U. S. v. Midwest Oil Co., 1915.

  Oil and Gas Leasing Act (1920)

  Rone Tempest, [*Two Elk Saga: How One Man's Dream Became State, Federal Nightmare*](https://rone.creatavist.com/twoelksaga#story-cover)*.* WyoFile (2015)

  Jason A. Robison, "Wyoming's Big Horn General Stream Adjudication," *Wyoming Law Review* 15 (2015), pp. 243-312.

  Armstrong v. Day

  Wyoming Women's Foundation, 2011 Economic [Status of Women Report](http://www.wywf.org/documents/EconomicStatusofWomen2011final_000.pdf)

  Town of Green River v. Fuller Brush Co., 65 F.2d 112 (1933); Town of Green River v. Bunger, 50 Wyo. 52, 58 P.2d 456 (1936)

Shenandoah Grant Lynd, "No Soliciting Allowed: Green River Ordinances," in Gordon M. Bakken, *Law in the Western United States* (Norman: University of Oklahoma Press, 2000), pp. 390-398.

  Board of Trustees v. Spiegel, 549 P.2d 1161 (Wyo. 1976)  As one recent commentator noted, "The justice being done was largely pyrrhic...because Spiegel's Sec. 1983 damages suit in federal court was dismissed as untimely. 600 F.2d 264."

**Statutes and Cases:**

Ward v. Race Horse, 163 U. S. 504 (1896)

Dawes Act

Burke Act

Indian Reorganization Act

U. S. v. Midwest Oil Co., 1915.

Oil and Gas Leasing Act (1920)

Teapot Dome cases: http://academic.brooklyn.cuny.edu/history/johnson/teapotdome.htm

Leo Sheep Co., v. US (1979)

Armstrong v. Day

Winters v. U.S., 207 U.S. 564 (1908)

Hahn v. Famous Lasky Players (defamation of Jim Bridger)

Lockhart v. Goppert (1922) (article forthcoming)

Adams v. Frontier Broadcasting Co., 555 P2d 556 (1976)

Pring v. Penthouse (1982)

Town of Green River v. Fuller Brush Co., 65 F.2d 112 (1933); Town of Green River v. Bunger, 50 Wyo. 52, 58 P.2d 456 (1936)

Washakie, Campbell I, II, III

**Individually-assigned Monographs: (30 choices)**

*Beyond the common readings, each student will be assigned additional monographs to read. (S)he will be responsible for discussing the works on the date the general topic is discussed.  The works are listed here as well as on the date to be discussed:*

Thurman Arnold, *Folklore of Capitalism*. (New Haven: Yale University Press, 1937).

Thurman Arnold, *Fair Fights and Foul: A Dissenting Lawyer’s Life.*(New York: Harcourt, Brace and World, 1965).

Charlotte Babcock, *Shot Down!: Capital Crimes of Casper*. (Glendo: High Plains Press, 2000). HV6534.C29 B33 1999

Gordon Bakken, *The Development of Law on the Rocky Mountain Frontier: Civil Law and Society, 1850-1912.* (Westport: Greenwood, 1983).

Joan Jacobs Brumberg. *Kansas Charley: The Story of the 19th Century Boy Murderer*. (New York: Viking, 2003). HV6248.M4975 B78 2003

Chip Carlson, *Tom Horn: Blood on the Moon*. (Glendo: High Plains Press, 2001). E83.88.H67 C37 2001

Barbara Cosens and Judith Royster (eds.), *The Future of Indians and Federal Reserved Water Rights: The Winters Centennial*. (Albuquerque: UNM Press, 2012). KF8210.N37 W56

John W. Davis, *Vast Amount of Trouble: A History of the Spring Creek Raid*. (Niwot: University Press of Colorado, 1993). KF224.B75 D38 1993

Ronald Diener, *The Jackson Hole Indian War of 1895:The Fort Hall Indians Confront the Jackson Hole Settlers.* (Wendell, N.C.: Crestline Books, 2006). F767.T28 D546 2006

Debra L. Donahue, *The Western Range Revisited: Removing Livestock from Public Lands to Conserve Native Biodiversity*. (Norman: University of Oklahoma Press, 2000).

Gene Gressley, *Voltaire and the Cowboy: The Letters of Thurman Arnold*. (Boulder: Colorado Associated University Press, 1977).

John D. W. Guice, *The Rocky Mountain Bench: The Territorial Supreme Courts of Colorado, Montana and Wyoming, 1861-1890*. (New Haven: Yale Univ. Press, 1972).

Tom Horn, *Life of Tom Horn, Government Scout and Interpreter, written by himself*. (Norman: University of Oklahoma Press, 1979). (with an intro. by Dean Krakel). E83.88.H67

George Hufsmith, *The Wyoming Lynching of Cattle Kate*. (Glendo: High Plains Press, 1993). F761.C39 H84 1993 ISBN: 978-0-81297-337-2 (paper)

Marion McMillan Huseas, *Legacy of Fear: Mark Hopkinson and the Bridger Valley Murders.* (Cheyenne: Marimac Publishing, 2006). HV6533.W8 H87 2006

T. Blake Kennedy, *Memoirs* (unpublished manuscript, in the collections of the American Heritage Center)

Joe LeFors, *Wyoming Peace Officer: An Autobiography*. (Laramie: Laramie Printng Co., 1953) F761. L5 1953

Laton McCartney. *The Teapot Dome Scandal: How Big Oil Bought the Harding White House and Tried to Steal the Country.* (New York: Random House, 2009).

