

Dean's Memo Agrees With Grading Criticisms

"It is hard to disagree with the main thrust of these criticisms. By and large, the points are temperately made and not overblown."

That was Dean Derek Bok's opinion of the problems identified in the grading system by the 1L report, "The Trouble With Grades."

The dean made his comments in a background memorandum to the faculty last week, The RECORD learned recently.

With respect to the objectives of grading reform set forth in the proposal, the dean stated, "No problem here, especially since students recognize the need not to add to the grading burden of the Faculty."

Another issue raised by the dean in the memorandum was: "Is there enough incentive left in the first year if there are no grades but only written evaluations for student use?"

The dean mentioned the need for evaluation to sustain motivation in upperclass years, diversification of evaluative methods, and whether a portfolio of written work is a realistic idea.

"Of lesser importance," he said, "how can the honoraries make selections without grades?" He also asked, "Could the Board of Student Advisers compete without prestige of honorary status?"

HARVARD LAW RECORD

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FIFTEEN CENTS

Open Faculty Meetings Asked

By Richard Hoffman

Students would attend faculty meetings as observers, speak in favor of their own proposals there, and receive records of all faculty sessions, if suggestions made earlier this week in a report by an Ad Hoc Committee on Student Participation were adopted by the Law School.

The 39-page report was prepared by about 25 first-year students intent on effecting change in the school's structure of decision-making. Convinced that the basic power body is the faculty, the student group seeks to elect eight to twelve students from each class to attend all faculty meetings.

These students attending the faculty meetings would in turn assign other students to serve on faculty committees. The last part of the report includes discussions of the roles played by each faculty committee, with proposals for student participation.

The proposal calls for selection by the student body of "some comprehensive form of student participation" by "a referendum sometime in April, to go into effect next year." What other steps the committee might plan are uncertain as yet, but at present, the group, through Robert O'Connell, 1L, its prime mover, urges interested students to sign up for various faculty committees today.

Today is the deadline for signups under the scheme set up by the Joint Student-Faculty Committee. The Joint Committee is severely criticized in the report for its failure to "present proposals



Mike Lurey

You may not think the Law School funny, but it has an excellent collection of political cartoons. See story on page 12.

for student participation at the faculty meeting."

Claiming that desires for such participation "were made obvious" at an open meeting of the Joint Committee last December, the ad hoc group accuses the Joint Committee of deciding "to settle for a watered-down and somewhat confusing proposal which deals only with student participation at the faculty committee level."

The Ad Hoc Committee's report also suggests the establishment of a "board of student appeals,"

(Continued on Page 3)

Shapiro Has Zest for Teaching:

By Kevin Kane

Since he has just returned from a semester of teaching both Advanced Procedure and Labor Law at the University of Pennsylvania Law School, Professor David L. Shapiro is still a new experience for most 1Ls. But now that he is again teaching Civil Procedure here, his students are becoming very familiar with his rapid-fire approach to the intricacies of the course.

Known to have once compared third-party actions to "playing three dimensional chess," Prof. Shapiro finds an apparent zest in teaching: "chasing one's intellectual rabbits," as he puts it. He claims he never teaches the same course twice. Not only do



Howard Sweet

the law and the teacher's comprehension of the material change, but "the student insights each year are always different."

All Kinds of Procedure

Outside of class, civil and criminal procedure constitute much of Prof. Shapiro's pet legal interests. Shortly after he began teaching at the Law School in 1963, he worked on the American Bar Association's Advisory Committee on Fair Trial and Free Press. The committee's work involved formulating minimum standards of criminal justice, with special concern for the possible impact of inflammatory press upon the right to a fair trial.

From 1964 to 1966, he made about thirty public appearances defending the final report of the committee. In February 1968, the report was adopted by the ABA House of Delegates.

On the civil side, he has worked for the American Law Institute in its study of diversity and federal question jurisdiction.

First Love Is Labor

Labor law, however, is Professor Shapiro's first love. In the days when the second year curriculum didn't allow for electives, he managed to postpone a required course and take Labor Law when a 2L. In his later practice with the law firm of Covington and Burling in Washington and in his clerkship under Supreme Court Justice John M. Harlan, he continued his interest and was naturally attracted to labor law cases.

