

1. Announcements
 - a. Q&A Session: Fri. Dec. 13, 5–6:30 p.m. room TBA
 - b. Email questions sent to (rspang@law.harvard.edu). Question and answer will be posted on the course website under [Assignments and Discussion](#).
 - c. Sample objective questions with suggested answers and four essay questions given in recent years, with quite elaborate memos describing what I was looking for and what I got, posted on the website under [Examinations](#). I have also posted the preliminary instructions for this year's exam.
 - d. I have not yet made up this year's essay question. There may be a preliminary packet of statutes and/or cases. If there is, I will post them by the end of this week.
2. The exam
 - a. The exam is about modern law, not about history. Where estates and future interests are involved that involves a series of assumptions as to the state of the law, which are given in the instructions for this year's exam on the website under [Examinations](#). The essay question, as already noted, has a series of standard state statutes that are available on the website.
 - b. The one-hour in-class portion of the exam will be all multiple choice. That leads some people to think that it will all be about estates and future interests. It won't; it will cover the whole course. I've posted some sample questions on the website.
 - c. There will be a penalty for wrong answers. That means that if you haven't a clue, you're better off skipping the question. If, however, you can reduce the number of possible answers to two, you're better off guessing. If you can reduce the number of possible answers to three, whether you guess depends on what kind of a poker player you are. The odds are slightly in your favor if you guess among three, but not much. Don't guess if it's one in four or one in five. The odds decidedly favor the house in those situations.
 - d. The essay question will almost certainly be just one question with multiple issues. One of the things that I'm looking for is your sense of what Prof. Rosenberg calls the core issues are likely to be. I don't impose a word limit, but the instructions will say that conciseness will be rewarded and verbosity penalized. If one writes non-stop for seven hours one can produce an impressive amount of paper but what's on that paper is likely to be quite incoherent. Plan your answer in advance, take a break for lunch, finish in time to edit your work. Well reasoned answers, even if they make some mistakes in the law, are likely to do better than scatter-gun answers even if all the random statements of the law are correct. I've posted four former essay questions on the website with an analysis of what I was looking for.
 - e. An exam is not a legal memo. You don't have to cite authority for the proposition that the sun rises in the east and sets in the west. You don't have to cite authority for anything. If what you say is right, it's right; if what you say is wrong it's wrong. But that doesn't mean that it's a disaster. As I said before, a coherent chain of reasoning that has a mistake in it is likely to do a lot better than a bunch of perfectly correct propositions that don't solve the problem or are arranged in such way that I have to figure out how they might solve the problem.
 - f. There's another version of the citing cases question that's harder to answer. Should I study the cases or study the principles? The principles come out of the cases. If you think that you've gotten a principle out of a case, then you ought to

think about what might qualify that principle because it was embedded in the context of a case that had a non-legal background and in which other, conflicting principles were almost certainly involved. I think you're better off knowing the cases than trying to memorize *Gilbert's Outlines*. But everyone works differently. I don't want to try to tell you how to come to grips with the fact that every common-law case is embedded in facts. Change the facts, and it all might have been different.

- g. One more thing about the exam that may be relevant. The practice exam that you all looked at and some of you took was very much focused on solving a particular problem in a context in which predicting the results of litigation was the name of the game. The question did not ask you to think about the problem in a broader context in which legislative change might be possible and in which policy considerations are very much at the forefront. This year's exam may have such a component. There may be something like what I had on the exam in 2004, which is posted on the website.

3. 'All courses are property courses'

Family (Trusts and Estates, Estate Planning, Family law) vs. Commercial (Real Estate Planning, Land Use, Copyright, Commercial Law)

Conceptual (Jurisprudence, Legal History, Constitutional law) vs. Situational or Practical (all those previously mentioned)

Private Resource Allocation (Estate Planning, Real Estate Planning) vs. Public Resource Allocation (Land Use Control, Environmental Law, Administrative Law, etc)

Land (Real Estate Planning, Land Use Control, Resources Courses) vs. All Property (Estate Planning, Commercial Law, Copyright)

What was this course all about? Some of the ideas which I will try to develop in the last lecture are more fully explored in "The Future of the Concept of Property Predicted from Its Past," in *Property*, ed. J.R. Pennock & J.W. Chapman (Nomos No. 22, New York, 1980) 28–68.

Available [here](#). For another overview, you might want to look at the article on 'Property Law' in the [Encyclopaedia Britannica](#) (Harvard ID required). Longer, but still manageable, is THOMAS W. MERRILL & HENRY E. SMITH, *THE OXFORD INTRODUCTIONS TO U.S. LAW: PROPERTY* (2010).