

Philosophy 338A
Philosophy of Law
2017
Note Twenty-four

INFORMATION ABOUT THE FINAL EXAM

1. *Time and place*

The exam takes place on Friday, April 21st at LSK 201 (Leonard S. Klinck) between 8:30 and 10:30.

2. *Format*

This is a two-hour final worth 40% of the course (except for those few cases in which heavier weightings have been authorized). You will be required to answer TWO equally valued questions from a selection of three or four. It is advisable to reserve 54 minutes for writing each answer, leaving about 6 minutes in each case for thinking.

3. *Coverage*

Everything, all chapters except the appendices, online notes and material developed in class, all *rationes* discussed in class, save for some few exclusions from the text explained in class and in a previous note (e.g. the abduction material on pp. 210-215 of chapter 17 and pp. 216-223 of chapter 18).

4. *What to expect*

Now that we've come to the end, it is easier to see all the elements we've been discussing coalescing into an organic whole. You've been preoccupied these past twelve weeks with the ins and outs of a rather complex philosophical trial, in which one side attacks the intellectual integrity, indeed the very rationality, of what juries do when they render verdicts in first-degree murder prosecutions. The attacks are mostly by implication. The reason for this is that, by and large, mainstream epistemologists don't write articles on criminal law.

The other side of this fight is the causal response epistemology. The answering argument is intended to absolve criminal juries from their alleged irrationalities and, in so doing, to displace establishment epistemology as a wholly general theory of cognitive competence across the board of human life. So, it's not all that difficult to predict some possible questions:

- what is the complete EE case against the rationality of law?
- what is the complete CR defence of is rationalityht?
- after 12 weeks, do we now have an answer that closes the matter?

It is also useful to keep in mind our recurring attention to judicial reasoning. This is a natural thing to do, in as much as a judge's reasoning is honest-to-goodness reasoning, and a course in the epistemology of law is a course in honest-to-goodness epistemology. You may have noticed that we've given more attention to the reasoning of judges than we've given to the reasoning of jurors. There is a reason for this. Judges write *rationes*, and jurors are not allowed to (or even to

speaking from memory about what went on in the jury room.) In each of the cases we discuss in the book or in class or in online notes, there was more to their decisions than the resolution of an issue by way of the technical mechanisms of established law. Our interest was piqued by reasoning which in some ways, was out of the box, leaving the obvious question whether

- out-of-the-box judicial reasoning is tenable in a logico-epistemic sense and, if not, whether there is some higher good that authorizes judges to go ahead with it all the same.

Those mentioned here are just a few of the big-ticket issues in this course. Others I leave it to you to think about.

How to get ready

Be guided by the following rule of thumb: in preparing for the final, keep it in mind that big-ticket questions call for detailed wide-scope answers. The more you're able to get your head around all of a big-ticket issue, the likelier you are to write a really good answer to a question on it. Also, whatever you write on, don't stint on detail. Good answers have to be full answers.

In reviewing the EE-CR fight, please keep it in mind that details of each approach start appearing as early as chapter 1, and picking up in chapter 3 and onwards. Don't forget, the book's treatment of each of these competing epistemologies evolves bit-by-bit in these ways (but not always at the same time).

In a way, the course now swings to you who have had to deal with its details for twelve long weeks. In a way, you are the course's philosophical jury. But, unlike real jurors, each of you has to write a *ratio*, and I am the guy who, with Matthew's help, gets to mark them.

Office-hours

JOHN: Tuesday the 11th between 8:30 to 9:00, and 10:00 to 12:00
Tuesday 17th between 9:00 and 12:00

MATTHEW: Unchanged.