

## Spring 2011 American Legal History Final Exam (House of Russell)

### 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 Wednesday, May 18, 2011 to complete your answer. The absolute, non-negotiable deadline for turning in your answer is 3 pm on May 18. There will be no possibility of submitting an exam after 3 pm on May 18; I will not accept late work. If you turn in your answers late, you flunk the course. Please email your completed exam to the registrar's office at [registrar@law.du.edu](mailto:registrar@law.du.edu). Send your answer using this naming convention: Russell-History-Exam#. 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.

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. Your answer should be from 1,800 to 2,400 words, which is roughly from 6 to 8 pages in standard, typed and double-spaced format. Your answer may not exceed 2,400 words. Most word processors include a feature that counts words. You need not write a full 2,400 words. You should indicate the word count at the end of your

answer. (Within Microsoft word, you can find the word count by clicking File/Properties/Statistics.)

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.

## **Questions**

1. Examine several news stories about the 150th anniversary of the start of the Civil War. Analyze critically the legal historical content (or lack thereof) of these stories. Do your best to broaden your focus beyond the narrow 4+ years of the war itself.

2. Consider the 20th century regulation of marijuana and also Prohibition. To what extent are these efforts consistent with American legal culture in the 19th century and before?
3. Dispel a modern day myth about law and history. Don't focus on something trivial such as that Sir Edward Coke is pronounced "Cooke." Instead, focus on a larger point such as we have always had a society founded upon "separation of church and state" or that the government did not meddle that much in law and economy in a purely capitalistic America.
4. Did the orientation of lawyers really shift from the Courts to Business over the course of the 19th century? Or is a better explanation simply that the orientation of Business shifted away from the Courts and lawyers have always been mostly oriented toward Business?
5. Has law and the legal profession struggled more against equality or more to promote equality since 1776?
6. Identify and discuss groups throughout U.S. history, whether along religious, ethnic, or other lines, that both society and the law pushed (or tried to) push to the margins. Discuss the time period of marginalization, point to specific examples in society and the laws, and briefly explain your (supported) argument as to why you think these groups were marginalized. Discuss critically the practical and ideological role of law with regard to marginalization.