Rodger McDaniel, *Dying for Joe McCarthy's Sins: The Suicide of Wyoming Senator Lester Hunt*. (Cody: WordsWorth, 2013).  F765.22.H86 M333 2013

Ann Meadows, *Digging Up Butch and Sundance*. (Lincoln: University of Nebraska Press, 2003). F595.C362 M42 2003

Jerred Metz, *The Last Eleven Days of Earl Durand.* (Glendo: High Plains Press, 2005),HV6653.D8 M48 2005

Robert Righter, *Crucible for Conservation: The Creation of Grand Teton National Park*. (Boulder: Colorado Associated University Press, 1982). F767.T3 R53 1983

Vera Saban, *He Wore a Stetson: The Story of Judge Percy W. Metz*. (Privately printed, 1980).

Duane Schillinger. *In Wyoming's Prison, Hungry Men May Become Vicious Men, 1901- 1981*. (Bloomington, Ind.: Author House, 2004). HV 9475.W82 W96 2004

Craig Storti, *The Incident at Bitter Creek: The Story of the Rock Springs Massacre*. (Ames: Iowa  State University Press, 1991). F769.R6 S76 1991

Gerry Spence and Anthony Polk, *Gerry Spence, Gunning for Justice*.  Garden City, N.Y.: Doubleday, 1982).  KF 373 S64 A34 1982

Gerry Spence. *Trial by Fire: The True Story of a Woman's Ordeal at the Hands of the Law*. (New York: Morrow, 1986). KF 228 P76 S63 1986

Spencer Weber Waller, *Thurman Arnold: A Biography*.  (New York: NYU Press, 2005). KF373.A7 W35 2005

James Whiteside, *Regulating Danger: The Struggle for Mine Safety in the Rocky Mountain Coal Industry*. (Lincoln: University of Nebraska Press, 1990).

L. Milton Woods, *Asmus Boysen and His Dam Problems*. (Bloomington, Ind.: AuthorHouse, 2013).

**Individual Articles:  (46 choices)**

*Beyond the common readings, each student will be assigned additional articles to read, exact number per person to be determined by number of students in the class. (S)he will be responsible for discussing the works on the date the general topic is discussed. The works are listed here as well as on the below listing on the date to be discussed:*

Emily Arendt, “The Wyoming Experiment and the Case for Practical Propaganda,” *Annals of Wyoming* 81 (Winter 2009), pp. 13-22.

  Barbara Bogart, “The Hospital on the Hill,” *Annals of Wyoming* 79 (Winter, 2007), pp. 2-10.

  Carol Bowers, "School Bells and Winchesters: The Sad Saga of Glendolene Myrtle Kimmell," *Wyoming History Journal*.  www.uwyo.edu/robertshistory/school\_bells\_and\_winchesters.htm

Carol Bowers, "Loving Cecile: The Strange Case of Stanley Lantzer," *Wyoming History Journal*. www.uwyo.edu/robertshistory/loving\_cecile.htm

  Alan Brinkley, “The Antimonopoly Ideals and the Liberal State: The Case of Thurman Arnold,” *Journal of American History* 80 (Sept. 1993), pp. 557-79.

  Larry Brown, “Seventy Times Seven,” *Annals of Wyoming* 75 (Summer 2005), pp. 24-33.

  C. G. Coutant, "Thomas Jefferson Carr: A Frontier Sheriff," *Annals of Wyoming* 20 (July 1948), pp. 165-176.

  Daniel Davis, “Elwood Mead, Arid Land Cession, and the Creation of the Wyoming System of Water Rights,” *Annals of Wyoming* 77 (Summer 2005), pp. 2-14.

  John W. Davis, “The 1902 Murder of Tom Gorman,” *Annals of Wyoming* 76 (Winter 2004), pp. 15-30.

  Bruce C. Edwards, "History of the Wyoming Law Enforcement Academy," MPA Thesis, 1983. [PolSci 1983 .Ed95](https://uwcatalog.uwyo.edu/search~S1?/ePolSci+1983+.Ed95/epolsci+1983+.ed95++/-3,-1,,B/browse)

  Rick Ewig, “E. T. Payton: Savior or Madman?” *Annals of Wyoming* 79 (Winter 2007), pp. 18-36.

  Rick Ewig, "Wyoming Women Jurors,” *Annals of Wyoming* 62 (Summer 1990), pp. 140-42.

  Michael Golden, "Journey for the Pole: The Life and Times of Fred Blume, Justice of the Wyoming Supreme Court" (pts. 1&2), *Land and Water Law Review*  28 (1993), pp. 195, et seq. & 511 et seq.

  George Gould, "Access to Public Lands Across Intervening Private Lands,” *Land and Water Law Review* 8 (1973), pp. 149-173.

  Burton S. Hill, "Frontier Lawyer: T. P. Hill," *Annals of Wyoming* 34 (April 1962), pp. 43-49.

