

PROPERTY SECTION 7

Professor Donahue

May 15, 2019

9:00 a.m. – 5:00 p.m.

Part I 9:00 a.m. – 10:00 a.m. (in-class)

Part II 10:00 a.m. – 5:00 p.m. (take-home)

PRELIMINARY GENERAL INSTRUCTIONS

This exam consists of two parts. Part I consists of objective questions dealing with a miscellany of topics. Part II is an essay question (one long question). The two parts will be weighted approximately as follows: Part I, 25%; Part II, 75%. Ties will be broken on the basis of Part II.

You will have an hour in which to do the objective questions (Part I). There will be thirty objective questions; they will all be of the “multiple-choice” variety. You will record your answers using the using the exam software known as “Exam4.” At the end of an hour the question booklet (containing Part I) will be collected. The essay question is “take-home.” You are to take that portion of the exam using the exam software known as “Exam4.” You log in and download the exam questions from exam4.com.

Both parts of the exam are totally “open book.” For the in-class portion of the exam you may bring with you and use your class materials, notes, and anything else that is not too bulky to disturb the person next to you. **If you plan to do the take-home portion of the exam at school, you should bring your course materials to school with you.** I strongly recommend, however, that during the in-class portion of the exam you not waste time trying to look things up either on your computer or on the internet.

The exam mode for Part I is OPEN + NETWORK. You must use your personal computers for the in-class portion of the exam (Part I). The exam mode for Part II is TAKEHOME. You must use your personal computers for the take-home portion of the exam, and you may use the internet as well. I would recommend, however, that you not use the internet to look up cases or statutes. All the relevant statutes and cases will be distributed in advance. The text of the problem may contain one or more URL’s that allow you to get some sense for the geography of a place where the problem is said to lie. Taking a gander at those pictures may help. It certainly won’t do any harm.

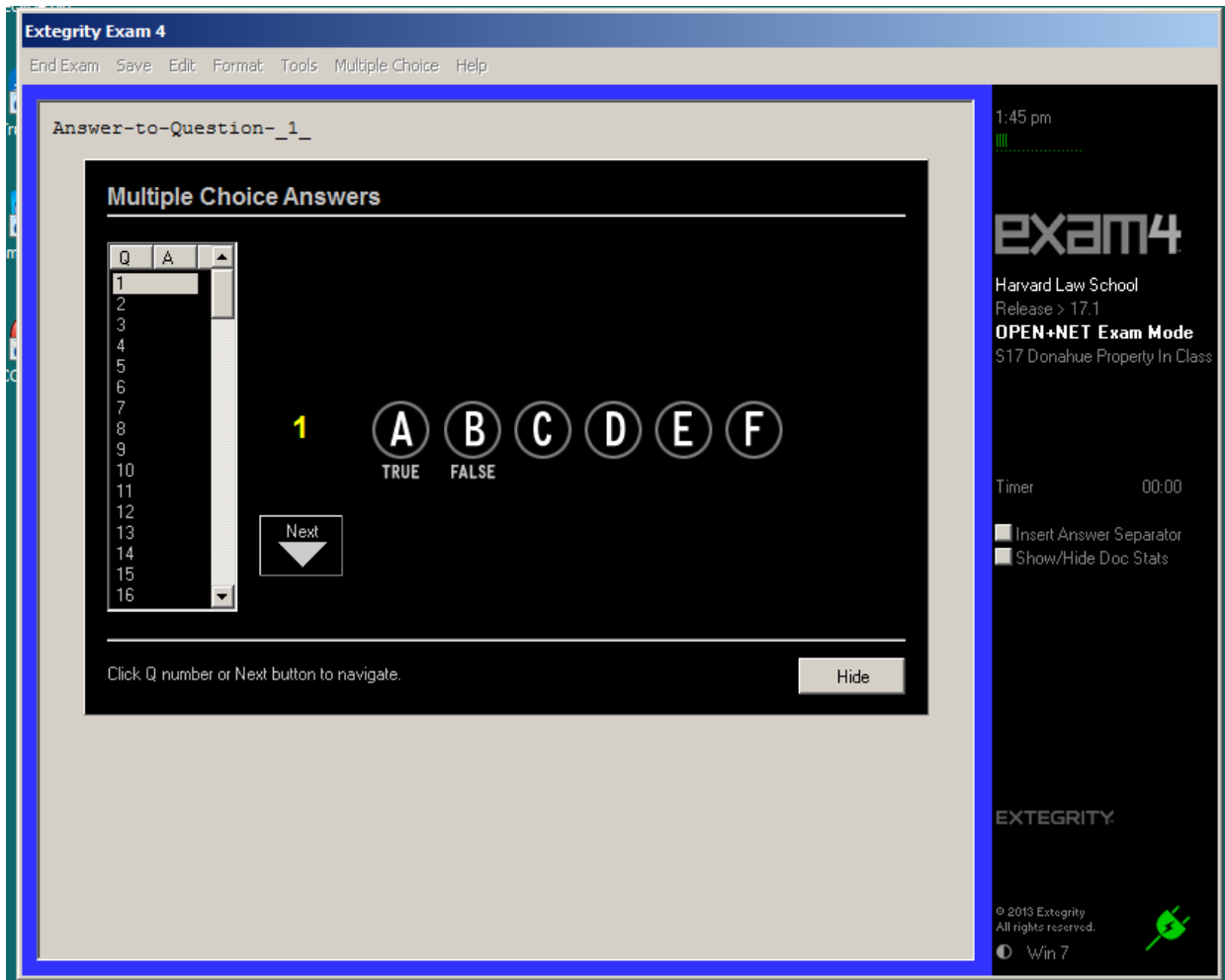
One more word on technology: Please disable any cameras that you have on your technology during in-class portion of the exam. I ‘recycle’ objective questions both to refine them and to allow myself to compare how well I have taught something in different classes. Neither of these things can be done if a copy of any given year’s questions ‘gets out’.