In 1963, when Associate Dean A. James Casner asked for his teaching preferences, he included Labor Law, and with then Professor Derek C. Bok away and Professor Archibald Cox serving as Solicitor General, he filled the "clear need" for someone in that area. He created the third-year seminar in Labor Law he now teaches.

Mock Arbitration

Branching out from his teaching activity, Prof. Shapiro soon succeeded in having his name placed on the American Arbitration Association's list of labor arbitrators. He decided his first case in 1967 and, until leaving for Penn law school last year, had about a case a month. Since he views the role of an arbitrator as essentially a judicial one, he finds a great deal of challenge and responsibility in deciding labor-management disputes. Also, he finds this experience invaluable in his teaching. One example is the mock arbitration case which he uses in his third-year seminar.

Professor Shapiro's varied intellectual interests are reflected in his personal background. He was born in 1932 in New York City, the son of Louis Shapiro, a lawyer and single practitioner. He attended the Horace Mann School in the Bronx and Harvard College, graduating magna cum laude. At Harvard Law School, he served as Note Editor of the Law Review and, anxious to start practice, he accepted a position with Covington and Burling upon graduation.

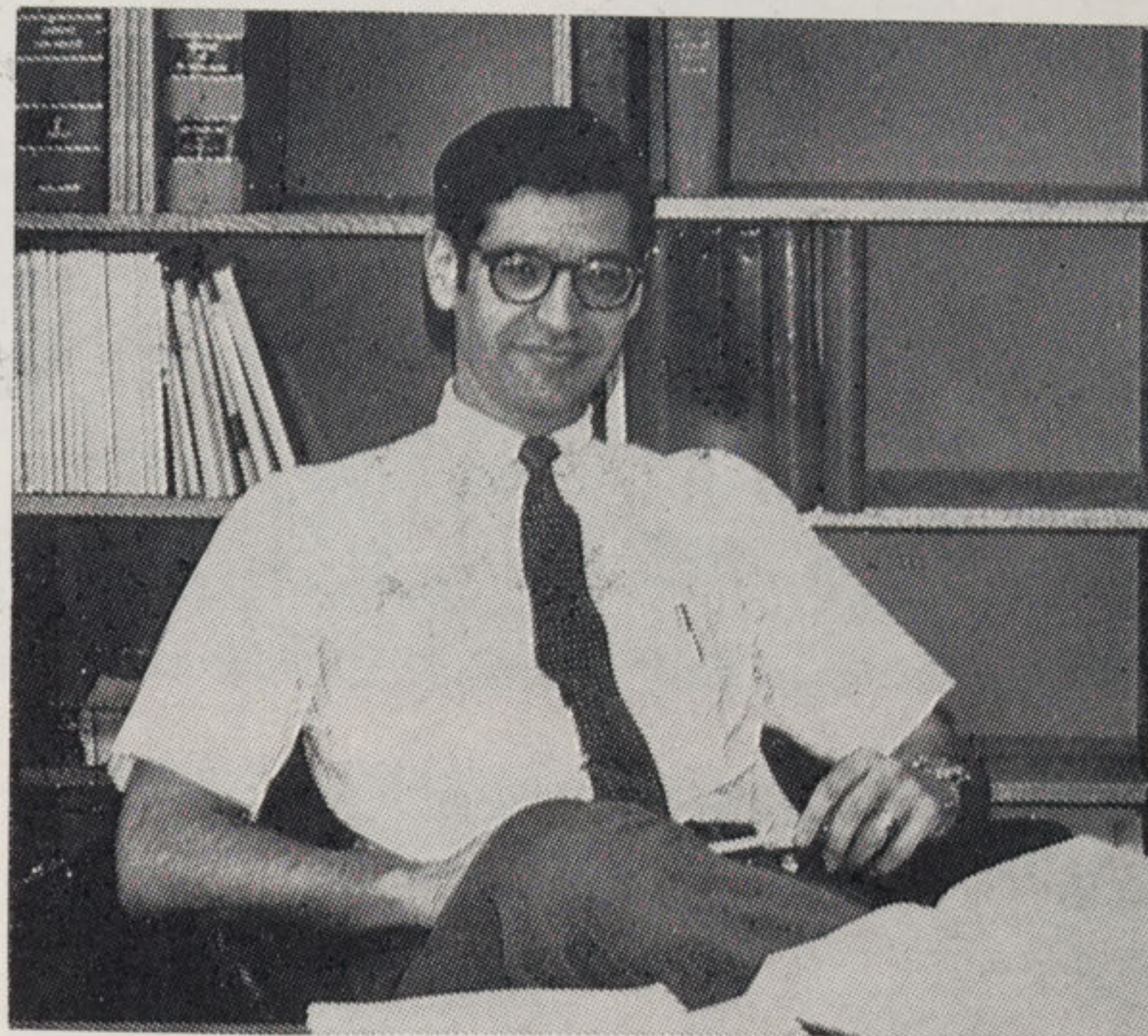
Antediluvian Conscience

He describes his works there as interesting, varied, and socially conscious (Covington was doing legal aid work "even in those antediluvian days") but, after five years, he was "anxious to try something different." "Something different" turned out to be a year of clerking for Supreme Court Justice Harlan.

Always Changing His Courses

Meanwhile, he had "let it be known" that he was interested in teaching at Harvard and, in the fall of 1963, he received the offer he wanted from Dean Erwin N. Griswold.

Professor Shapiro met his wife in the classic manner of a Harvard man. In his sophomore year, he accepted a blind date with a Radcliffe freshman, Jane Bennett, whom he found himself marrying in 1954. Mrs. Shapiro is an accomplished singer and has made professional appearances in Washington and Boston. The Shapiros have an eleven-year-old daughter, Lynn, who attends Peabody High School and who, judging from her present interest in ballet, apparently leans toward the artistic side of the family.



Howard Sweet

Student Group Calls For Open Faculty Meetings

(Continued from Page 1)

which would serve as an alternative tribunal to hear disciplinary cases now heard by the administrative board if the affected student so desired. The new board would also be able to hear appeals from the administrative board.

With regard to the appointments committee, the report asks for the institution of some kind of evaluation system of professors by students. Information so gathered would be restricted to use by the professor involved and by the appointments panel in making tenure decisions.

