

American Legal History
Spring 2001 Exam Questions

(pick one)

Instructions:

READ EACH ITEM OF THESE INSTRUCTIONS CAREFULLY

1. As indicated on the syllabus, the examination for this course is a take-home exam. You have until 3 pm on Thursday, 10 May to complete your answer to this question. The absolute, non-negotiable deadline for turning in your answer is 3 pm on 10 May. **There will be no extensions beyond the 24-hour period and no possibility of submitting an exam after 3 pm on 10 May; I will not accept late work. If you turn in your answers late, you flunk the course.**
2. There will be no right and no wrong answers. The exam questions call for a broad synthesis of the course materials, with particular attention to the collection of documents. The best answers will be well-written, intelligent essays with coherent theses. The best answers will be thickly laced with specific examples from the material, especially the primary documents.
3. Your essay should *argue a position*, that is, make a point or a series of points. The fastest way out of the top part of the curve is to not make an argument. The themes may be ones that Professor Russell has developed in the course or, better yet, ones that you have found on your own. The very best imaginable answer will teach Professor Russell a great deal. Your responses should avoid summarizing a lot of facts or conclusions and should formulate and cogently defend a proposition (or set of propositions) about subjects covered in the course.
4. You should *support and illustrate* your argument with specific examples drawn from the course materials and lectures. You may also use examples from other courses that you have taken in the law school, but if you don't use material from this course, you should not expect a high grade and perhaps not a passing grade. There is no need to be absolutely comprehensive, that is, to look for examples from every nook and cranny of the course, but the strongest answers will display an easy familiarity with the material.
5. For each of the two questions, students are expected to write from 2,100 to 3,000 words, which is roughly from 7 to 10 pages in standard, typed and double-spaced format. **Your answer may not exceed 3,000 words.** Most word processors include a feature that counts words. You need not write a full 3,000 words.
6. All of the work on this examination must be your own. You may consult freely with others including Professor Russell, but be sure that the final work-product represents your own thoughts in your own words. Any words or ideas of others (whether written or spoken, but especially if

written) that you end up using should, of course, be cited to source. You should not feel that you need to do any reading whatsoever outside the assigned materials.

7. There is no reason to use any particular citation form. Indeed, for the purposes of this exam, Professor Russell regards the style of your citations as entirely unimportant. Do not, for example, feel that you should open up *A Uniform System of Citation* (the *Harvard Law Review Bluebook*) in order to write your essay. For example, if you refer to material from the lecture, do not include any citation at all. If you wish to cite from Friedman, *History of American Law*, use a simple, parenthetical citation in the body of your essay, such as (HAL, p. ____). You can cite to the documents with a simple reference to the author or title. If you remember something from the reading and wish to refer to it but cannot remember just where it was that you encountered it, do not waste time trying to find the exact page, just skip the citation. However, if you refer to sources that were not part of the course reading, be sure to include a citation that is sufficient to allow Professor Russell to identify the source. **You should at all times avoid plagiarism, and if you quote directly from a source, be sure to put that material in quotation marks and cite the source and page number.**

9. Be sure to put your exam number on the first page your answer. For the sake of convenience and safety, you may wish to put your number on each page. Do not put your name anywhere on your essays.

10. If, in preparing for this examination you have violated the Honor Code, or if, during this examination, you violate the Honor Code, the best course of action is for you to report to Dean of Students immediately after this examination ends.

11. You may keep your copy of this exam question.

1. *Gone with the Wind*. Discuss the film's portrayal of legal-historical issues. Consider whether and to what extent the film accurately depicts the time period that the film portrays AND discuss the extent to which the departures from historical accuracy are reflections of the historical period when the film was made.

2. *The Alienist*. Consider the historical period in which Caleb Carr sets his novel *The Alienist*. Construct a dialogue about crime among Carr's protagonist, John Winthrop, and either Charles Dickens or Alexis de Tocqueville. (That is, the dialogue should be among three people: Dickens *or* de Tocqueville and the other two.)

3. Lawrence Friedman writes that:

Quite naturally, in this period, since social change was so deep, legal culture changed along with it; and every significant field of law was profoundly reworked by social forces. Some changes were swift, and the rite of passage was plain to see. Other changes took place obscurely, in the full dishwater law of the dockets. But each hard little nugget of new doctrine had its point of origin in

some concrete, living issue. However much judges liked to clothe doctrine in history and in the costume of timeless values, doctrine was still at bottom flesh and blood, the flesh and blood of real, contemporary struggles over goods and positions and authority. (History of American Law, 2d ed., 341-42.)

Draw examples from any time period in US history and make a good argument that Friedman is wrong.