Mechanics on the Objective Questions

Log into Exam4 in the usual way. The proctors will take you through what you need to do, and it is the same as what you would do for any in-class exam. The name of the exam is “S19 Donahue Property In Class.”

What follows may be a bit different from what you have encountered before. Once you start the exam, on the menu bar, click on “Multiple choice”. This will open the multiple choice window (see below). Enter in the correct answers to the questions.

Law School of Harvard University / 2018–19
PROPERTY, SECTION 7, INSTRUCTIONS



When you click on one of the letters for a choice of an answer, it turns blue, and an option to clear appears on the right. Clicking on that option allows you to enter another answer or to leave the question blank. All of the questions on the exam give five options, (a) through (e). **DO NOT CHOOSE OPTION (F).** It will be counted as a wrong answer. If you want to leave the question blank, do not click on any option.

Once you have completed a question click on 'Next'. That will bring you to the next question. Use the slide to view previous or subsequent questions.

When you have completed entering the answers, hide the multiple choice window, then end the exam and submit your answers electronically. The proctors will take you through what you need to do to end the exam. I would recommend that you save your answers to disk before you submit electronically. They will be encrypted, but they do provide evidence of what you did in the (we hope unlikely) event that something screws up in the electronic submission.

You will need to repeat the login process for downloading the take-home portion of the exam, but I assume that you know how to do that. The name of the exam is "S19 Donahue Property Takehome."

General advice on the objectives:

—The single best answer may entirely correct but incomplete. Hence, if the question asked

PROPERTY, SECTION 7, INSTRUCTIONS

what does B have in a grant “to A for life, remainder to B and her heirs,” and if one of the possible answers is “fee simple absolute,” that may well be the correct answer even though B has a vested remainder in fee simple absolute. You would reject this answer only if “remainder in fee simple absolute” were also one of the choices.

—Don’t make wild guesses. You’re better off omitting a question than taking a one in four or one in five chance of getting it right. If, on the other hand, you can reduce your choice to two possible answers, you are probably better off guessing between the two. (The one-in-three option is omitted deliberately. What you do there depends on the kind of poker player you are. The odds are in your favor, but not by much.)

—Read the questions carefully. The wording is important. If, after struggling with a question, you find it remains ambiguous, do your best on the answer sheet and write me a brief note on the back cover of the question book.

—**Do not assume any facts, statutory or contractual provisions.** If a proposition needs anything but the common law and the facts, statutory and contractual provisions given to save it, it is wrong.

—Be careful about your time. The questions in the second half of the test are longer than those in the first half and will take more time.

Background Law:

For Part I of the exam, you are to answer the question as of the time of effective date of the grant or devise last mentioned in the fact statement unless otherwise instructed. Assume that:

- (1) the Anglo-American common law is in force, including the so-called common-law statutes such as Quia Emptores, De Donis, and the Statute of Uses;
- (2) a Statute of Wills, a Statute of Frauds, and a Married Women’s Property Act are in force;
- (3) in any conveyance or devise a fee simple absolute is conveyed unless the contrary appears on the face of the instrument;
- (4) a grant or devise is effective to raise a use without an initial feoffment to uses;
- (5) a grant or devise to two or more persons creates a tenancy in common unless otherwise specified;
- (6) the doctrine of destructibility of contingent remainders has been abolished as a rule of law except where the remainder is destroyed by failure to fulfill the condition;
- (7) the common-law estates of dower and curtesy have been abolished;
- (8) neither the Rule in Shelley’s Case nor the Doctrine of Worthier Title is in effect;
- (9) all future interests are alienable both inter vivos and by will, except beneficial interests in trusts that have a spendthrift clause.
- (10) O or D has, at the effective date of the conveyance or devise, a possessory estate in fee simple absolute in certain lands;
- (11) the conveyance or devise in each problem adequately describes the land;
- (12) all conveyances are valid in form (unless you are given a fact that suggests the contrary);
- (13) all individual persons named in grants or devises are living (but not necessarily classes

of persons) and no living person has died unless the problem says that s/he has died;

(14) no express conditions have been fulfilled.

The legal background for Part II may be provided in a pdf called “Primary Materials for this Year’s Exam.” If it is, it will be the same as the pdf with the same title that I will have distributed before the exam.