

University of Dayton School of Law

Judeo - Christian Ethics and the Law

Final Examination

Professors John Putka and Allen Sultan
Tuesday, May 5, 1998

INSTRUCTIONS

The proctor will first distribute Professor Putka's questions and the blue books. Please place your examination number and Professor Putka's name on the front of each book.

You will have 1 1/2 hours for these questions. Please sequentially number the blue books before you hand them in.

When all of the blue books are handed in, the proctor will distribute Professor Sultan's question and scrap paper. You will have 45 minutes to plan an outline. After 45 minutes the proctor will hand out the blue books. Please place your examination number and Professor Sultan's name on each book.

You will then have one hour to write your answer. Please sequentially number the blue books before you hand them in.

WRITE ON ONE SIDE OF THE PAGE ONLY

NO NOTES, BOOKS OR OTHER MATERIALS MAY BE USED DURING THE EXAM; PLEASE LEAVE THEM IN THE FRONT OF THE ROOM.

GOOD LUCK!

Fr, John Putka, SM.

1. One of our readings was "American Jurisprudence between the Wars: Legal Realism and the Crisis of Democratic Theory," by Edward A. Purcell, Jr. Explain each of the following points with keen insight and flashes of brilliance:

- a. The major concepts that characterize "Legal Realism"---and the major concepts that they were to replace. Give specific examples.
- b. Purcell writes that the movement toward "Legal Realism"“...had raised distressing questions from the standpoint of democratic theory about the nature and basis of law." What questions had been raised, and why were they so "distressing."
- c. What are the "Natural Law" issues involved in this controversy?
- d. What critique would each of the following make regarding the Purcell piece?

1) CS. Lewis 2) John Courtney Murray 3) Philip E. Johnson ("Nihilism and the End of Law")

2. Judge Robert H. Bork's ideas served as a reference point for our discussion of Natural Law and its relevance to the practice of law.

- a. Explain his thinking regarding the existence of Natural Law and its possible relationship to the development of constitutional law. Give specific examples from Bork.
- b. Explain the points on which each of the following would (1) agree and (2) disagree with the ideas of Judge Bork---and why. Cite specific examples from the reading and class discussion:

- 1) Hadley Arkes
- 2) William Bentley Ball
- 3) Russell Hittinger

Allen Sultan

Discuss chronologically the contract or compact theory of government as it has evolved in the Judeo-Christian institutional tradition. Be as complete and as specific as you can.