  M. Paul Holsinger, "Willis Van Devanter: Wyoming Leader, 1884-1897," *Annals of Wyoming* 37 (October 1965), pp. 170-206.

  W. Turrentine Jackson, "Railroad Relations of the Wyoming Stock Growers Association, 1873-90," *Annals of Wyoming* 19 (January 1947), pp. 3-23.

  Joseph Joffe, "John W. Meldrum, Part II," *Annals of Wyoming* 13 (April 1941), pp. 105-127.

  Loren Jost, "Murder in Fremont County," *Wind River Mountaineer*  21 (Aug. 2011), pp. 12-18.

  Reagan Joy Kaufman, “Discrimination in the Equality State: Black-White Relations in Wyoming History,” *Annals of Wyoming* 77 (Winter 2005), pp. 13-27.

  Timothy G. Kearley, "Justice Fred Blume and the Translation of Justinian's Code." http://www.uwyo.edu/lawlib/blume-justinian/\_files/docs/blumellj.pdf

  Theodore E. Lauer, “Goodbye 3-Card Monte: The Wyoming Criminal Code of 1982,” *Land and Water Law Review*, 19 (1984) pp. 107-134.

  Shenandoah Grant Lynd, "No Soliciting Allowed: Green River Ordinances," in Gordon M. Bakken, *Law in the Western United States* (Norman: University of Oklahoma Press, 2000), pp. 390-398.

  Ester Johansson Murray, “Bert Lampitt and the Big Horn Basin Murders, 1909 and 1921,” *Annals of Wyoming* 75 (Winter 2003), pp. 7-15.

  GregNickerson, [Wyoming Cities, Counties Finance](http://www.wyofile.com/cities-counties-face-rainy-day-wyoming-sits-savings/), *WyoFile*

  Thomas R. Ninneman, "Wyoming' Senator Joseph C. O'Mahoney," *Annals of Wyoming* 49 (Fall 1977), pp. 193-222.

  Philip Gardner Nordell, "Pattee, the Lottery King: The Omaha and Wyoming Lotteries," *Annals of Wyoming* 34 (October 1962), pp. 193-211.

  Michael O’Neill, “The Removal of Chief Justice Maginnis: Politics and the Judiciary in Wyoming Territory,” *Annals of Wyoming* 79 (Summer-Autumn 2007), pp. 50-72.

  Donald L. Painter and Robert H. Johnson, The Wyoming Education Code of 1969,” *Land and Water Law Review* 5 (1970), pp. 531-77

  Dona Playton and Stacey L. Obrecht, "High Times in Wyoming: Reflecting the State's Values by Eliminating Barriers and Creating Opportunities for Women in the Equality State," *Wyoming Law Review* 7 (2), pp. 295-320.

  *Report in the Matter of Investigations of Charges that the Interior Department Permitted the Unlawful Fencing and inclosure of 46,339 Acres of Public Lands in Wyoming and 1,120 Acres in Colorado by the Warren Live Stock Co*., (Washington: GPO, 1913). House Report 13335 (Serial 6334), 62d Congress, 3d Sess.

  Phil Roberts, "The Prohibition Agency's First Case: Official Zeal, Mistaken Identity and Murder in Wyoming, 1919," *Western Legal History* 11 (1999), pp.  1-17.

  Phil Roberts, "Murder in the Freeze-outs: Loyalty, Sedition, and Vigilante Justice in World War I Wyoming," *Annals of Wyoming* 85 (Winter 2013), pp.  2-21.

  Phil Roberts, "Regulating Liquor: Prohibition Enforcement, Official Corruption, and State Effort to Control Alcohol after Prohibition Repeal," *Wyoming Law Review* 12 (2012), pp. 389-451

  Jason A. Robison, "Wyoming's Big Horn General Stream Adjudication," *Wyoming Law Review* 15 (2015), pp. 243-312.

  Ann Rochelle, “Public access across formerly UP land to get to Seminoe Reservoir. *Land and Water Law Review*  15 (1980), pp. 119-137.

  Alan Romero, "Local Regulation of Mineral Development in Wyoming," *Wyoming Law Review* 10 (2), pp. 463-86.

  E. George Rudolph, “An Income Tax for Wyoming: Problems and Possibilities,” *Land and Water Law Review* 3 (1968), pp. 479-577.

  Warren J. Samuels, “Legal Realism and the Burden of Symbolism: The Correspondence of Thurman Arnold,” *Law and Society Review* 13 (Fall 1979), pp. 997-1011

  John W. Shields, "Elwood Mead's Establishment of the Constitutional Foundations of Wyoming's Water Law," *Annals of Wyoming* 85 (Winter 2013), pp. 22-42.

  Dennis C. Stickley, "Expanding Best Practice: The Conundrum of Hydraulic Fracturing," *Wyoming Law Review* 12 (2), pp. 321-37.

  Rone Tempest, [*Two Elk Saga: How One Man's Dream Became State, Federal Nightmare*](https://rone.creatavist.com/twoelksaga#story-cover)*.* WyoFile (2015)

  Rick Tilman, “A Cross Between Voltaire and a Cowboy with the Cowboy Predominating,” *Annals of Wyoming* 80 (Winter 2008), pp. 15-28.

