JURISPRUDENCE FINAL EXAM PROF. REYNOLDS SPRING 1994

## **INSTRUCTIONS**

This is a take home exam. It consists of five essay questions. You are to answer two of the five questions. You must confine your answers to one bluebook. You may write on both sides of a page. If you choose to type your answers you are limited to twelve double-spaced typewritten pages. Please take time to organize and plan your answers. You are not to discuss the exam with other people. You may refer to your personal notes and the textbook but you may not use other resource materials. Your answers to the exam are due no later than 6:00 P.M. on May 12, 1994. Keep in mind at all times that in accord with the formalist penchant for authoritative rules you are required and ordered to enjoy this exhilarating exercise in communication.

Ι

Explain and discuss the notion of the politics of meaning as applied to the reading and application of statutes and case law by judges, lawyers, and administrative officials.

II

The recent publicity about the effective use of caning as a punishment for the commission of a crime in an Asian country, has spurred interest in this mode of punishment in several states of the United States. Several states are investigating the possibility of enacting such laws to discourage crime by public humiliation and the infliction of physical pain. State x after much debate and investigation passed such a statute which imposed the caning penalty on all persons committing crimes of violence in which the victims suffered substantial physical harms. This penalty was in addition to the usual penalties of fine and imprisonment. The legislature of state x held many public hearings on this matter and hired a private firm to conduct a scientific poll of the people of state x as to their feelings and wishes about the use of this penalty. The poll revealed that 72 % of the people favored the use of caning to deter violent crime and felt the punishment appropriate where the criminal injured his victim in the commission of the crime. State x is a populous state with several large metropolitan areas which have large concentrations of African-Americans, Latinos, and Asians. Statistics from the Department of Corrections show that 65% of the persons convicted of violent crimes are men from the above mentioned minority groups. Discuss the validity and implications of this statute from the perspective of a

- a. positivist-formalist
- b. natural law advocate
- c. consensus model sociologist
- d. critical legal studies scholar

During the semester, I have continually argued that practice subverts theory and that experience subverts principle. Conversely I have argued that theory and principle subvert practice and experience by imposing a false ordering on contrary practice and experience in order to create the false impression that practice and experience are directed and controlled by theory, principle, and rule. Explain these ideas and their application to the roles of judges, lawyers, and administrative officials.

## IV

During the semester, I have maintained that the invidious discrimination against racial minorities, women, workers, the poor, students, and children is built into the very fabric of our social and economic institutions and their practices. Such discrimination is a integral part of all of our everyday living experiences. I have also argued that legal concepts and rules tend to reinforce and legitimate these discriminatory practices. Discuss the meaning and implications of these ideas from the perspective of

- a. a conflict sociologist
- b. a positivist-formalist
- c. a consensus sociologist
- d. a critical legal studies advocate.

V

Explain how the U.S. Constitution can be viewed as a positivist-formalist document as well as a natural law document, a social institution from a sociological perspective, and a vehicle for discrimination by a critical legal studies scholar.