

American Legal History
Final examination
Fall 2013

EXAM INSTRUCTIONS

READ EACH ITEM OF THESE INSTRUCTIONS CAREFULLY

1. The examination for this course is a take-home exam. You have until 3 pm on Wednesday, 16 December 2013 to complete your answer. The absolute, non-negotiable deadline for turning in your answer is 3 pm on 16 December. There will be no possibility of submitting an exam after 3 pm on 16 December; I will not accept late work. If you turn in your answers late, you flunk the course.
2. Please email your completed exam to the registrar's office at registrar@law.du.edu. You may wish to send your answer with a delivery and/or read receipt. Before you submit your exam, you should figure out on your own how to use delivery and read receipts.
3. 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.
4. 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.
5. 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.
6. You may use up to 2,000 words for your answer. You should indicate the word count at the end of your answer. Please double-space your answer and use at least a 12-point-font.
7. 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.

8. 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.

Pick one of these questions:

1. Analyze and compare these two movies: *12 Years a Slave* and *Gone With the Wind*. How and why are the movies the same or different? What do these movies have to do with law?
2. Consider women in American legal history from the 17th century through the 20th. Is there a better thesis than “Women are achieving more liberty all the time” to understand these four centuries of American women’s legal history?
3. Rights? Where do these come from in American Legal History? From G-d? Nature? The State? Somewhere else?
4. In American legal history, to what extent has *laissez-faire* been important *in practice*.
5. Which better explains legal change in American legal history: formalism or legal realism?
6. For at least a couple of decades after World War II (and maybe before), American police departments spent much of their money and effort in detecting and arresting homosexuals. To what extent was this anti-gay effort typical or atypical of what the criminal justice system (as it might loosely be termed) did from the 17th-century forward? Is there a master narrative for the history of American criminal law?