

LEGAL SYSTEMS
FINAL EXAM
PROF. REYNOLDS
DEC. 1989

INSTRUCTIONS:

This is a 3½ hour exam. You may bring and use your personal class notes during the exam. There are four questions below. You are to answer only two of the four questions. Your answers to the two questions must be written in the confines of a single blue book. You may write on both sides of the page. Please take time to organize and plan your answers before writing. Good Luck.

1. In the beginning of the course we encountered Bodenheimer's idea that doing law involves putting situations in the various legal categories i.e. a left-brain process. Critically discuss this notion in the light of the basic teachings and themes of the legal system course.
2. Explain and discuss the american legal realist or instrumentalist approach to understanding, interpreting and using case law and statutes. Do you agree with this perspective or do you disagree with it?
3. Formalist and positivist lawyers characterize law as consisting of hard, objective legal rules and legal concepts. They advise lawyers, judges, and administrative officials to follow the law strictly and logically. Please write an essay in which you criticize the above perspective from the standpoint of the basic ideas and themes of the legal systems course.
4. The following poem, "The Primacy of Feeling", is taken from my book, Humanistic Images of Law and Life. After reading and reflecting on the poem, please write an essay relating the poem to law, lawyering, and legal education as portrayed in the legal systems course.

THE PRIMACY OF FEELING

A wise philosopher once proclaimed
I think therefore I am.
As for me, I prefer to say
I feel therefore I am.
Patent it is to me that feeling
is master and thinking is slave.
One might also say
feeling gives direction
and thinking finds a way.
To clarify and testify
feeling's primary
and thinking's secondary;
feeling's ends
and thinking's means;
feeling's substantive
and thinking's procedural.
To summarize and conclude
feeling, not rationality,
is the core and source
of my humanity.