  Barton R. Voigt, "The Lightning Creek Raid," *Annals of Wyoming* 49 (Spring 1977), pp. 3-22.

*Other articles may be added to the list before the semester begins. If a noteworthy article appears in publication during the course of the semester, it will be added as well.*

**SCHEDULE OF MEETINGS AND READINGS:**

**Week 1:  Jan. 27**

Introduction to Syllabus, Readings and Methodology;

**Week 2: Feb. 3**

**The Legal System and Judges in the Territorial Period  (**Also, assignment of individual readings will be made tonight)

  **Common Reading:** *Wyoming Bluebook I*, pp. 111-36; Wyoming Almanac, p. 256, (1st women jurors).

**Common Reading:** Rebecca Wunder Thomson, “History of Territorial Federal Judges for the Territory of Wyoming, 1869-1890,” *Land and Water Law Review* 17 (1982) pp. 567-619. Particularly note the paragraphs on William Ware Peck who was “sagebrushed” for being pro-temperance, arrogant, demanding, and who expected exact procedures even in the frontier setting, attacked fellow justices, criticized Corlett, Warren, and other prominent politicians.  His behavior is a classic example of how **not** to get off to a good start in Wyoming!

**Individual Article:** C. G. Coutant, "Thomas Jefferson Carr: A Frontier Sheriff," *Annals of Wyoming* 20 (July 1948), pp. 165-176.  Carr served three terms as Laramie County sheriff during the 1870s and also served as a paid employee of a Denver-based private detective agency.

**Individual Article:**Rick Ewig, "Wyoming Women Jurors,” *Annals of Wyoming* 62 (Summer 1990), pp. 140-42

  **Individual Article:** Emily Arendt, “The Wyoming Experiment and the Case for Practical Propaganda,” *Annals of Wyoming* 81 (Winter 2009), pp. 13-22.

**Topics Considered:**

  Territorial Judges and Courts

  Vigilante justice

   Gun control ordinances, the mythology of frontier justice

Women's rights

**Week 3: Feb. 10**

**Significant Cases in the Territorial Period (1869-1890)**

**Individual Book:** John D. W. Guice, *The Rocky Mountain Bench: The Territorial Supreme Courts of Colorado, Montana and Wyoming, 1861-1890*. (New Haven: Yale Univ. Press, 1972).

  **Individual Book:** Craig Storti, *The Incident at Bitter Creek: The Story of the Rock Springs Massacre*. (Ames: Iowa State University Press, 1991). F769.R6             S76 1991

  **Individual Book:** Gordon Bakken, *The Development of Law on the Rocky Mountain Frontier: Civil Law and Society, 1850-1912.* (Westport: Greenwood, 1983).

**Individual Article:** Philip Gardner Nordell, "Pattee, the Lottery King: The Omaha and Wyoming Lotteries," *Annals of Wyoming* 34 (October 1962), pp. 193-211. (A scam that damaged Wyoming's reputation in the mid-1870s).

**Cases:**

  Western Union Telegraph Co. v. Monseau (1870)

  UPRR v. Silas Hause (1870)

William Sloan case

  Big Nose George.

  Yellowstone poaching cases.

**Week 4: Feb. 17**

**Wyoming Constitution: A Summary History**

  **Common Reading**: "The History of the Wyoming Constitution," pp. 3-34, in Robert B. Keiter and Tim Newcomb, *The Wyoming State Constitution*. (New York: Oxford University Press, 2011).  KFW4601 1890.A6 K445 1992

  Re-crafting the Courts: "Missouri Plan" for Judicial Selection

**Discussion of topics for individual research paper on Wyoming law (paper due during finals week)**

**Week 5: Feb. 27**

**Land Issues: Union Pacific Land Grant, Homesteading and Land-Grant Universities**

**Individual Book:** John W. Davis, *Vast Amount of Trouble: A History of the Spring Creek Raid*. (Niwot: University Press of Colorado, 1993). KF224.B75 D38 1993

  **Individual Book:**Debra L. Donahue, *The Western Range Revisited: Removing Livestock from Public Lands to Conserve Native Biodiversity*. (Norman: University of Oklahoma Press, 2000).

**Individual Article:**W. Turrentine Jackson, "Railroad Relations of the Wyoming Stock Growers Association, 1873-90," *Annals of Wyoming* 19 (January 1947), pp. 3-23.  Origins of "fence-in, fence-out" laws in Wyoming as well as regulation of livestock freight rates in this article, generally sympathetic to the stockmen.

  **Individual Article**: George Gould, "Access to Public Lands Across Intervening Private Lands,” *Land and Water Law Review* 8 (1973), pp. 149-173.

  **Individual Article**: Ann Rochelle, “Case Note: Public access across formerly UP land to get to Seminoe Reservoir," *Land and Water La Review* 1980 (pp. 119-137).

  **Individual Book:** Robert Righter, *Crucible for Conservation: The Creation of Grand Teton National Park*. (Boulder: Colorado Associated University Press, 1982). F767.T3 R53 1983

**Individual Article:**Joseph Joffe, "John W. Meldrum, Part II," *Annals of Wyoming* 13 (April 1941), pp. 105-127. This the second of a two-part article, the first being a lengthy overview of Meldrum's early life, service in the Civil War, rancher on the Laramie Plains and political official during the territorial period. This portion describes his reading for the law and his service in Cheyenne at statehood, but most interesting are the cases he recounts from his 41 years as U. S. Commissioner in Yellowstone National Park (1894-1935).

