

**ST. MARY'S UNIVERSITY SCHOOL OF LAW**

**AMERICAN LEGAL HISTORY**  
Professor Michael Ariens

**FINAL EXAMINATION**  
SUMMER1998

**INSTRUCTIONS**

1. This examination consists of one (1) page, excluding this page, and two (2) equally weighted questions. Please write your examination number on your bluebook immediately.
2. This examination must be completed within three (3) hours. If you do not hand in the examination when the proctor informs you that the examination period is completed, the proctor has my permission to leave without collecting your examination, in which case you will receive a failing grade.
3. If you identify yourself in any way in your examination, you will receive a failing grade, and you will be in violation of the Code of Student Conduct.
4. You may use your assigned or recommended texts, your notes, any outline and any other materials you believe may be helpful, except things that make noise. You must use black or blue ink when writing your answers, and your answers must be contained in one (1) sixteen (16) page bluebook, which will be provided to you at the examination. You may write on every line on one side of the page, or every other line on both sides of the page.
5. At the end of the examination, please return your bluebook and this cover page, both signed with your secret number, to the proctor. You may keep your examination if you wish.

**I HAVE NEITHER GIVEN NOR RECEIVED UNAUTHORIZED AID IN TAKING THIS EXAMINATION, NOR HAVE I SEEN ANYONE ELSE DO SO.**

---

EXAM NUMBER

**DO NOT TURN TO THIS EXAMINATION UNTIL YOU ARE SO INSTRUCTED**

AMERICAN LEGAL HISTORY  
SUMMER 1998  
Prof. Ariens

FINAL EXAMINATION

QUESTION I

In his 1990 book *The Problems of Jurisprudence*, Judge Richard Posner wrote, "The natural law project has never recovered from what Nietzsche called the death of God (at the hands of Darwin)." Based on your knowledge of American legal history, assess whether Posner's claim is true, in whole or in part.

QUESTION II

"In his multivolume work *We, the People*, Bruce Ackerman claims that there have been three 'transformative' periods in American legal history. The first, of course, was the founding of the United States, as symbolized by the ratification of the Constitution. The second transformative period was the Civil War, symbolized in law by the passage of the 13th, 14th and 15th amendments to the Constitution. The third transformation, in Ackerman's view, was the resolution of the constitutional crisis of 1937. The problem with Ackerman's periodization is that American legal history cannot be understood without some assessment of the pivotal nature of the changes in law, including the legal profession, that began in 1870." Discuss both Ackerman's claim and the criticism of Ackerman's claim as incomplete.

END OF EXAM