

House of Russell American Legal History Final Examination

1994 QUESTION ONE

Why Study Colonial Legal History?

Some years ago, a young legal historian interested in the colonial period met with J. Willard Hurst. (Hurst is, of course, the great giant of American legal history since World War II; if Hurst has been eclipsed, it is only by Lawrence Friedman, who was Hurst's student.) The young historian met with Hurst in order to discuss the young historian's research and career plans. Hurst told the young historian--not too subtly--that colonial legal history was not worth studying. Hurst suggested instead that if the would-be colonial historian were interested in the relationship between the present and the American past, he should limit himself to studying the years after 1870. Hurst's conversation with the young historian raises the issue that is the subject of this question: why study colonial legal history?

You should approach this question by taking seriously the issue of whether we should study colonial legal history at all. (For the purposes of this question, the colonial period lasts until 1760.) Using material from the readings and lectures for the colonial period, as well as from other parts of the course, you should make an argument as to whether the study of colonial legal history is worthwhile. Along the way, you should define for yourself what it means for the study of any history to be "worthwhile." You should also feel free to use your essay as an opportunity to argue for either more or less material devoted to the colonial period in this course.

END OF QUESTION ONE

1994 QUESTION TWO

"Southern Distinctiveness"

Beginning with the early 19th century, discuss the place of the American South in the legal history of the United States as a whole. Consider some of the following questions in your answers.

In what ways have the patterns of Southern legal history fit with those of the rest of the United States? In what ways have the patterns been different?

What has been different about the relationship of law to society in the South as compared with the rest of the United States?

Have Southerners had ideas different than those of other Americans regarding the nature of law or the role of law in society?

Did the Civil War mark a fundamental break in the relationship between Southern legal history and the legal history of the rest of the United States? Or did the pre-Civil War patterns of Southern legal history persist beyond the war? Is there some other point in time at which the South became either more or less distinct in its legal history?

Obviously slavery and race will have to be part of your discussion, but you should be sure not to limit your discussion to only these topics. You should also consider and discuss other aspects of the history of the South and the United States.

END OF QUESTION TWO