**Individual Article:** *Report in the Matter of Investigations of Charges that the Interior Department Permitted the Unlawful Fencing and inclosure of 46,339 Acres of Public Lands in Wyoming and 1,120 Acres in Colorado by the Warren Live Stock Co*., (Washington: GPO, 1913). House Rep. 13335 (Serial 6334), 62d Congress, 3d Sess

  **Cases:**

  Eminent Domain: Laramie County Road Record, G-157, 23-301 In the matter of Avolon Acres, April 1938. U. S. v. 24.6 acres.

  Leo Sheep Co., v. US (1979).

**Topics Considered:**

  Homesteading

  UP Land Grant, Credit Mobilier; Ames Monument

Jim Bridger claims case

  University land grants, state leasing of school sections,corners cases and legislation in the1970s

  Open Range, Fencing Laws

  Corners legislation

  National Parks and Monuments

**Week 6: March 2**

**Johnson County War/Invasion; Early Lawyers and Judges**

  **Common Reading:** John W. Davis, *Wyoming Range War: The Infamous Invasion of Johnson County.*(Norman: University of Oklahoma Press, 2010).  F767.J8 D38 2010

**Common Reading:**           http://www.supremecourthistory.org/history-of-the-court/associate-justices/willis-van-devanter-1911-1937/

  **Individual Article:** Burton S. Hill, "Frontier Lawyer: T. P. Hill," *Annals of Wyoming* 34 (April 1962), pp. 43-49. (Little about the law, but interesting account of coming to Buffalo and starting out as a lawyer there in 1888).

  **Individual Article:** M. Paul Holsinger, "Willis Van Devanter: Wyoming Leader, 1884-1897," *Annals of Wyoming* 37 (October 1965), pp. 170-206. Article describes many significant cases Van Devanter was involved with as well as his service as the first Chief Justice of the Wyoming Supreme Court. The author also makes the rather surprising statement, "As a lawyer, Van Devanter devoted proportionally more of his time to cases dealing with political matters than with any other topic." (p. 192).

  **Individual Article:** Michael O’Neill, “The Removal of Chief Justice Maginnis: Politics and the Judiciary in Wyoming Territory,” *Annals of Wyoming* 79 (Summer-Autumn 2007), pp. 50-72.

**Topics/Individuals Considered:**

  Representative Lawyers/Judges: M. C. Brown, Stephen Downey, John Lacey, Willis Van Devanter, Fred Blume, Charles Potter, Ralph Kimball, Grace McDonald

**Week 7: March 9**

  **Crimes of the Century: "Cattle Kate," Tom Horn, Butch/Sundance, and Famous Early Homicide Cases**

  **Common Reading:** Roberts, *Wyoming Almanac*. (Laramie: Skyline West, 2013), pp. 274-78

**Individual Book:**Chip Carlson, *Tom Horn: Blood on the Moon*. (Glendo: High Plains Press, 2001). E83.88.H67 C37 2001

  **Individual Book:** Tom Horn, *Life of Tom Horn, Government Scout and Interpreter, written by himself*. (Norman: University of Oklahoma Press, 1979). (with an introduction by Dean Krakel). E83.88.H67 1979

  **Individual Book:** Joe LeFors, *Wyoming Peace Officer: An Autobiography*. (Laramie: Laramie Printng Co., 1953) F761. L5 1953

  **Individual Book:** George Hufsmith, *The Wyoming Lynching of Cattle Kate*. (Glendo: High Plains Press, 1993). F761.C39 H84 1993

  **Individual Book:** Ann Meadows, *Digging Up Butch and Sundance*. (Lincoln: University of Nebraska Press, 2003).  F595.C362 M42 2003

  **Individual Book:** Jerred Metz, *The Last Eleven Days of Earl Durand.* (Glendo: High Plains Press, 2005), HV6653.D8 M48 2005

  **Individual Book:** Marion McMillan Huseas, *Legacy of Fear: Mark Hopkinson and the Bridger Valley Murders.* (Cheyenne: Marimac Publishing, 2006). HV6533.W8 H87 2006

**Individual Book:** Charlotte Babcock, *Shot Down!: Capital Crimes of Casper*. (Glendo: High Plains Press, 2000).

  **Individual Article:** Carol Bowers, "School Bells and Winchesters: The Sad Saga of Glendolene Myrtle Kimmell," *Wyoming History Journal*.

www.uwyo.edu/robertshistory/school\_bells\_

and\_winchesters.htm

  **Individual Article:**Loren Jost, "Murder in Fremont County," *Wind River Mountaineer*  21 (Aug. 2011), pp. 12-18.

  **Individual Article:** John W. Davis, “The 1902 Murder of Tom Gorman,” *Annals of Wyoming* 76 (Winter 2004), pp. 15-30.

  **Individual Article:** Ester Johansson Murray, “Bert Lampitt and the Big Horn Basin Murders, 1909 and 1921,” *Annals of Wyoming* 75 (Winter 2003), pp. 7-15.

