

House of Russell American Legal History Final Exam

1996 QUESTION ONE

Law's Legitimacy

Consider the various ways in which the legitimacy of law has (or has not) been maintained from the 17th century to the New Deal.

How important has it been for law to appear legitimate? What mechanisms, institutions, or arguments have preserved the legitimacy of law. What social, economic, or political events have threatened the legitimacy of the legal system? What role has law played in creating, preserving, or maintaining its own legitimacy?

As part of your answer, you will want to consider and probably define just what legitimacy means in the context of the legal history of the United States.

END OF QUESTION ONE

1996 QUESTION TWO

Punishment

Consider carefully the material that you have regarding penitentiaries in the early nineteenth century, Docs. 387-406.

In what ways does the development of the penitentiary system fit with larger themes that we discussed for the legal history of the United States between the Revolution and the Civil War?

I have a sense that this material fits only uneasily with the other themes that I develop regarding the early nineteenth century. Is there a good reason for my disquiet? For example, I, along with Hurst, emphasized the release of energy as an important theme. What do penitentiaries have to do with that? Put more strongly, is there something about the material regarding the penitentiary system that can be used to show that I have emphasized the wrong themes regarding other areas of legal history. Or, are there linkages and similarities that I have simply failed to comprehend?

END OF QUESTION TWO