

American Legal History

EXAM 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 4 pm on 19 May to complete your answer. This is the day before the exam period ends. The absolute, non-negotiable deadline for turning in your answer is 4 pm on 19 May. **There will be no possibility of submitting an exam after 4 pm on 19 May; I will not accept late work. If you turn in your answers late, you flunk the course.**

2. TURNING IN YOUR ANSWER: <https://www.exam4.com/org/600> is the examination portal, which you will use to turn in your answer. The portal does not open until May 5, 2021. The registrar will send you login instructions. If you have technical problems turning in your answer, please contact the registrar. Be sure to save a copy of your answer. **Do NOT contact Professor Russell with difficulties related to exam submission.**

DO NOT SEND YOUR ANSWER TO PROFESSOR RUSSELL; YOU VIOLATE THE HONOR CODE IF YOU SEND YOUR ANSWER TO PROFESSOR RUSSELL.

3. Note that Professor Russell will not know when you turn in your answers, but when professors learn that students turn in answers early, professor usually think that the students should have worked on the answers a bit longer.

4. 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.

5. 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.

6. 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.

7. Your answer should be from 1,500 to 2,000 words, which is roughly from 5 to 7 pages in standard, typed and double-spaced format. **Your answer may not exceed 2,000 words.** Your word-processing software will count words. You need not write a full 2,000 words. Please indicate the word count at the end of your answer. (Within Microsoft Word, you can find the word count by clicking File/Properties/Statistics.)

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 White, *American Legal History: A Very Short Introduction*, use a simple, parenthetical citation in the body of your essay, such as (White, p. \_\_) or, if you need to save words (White, p.1) 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 not feel that you need to do any reading whatsoever outside the assigned materials. **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. 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.

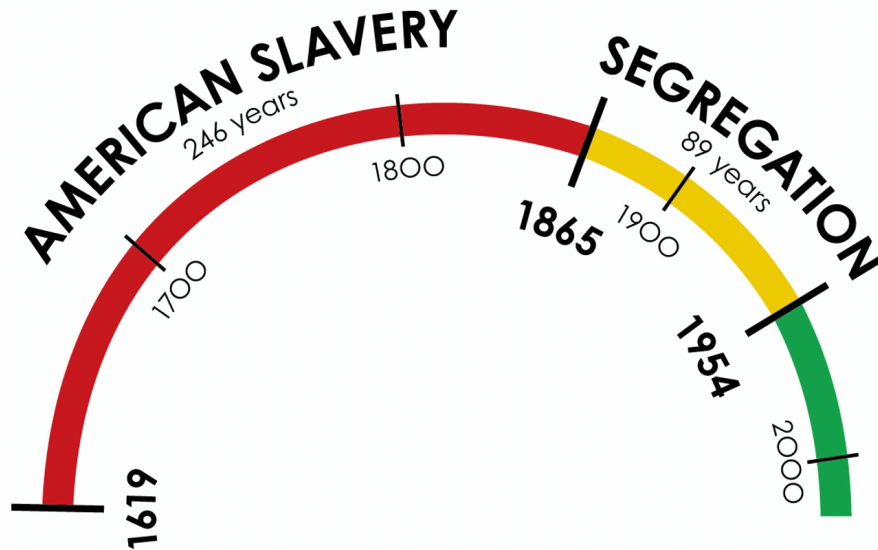
10. Be sure to put your exam number on the first page your answer. For the sake of convenience and safety, you may wish to put your number on each page. Do not put your name anywhere on your essays.

11. Please indicate which question you are answering at the top of your answer.

12. 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.

Questions (Pick ONE!)

1. Aged baby boomers like Professor Russell use an archaic social network platform called Facebook on which one often sees the following meme:



Simplicity is one virtue of this graphic. Inaccuracy, though, is among the timeline's vices. Exercising your critical analytical skills, how would you improve and explain the timeline. Keep in mind that complexity is not always a virtue, and make an argument.

2. Take a look at the timeline in Question 1. Design a historically informed, socially and politically informed analogue for the legal history of women in the United States. What you design should be useful during WHM. Make an argument that explains your timeline.

3. Compared to other law school courses, Professor Russell asks you to read fewer appellate cases as part of the course materials. Some of the cases that you have read for the course are well-known, important cases like *Dred Scott v. Sandford* or *Brown v. Board of Education*. Others are more obscure such as *Keen v. Keen* or *Bryan v. Walton*. What do the cases that we read in the course reveal about society at specific times? Do the cases reflect society? Do they shape society? Do the most famous cases—the cases that one might think every law student reads—misrepresent the operation of the legal system? Is there some better explanation between law and society than simply arguing the relationship is complicated?

4. The Russian novelist Fyodor Dostoevsky (1821-1881) is alleged to have written that “the degree of civilization in a society can be judged by entering its prisons.” (Some say he wrote this in *House of the Dead*, but he did not.) Broadening the idea of the quotation attributed to Dostoevsky to include not just imprisoned persons but also persons who receive criminal punishment—which allows us to think about 17<sup>th</sup>-century criminal justice before prisons existed—how accurate or useful is this statement? What does criminal punishment and incarceration through the history of the United States tell us?

“The degree of civilization in a society can be judged by entering its prisons.”

— attributed to **Fyodor Dostoevsky**



5. The beauty of the legal system in the United States is how law has enabled American capitalism to flourish by continuously expanding the freedom of entrepreneurs to utilize inputs (capital, labor, resources, etc.) in new and creative ways that, ultimately, create value and benefit the nation. Discuss.