**Individual Article:**Carol Bowers, "Loving Cecile: The Strange Case of Stanley Lantzer," *Wyoming History Journal*. www.uwyo.edu/robertshistory/loving\_cecile.htm

  **Individual Article:**  Phil Roberts, "Murder in the Freeze-outs: Loyalty, Sedition, and Vigilante Justice in World War I Wyoming," *Annals of Wyoming* 85 (Winter 2013), pp.  2-21.

  **Individual Article**: Larry Brown, “Seventy Times Seven,” *Annals of Wyoming* 75 (Summer 2005), pp. 24-33.

  **Individual Article:** Theodore E. Lauer, “Goodbye 3-Card Monte: The Wyoming Criminal Code of 1982,” *Land and Water Law Review* 19 (1984) pp. 107-134.

**Week 8: March 16 NO CLASS--SPRING BREAK**

**Week 9: March 23**

**Wyoming Anti-Vice Laws and Laws Regulating Vice**

  **Common Reading**: Phil Roberts, "Regulating Liquor: Prohibition Enforcement, Official Corruption, and State Effort to Control Alcohol after Prohibition Repeal," *Wyoming Law Review* 12 (2012), pp. 389-451.

  **Individual Book:** Joan Jacobs Brumberg. *Kansas Charley: The Story of the 19th Century Boy Murderer*. (New York: Viking, 2003). HV6248.M4975 B78 2003

  **Individual Article:** Phil Roberts, "The Prohibition Agency's First Case: Official Zeal, Mistaken Identity and Murder in Wyoming, 1919," *Western Legal History* 11 (1999), pp.  1-17.

  **Individual Article:** Phil Roberts, “Wyoming’s Second Constitutional Convention and the Repeal of Prohibition,” *Annals of Wyoming* 83 (Autumn 2011), pp. 10-31.

  U. S. v. One Watermelon, U. S. District Court file 1043 (State Archives)

  U. S. v. 10-gallon case of gin, U. S. District Court file 1036 (State Archives)

**Topics considered:**Prostitution: Cheyenne city finance

  Mayor Ira Hanna case (1943)

**Week 10: March 30**

**American Indians, Asians, African-Americans**

  **Common Reading:**

  Ward v. Race Horse, 163 U. S. 504 (1896)

  Dawes Act, Burke Act; Indian Reorganization Act

**Common Reading:** Gabriel Chin, "Citizenship and Exclusion: Wyoming's Anti-Japanese Alien Land Law in Context," 1 *Wyoming Law Journal* 497 (2001)

  **Common Reading:** Eric Muller, *Free to Die for Their Country: The Story of the Japanese American Draft Resisters in World War II.* (Chicago: University of Chicago Press, 2001).  D810.C82 M85 2001

  **Common Reading:** Roger Hardaway, "Prohibiting Interracial Marriage: Miscegenation Law in Wyoming," *Annals of Wyoming* 52 (Spring 1980), pp. 55-60.

  **Common Reading:** Phil White, "Black 14," *Online Encyclopedia of Wyoming History*.

**Common Reading**: Todd Guenther, "The List of Good Negroes: African American Lynchings in the Equality State," *Annals of Wyoming* (Spring 2009), pp. 2-33.                                                 http://www.cwc.edu/c/document\_library/get\_file?uuid=37c3ab35-e349-42ea-af71-13fc7b669687&groupId=472984

  **Common Reading:** *Wyoming Almanac*. 7th rev. ed. (Laramie: Skyline West, 2013), pp. 261-64.

  **Individual Book:** Ronald Diener, *The Jackson Hole Indian War of 1895:The Fort Hall Indians Confront the Jackson Hole Settlers.* (Wendell, N.C.: Crestline Books, 2006). F767.T28 D546 2006

  **Individual Book:** Barbara Cosens and Judith Royster (eds.), *The Future of Indians and Federal Reserved Water Rights: The Winters Centennial*. (Albuquerque: UNM Press, 2012). KF8210.N37 W56 2008

  **Individual Article:** Barton R. Voigt, "The Lightning Creek Raid," *Annals of Wyoming* 49 (Spring 1977), pp. 3-22. (Sometimes referred to as the "last Indian battle in Wyoming," the incident stemmed from the decision in Race Horse).

**Individual Article**: Reagan Joy Kaufman, “Discrimination in the Equality State: Black-White Relations in Wyoming History,” *Annals of Wyoming* 77 (Winter 2005), pp. 13-27.

**Topics considered:** Indian treaties

  Arapaho placement (1878)

  Wind River litigation

  Maverick Springs case

  City ordinances, land covenants and housing discrimination

  Discrimination in Education and Employment

  U. S. Armed Forces and war-time discrimination in Cheyenne

  Heart Mountain and Japanese-American Relocation

**Week 11: April 6**

**History of Jails, the Penitentiary and the State Hospital**

  **Common Reading:** William Stanley Hudson?, *The Sweet Smell of Sagebrush: A Prisoner's Diary, 1903-12*. (Rawlins: Friends of the Old Penitentiary, 1994).  In essence, this is a primary document, written in memoir form by a former prisoner .

