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PHIL 325E.01: Morality and the Law

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Phil. 325: Morality and the Law
Spring Semester 2004
R.E. Walton, Prof.

SYLLABUS

Philosophy 325 is an advanced ethics course covering certain aspects of the complex relationship between ethics and law in American life. We will look closely at the quintessential phenomenon of civil disobedience. We will consider the standard problem of so-called victimless crimes, also known as the problem of the legal enforcement of morals. Special attention will be given to the philosophical issues involved in the unique role of the Supreme Court in American law and morality.

To undertake this course students should have at least junior standing, have successfully completed PHIL 200 or 201 and have had a rigorous writing course. It would also be helpful to have had logic (PHIL 210), an American history survey course and an introductory course in American government.

TEXTS:

William R. Bishin and Christopher D. Stone, *Law, Language and Ethics* (Mineola: Foundation Press, Inc., 1972) -[BS].

The Declaration of Independence and *The Constitution of the U.S.* (Cato Institute)

Various cases and other materials posted on the Web, on library reserve or obtained from Internet sites.



REQUIREMENTS:

Assigned texts should be read carefully and completely in advance of their being covered in lecture. Reading of the texts should be regarded as an independent task complementary to that of listening to the lectures. (Do not make the mistake of assuming that one can be substituted for the other.) I advise making reading notes.

You should take detailed lecture notes. You should consult with the instructor when you have trouble understanding something in readings or lectures, or when you wish to pursue a topic beyond the level at which it is covered in lecture. Office hours are maintained for this purpose.

Each student will prepare 2 case briefs. There will be regular quizzes given throughout the semester at a rate of about one every other week. There may be an hour-long mid-term examination if that seems appropriate. There will be a final examination required of all students, taken at the time specified by the University (see below).

Philosophy demands a high degree of skill in writing. Students undertaking the study of philosophy are expected to be competent writers. Thus, you should expect that your writing will be held to higher standards than in most other courses you have taken. Writing will be

given some attention in marking your work in order that you may improve.

READINGS:

I. Fundamentals.

1. *Declaration of Independence*
2. *Constitution of the U.S.*
3. H.L.A. Hart, from *The Concept of Law* [BS 476-7]
4. O.W. Holmes, from *The Path of the Law* [BS 36-7]
5. *Riggs v. Palmer* [BS 486-90]
6. *Union Pacific Ry. v. Cappier* [BS 27-29]
7. *Ex parte Starr* [BS 1167-68]

II. The Nature of a Law Case.

1. *Thomas Haslem v. William A. Lockwood* [BS 9-14]
2. *Painter v. Bannister* [BS 939-45]
3. *Rochin v. California* [BS 541-7]
4. *Crews v. Cloncs* [BS 1169-72]

5. Aristotle, *Nicomachean Ethics*, II, 4
6. *State v. Winthrop* [BS 228-231]
7. *Keeler v. Superior Court for County of Amador* [BS 220-24]
8. *Garratt v. Dailey* [BS 1057-61]

9. *Application of the President and Directors of Georgetown College, Inc.* [BS 1126-11]

III. Civil Disobedience.

1. *Walker v. City of Birmingham* [BS 1180-85]
2. Martin L. King, A Letter from the Birmingham Jail
3. H.D. Thoreau, *Civil Disobedience* [BS 1207-14]
4. *United States v. Kinder* [BS 57-63]
5. "Nuremberg Trials" [BS 70-72]
6. *Grossner v. Trustees of Columbia University* [BS 1194-7]

IV. Law and Morals--Victimless Crimes; Privacy

1. J.S. Mill, (from) *On Liberty*

2. Lord Patrick Devlin, "Morals and the Criminal Law"
3. H.L.A. Hart, "Immorality and Treason"
4. *Baker v. Nelson*
5. *Griswold v. Connecticut* [BS 1037-43]
6. *Bowers v. Hardwick*

7. *Roe v. Wade*
8. *Jacobson v. U.S.*
9. *R.A.V., Petitioner v. St. Paul*

V. The 14th Amendment, Equality and the Supreme Court

1. *Barron v. Baltimore*
2. *Civil Rights Cases*
3. *Plessy v. Ferguson*
4. *Lochner v. New York*
5. *Brown v. Board of Education* [BS 739-742]
6. *Gideon v. Wainwright*
7. *Gray. v. Sanders*
8. *Griggs v. Duke Power*

FINAL EXAM: 8:10-10:00, Tue., May 11