6. Clinical negligence
Charles Foster

‘Clinical negligence’ discusses no-fault schemes and the elements of clinical negligence claims in tort. A claimant must prove that the defendant owed him a duty of care, there has been a breach of that duty, the breach has caused damage, and of a type recognized by the law of tort. The test for breach of duty is the Bolam test, which says that a professional will be in breach of duty if what they have done would not be endorsed by any responsible body of opinion in the relevant specialty. The ‘but-for’ causation rule, loss of chance, material contribution to injury and risk of injury, consent cases, and hypothetical causation are explained.

7. Civil injuries and the law of torts
G. Edward White

‘Civil injuries and the law of torts’ explains that tort law’s identity as a discrete field was initially associated with the rise and expansion of negligence as a standard of civil liability. Then, as dissatisfaction with some of the limiting effects of negligence surfaced, alternatives to tort law as a compensation mechanism were considered. Identifying which injuries qualify for relief under the tort system, developing and applying standards of civil liability, and evaluating the performance of the tort system against alternative compensation systems, including workers’ compensation, have been recurrent and formidable tasks. History suggests that the problem of redressing civil injury has been, and will remain, a central challenge for America.

2. The enforcement of medical law
Charles Foster
‘The enforcement of medical law’ maps the journeys of health-care professionals when they are accused of doing something wrong. Criminal proceedings may be brought against doctors when they commit a crime that comes under criminal law — assault, fraud, murder, for instance. Civil claims for damages are more common based on negligence claims or claims based on consent or confidentiality. Disgrace and unemployment may be the result of disciplinary and regulatory proceedings. Public law jurisdiction and the important connection with human rights law is then considered along with the complex jurisdiction over patients lacking capacity. Finally, resolving medical law disputes through multiple sets of proceedings is discussed.

Epilogue
G. Edward White

The ‘Epilogue’ concludes that this VSI may be taken as an effort to demonstrate how much of American history can be seen as connected to law and legal institutions. Of all the evidence demonstrating the role of law as a central force in the history of American culture, the most visible has been the status of the legal profession itself. Since the early settlements in colonial British America, a knowledge of law has been associated with governing institutions, politics, and influence in community affairs. The future role of the legal profession in American history is considered. Will the profession retain its position of centrality in American life?

8. Legal education and the legal profession
G. Edward White

‘Legal education and the legal profession’ considers the development of American legal education and the legal profession from the rudimentary processes of the colonial and revolutionary years, through the increasing demands for legal services in the private sector of the nineteenth century, and to the transformation of law schools in the twentieth century. Despite its current difficulties, the legal profession, including its educational and judicial sectors, remains at the centre of American life, a place that promises financial rewards, influence, and stimulating work to many of its members and that has been intimately involved with the central issues of American society and politics.

American Legal History: A Very Short Introduction
G. Edward White

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date: 20 September 2019
Law has played a central role in American history. From colonial times to the present, law has reflected the changing society in which legal decisions have been made and has played a powerful role in shaping that society, though not always in positive ways. American Legal History: A Very Short Introduction sheds light on the impact of law on several key social issues: Native American affairs, slavery, business, home life, and criminal and civil offences. The expansion of laws regarding property rights is also considered, as well as the evolution of criminal punishment, the rise of tort law after the Civil War; and the progress in legal education.

Medical Law: A Very Short Introduction

Charles Foster

Medical law is concerned with our bodies, and what happens to them during and after our lives. The core issues of medical law — organ transplantation, abortion, withdrawal of treatment, euthanasia, confidentiality, research on humans — affect us all. Medical Law: A Very Short Introduction explores different examples of these issues to illustrate the key problems and principles of medical law. When things go wrong with our bodies, we want to know what our rights are, and what governs the conduct of the clinicians into whose hands we put our lives and limbs. Dealing with matters of life and death, it can therefore have a fundamental impact on medical practice.