**Common Reading:** Rick Ewig, “E. T. Payton: Savior or Madman?” *Annals of Wyoming* 79 (Winter 2007), pp. 18-36.

**Individual Book:** Duane Schillinger. *In Wyoming's Prison, Hungry Men May Become Vicious Men, 1901-1981*. (Bloomington, Ind.: Author House, 2004). HV 9475.W82 W96 2004

  Insanity Cases and the State Hospital

**Individual Article:**Barbara Bogart, “The Hospital on the Hill,” *Annals of Wyoming* 79 (Winter, 2007), pp. 2-10.

  **Individual Article:** Insanity defenses in Wyoming: case of Orange Wilson White, 1913, 1916 death in Rawlins; and "Mad Man" (booklet series) by E. T. Payton

**Individual Article:** Bruce C. Edwards, "History of the Wyoming Law Enforcement Academy," MPA Thesis, 1983. [PolSci 1983 .Ed95](https://uwcatalog.uwyo.edu/search~S1?/ePolSci+1983+.Ed95/epolsci+1983+.ed95++/-3,-1,,B/browse)

**Topics Considered:**

  Wyoming State Penitentiary

  Wyoming State Hospital

  County Sheriffs and Jails

  Capital punishment (hangings, gas chamber, lethal injection)

  Prisoners of War (Douglas, World War II)

**Week 12: April 13**

**Public Law; Wyoming Lawyers in Politics and on the Court**

  **Common Reading:** Alan Brinkley, “The Antimonopoly Ideals and the Liberal State: The Case of Thurman Arnold,” *Journal of American History* 80 (Sept. 1993), pp. 557-79.

  **Common Reading:** Michael Golden, "Journey for the Pole: The Life and Times of Fred Blume, Justice of the Wyoming Supreme Court" (pts. 1&2), *Land and Water Law Review*  28 (1993), pp. 195, et seq. & 511 et seq.

  **Common Reading:** Phil Roberts, "A History of the Wyoming Sales Tax: How Lawmakers Chose It from Among Severance Taxes, an Income Tax, Gambling, and a Lottery," *Wyoming Law Review* 4 (2004), pp. 157-245.

**Individual Book:** Thurman Arnold, *Folklore of Capitalism. (New Haven: Yale University Press, 1937).*

  **Individual Book:** Thurman Arnold, *Fair Fights and Foul: A Dissenting Lawyer’s Life. (New York: Harcourt, Brace and World, 1965).*

  **Individual Book:** Spencer Weber Waller, *Thurman Arnold: A Biography*.  (New York: NYU Press, 2005). KF373.A7 W35 2005

  **Individual Book:** Gene Gressley, *Voltaire and the Cowboy: The Letters of Thurman Arnold*. (Boulder: Colorado Associated University Press, 1977).

**Individual Article:**  Rick Tilman, “A Cross Between Voltaire and a Cowboy with the Cowboy Predominating,” *Annals of Wyoming* 80 (Winter 2008), pp. 15-28.  In the words of the author, the article is about Arnold in his role as “cultural character.”

  **Individual Article:** Warren J. Samuels, “Legal Realism and the Burden of Symbolism: The Correspondence of Thurman Arnold,” *Law and Society Review* 13 (Fall 1979), pp. 997-1011.

  **Individual Article:** E. George Rudolph, “An Income Tax for Wyoming: Problems and Possibilities,” *Land and Water Law Review* 3 (1968), pp. 479-577

**Individual Article:**Greg Nickerson, [Wyoming Cities, Counties Finance](http://www.wyofile.com/cities-counties-face-rainy-day-wyoming-sits-savings/), *WyoFile*

  **Individual Article:** Thomas R. Ninneman, "Wyoming' Senator Joseph C. O'Mahoney," *Annals of Wyoming* 49 (Fall 1977), pp. 193-222. Billed as an account of O'Mahoney's role in opposing FDR's 1937 "court-packing" plan, in actuality, it is a well-written history of politicians in the state in the 1920s and 1930s.

  **Individual Article:** Timothy G. Kearley, "Justice Fred Blume and the Translation of Justinian's Code." http://www.uwyo.edu/lawlib/blume-justinian/\_files/docs/blumellj.pdf

**Topics considered:** State and Local Government; Public Education

New Deal Developments

  Griffenhagen report

  Sales tax/income tax

  Board of Equalization adjudication and appeals

  School consolidation/finance

  Public records, public meetings

**Week 13: April 20**

**Wyoming Resources: Oil, Coal, Natural Gas, and Water**

  **Common Reading:** Sarah Gorin, "Wyoming's Wealth for Wyoming's People: Ernest Wilkerson and the Severance Tax," *Annals of Wyoming*  (1988).

  **Common Reading:** Teapot Dome cases:                                      http://academic.brooklyn.cuny.edu/history/johnson/teapotdome.htm

  U. S. v. Midwest Oil Co., 1915.

  Oil and Gas Leasing Act (1920)

  **Common Reading:** Rone Tempest, [*Two Elk Saga: How One Man's Dream Became State, Federal Nightmare*](https://rone.creatavist.com/twoelksaga#story-cover)*.* WyoFile (2015)

**Common Reading:**Jason A. Robison, "Wyoming's Big Horn General Stream Adjudication," *Wyoming Law Review* 15 (2015), pp. 243-312.

  **Common Reading:** Armstrong v. Day

**Individual Book:** Laton McCartney. *The Teapot Dome Scandal: How Big Oil Bought the Harding White House and Tried to Steal the Country.* (New York: Random House, 2009). E785.M38 2008

  **Individual Book:** T. Blake Kennedy, Memoirs (unpublished manuscript, in the collections of the American Heritage Center)

  **Individual Book:** James Whiteside. *Regulating Danger: The Struggle for Mine Safety in the Rocky Mountain Coal Industry*. (Lincoln: University of Nebraska Press, 1990).

  **Individual Book:** L. Milton Woods, *Asmus Boysen and His Dam Problems*. (Bloomington, Ind.: AuthorHouse, 2013).

**Individual Article:** John W. Shields, "Elwood Mead's Establishment of the Constitutional Foundations of Wyoming's Water Law," *Annals of Wyoming* 85 (Winter 2013), pp. 22-42.

  **Individual Article:** Daniel Davis, “Elwood Mead, Arid Land Cession, and the Creation of the Wyoming System of Water Rights,” *Annals of Wyoming* 77 (Summer 2005), pp. 2-14.

  **Individual Article:** Dennis C. Stickley, "Expanding Best Practice: The Conundrum of Hydraulic Fracturing," *Wyoming Law Review* 12 (2), pp. 321-37.

  **Individual Article:** Alan Romero, "Local Regulation of Mineral Development in Wyoming," *Wyoming Law Review* 10 (2), pp. 463-86.

  **Topics considered:** Dr. Elwood Mead,   Wyoming Constitution, Article 8

  Colorado River compact; later water compacts

  North Platte litigation with Colorado and Nebraska

  Winters v. U. S. (1908)

  Wind River litigation

Big Horn Co. District Court, RG 1040, shelves 2914 and 2515, State Archives

  Little Horse Creek litigation, 1874-1899. RG 1001, Laramie Co. Dist. Court, Box 2, Shelf 280.

**Week 14: April 27**

**Corruption, Libel, Defamation, Media Monopoly; Gender and Domestic Relations Law**

**Common Reading**: Wyoming Women's Foundation, 2011 Economic [Status of Women Report](http://www.wywf.org/documents/EconomicStatusofWomen2011final_000.pdf)

  **Common Reading:**

  Hahn v. Famous Lasky Players (defamation of Jim Bridger)

  Lockhart v. Goppert (1922) (article forthcoming)

  Adams v. Frontier Broadcasting Co., 555 P2d 556 (1976)

  Pring v. Penthouse (1982)

  **Individual Book:** Rodger McDaniel, *Dying for Joe McCarthy's Sins: The Suicide of Wyoming Senator Lester Hunt*. (Cody: WordsWorth, 2013).

  **Individual Book:** Gerry Spence. *Trial by Fire: The True Story of a Woman's Ordeal at the Hands of the Law*. (New York: Morrow, 1986). KF 228 P76 S63 1986

  **Individual Article:** Dona Playton and Stacey L. Obrecht, "High Times in Wyoming: Reflecting the State's Values by Eliminating Barriers and Creating Opportunities for Women in the Equality State," *Wyoming Law Review* 7 (2), pp. 295-320.

**Topics considered:**

  Cheyenne media monopoly case

  Suffrage Act, Dec. 10, 1869

  Women in the Legal Profession

  Adoption procedures in early Wyoming

  Divorce case: Cody v. Cody trial transcripts.

  The Bucking Horse and the Wyoming Guidebook.

**Week 15: May 4**

**Education Law; Misc. Wyoming Laws**

  **Common Reading:** Washakie Co., and the Campbell I, II, III cases

  **Common Reading:** Town of Green River v. Fuller Brush Co., 65 F.2d 112 (1933); Town of Green River v. Bunger, 50 Wyo. 52, 58 P.2d 456 (1936)

**Common Reading:** Shenandoah Grant Lynd, "No Soliciting Allowed: Green River Ordinances," in Gordon M. Bakken, *Law in the Western United States* (Norman: University of Oklahoma Press, 2000), pp. 390-398.

  **Common Reading:** Board of Trustees v. Spiegel, 549 P.2d 1161 (Wyo. 1976)  As a recent commentator observed, "The justice being done was largely pyrrhic...because Spiegel's Sec. 1983 damages suit in federal court was dismissed as untimely. 600 F.2d 264."

  **Individual Article:** The first major revision to Wyoming’s education statutes since statehood occurred in 1969. For an overview of those changes, see Donald L. Painter and Robert H. Johnson, The Wyoming Education Code of 1969,” *Land and Water Law Review* 5 (1970), pp. 531-77.

  **Individual Reading:**Trading stamps: Steffey v. City of Casper, 358 P.2d 951 (Wyo., 1961), holding §40-16-101 et seq., constitutional.

**Topics Considered:**

Green River ordinance and peddling regulation

  Unique statutes in Wyoming

  Education cases

  Populist Origins and the Evolution of the Law of the Wyoming Corporation

**Even though it is not required, an opportunity to tour of Territorial Prison will be possible during the week of May 2-6.**

**From time to time, we may be reading brief biographies or news accounts about a number of Wyoming lawyers, law officers, outlaws, and judges. These will not be listed on the syllabus, but announced in class.**