Student comments would also be invited regarding professors whose tenure is under consideration. A last step calls for inclusion of students in the faculty interviewing process, with opinions filtered back to the appointments committee.

The faculty committee on the first year is urged by the report to solicit student opinion on the character of the legal method program and the course in development of law and legal institutions. Student selection of lecturers with varying political orientation is also advocated as a means of exposing students to persons whose attitudes "differ substantially from those presently on the faculty."

Full student membership is sought on the continuing committee on legal education, along with means for students not normally connected with the committee to express their feelings on individual issues. Open meetings and wider publicity for the committee's actions are also suggested.

Immediate action to halt alleged discrimination in hiring by the firms using the placement office is asked. Exclusion of such firms from use of the office and bulletin boards is suggested as one sanction. Methods of obtaining information about the "policies and business connections" of firms would be determined.

In addition, the report raises the possibility of the placement office's financing recruiting trips to the Law School by "civil-liberties oriented organizations."

The committee on relations with the university was praised both for its efforts to organize joint-degree programs and the presence of five fully-involved students in its workings. Its open meetings also were lauded.

Student representation is demanded on the committee on whether to award an LL.B. or J.D. degree, as well as a student referendum after arguments for both sides have been fully expressed.

The report is far from satisfied with the newly-named committee on grading revision headed by Professor Keeton. "No doubt the members of this committee will make every effort to solicit student opinion, but is that enough? . . . it seems that the faculty is saying, by appointing a committee composed completely of faculty members, that they, not the students, will make the final determinations on grading revision. The students who wrote the report on grades should be included as full participating members of this committee."



Just Visiting

Last weekend, the Visiting Committee of the Board of Overseers made its annual visit to the Law School to speak with administrators, professors, and for the second year, students. In the top picture, a subpanel headed by John G. Buchanan '12 listens to RECORD staffers. To the left, Professor Yarmolinsky joins Francis T. P. Plimpton '25 for a chat, while at lower left, several panel members audit a class. At lower right Judge Henry J. Friendly '27 finds Professor Bator '56 showing some of that old Law School spirit. Photos by Mike Lurey, Howard Sweet and Dan Chill.



Whitmore's Confessions Set Stage for Miranda

The Whitmore Confessions, Fred C. Shapiro, published in three parts in *The New Yorker*, Feb. 8, 15 and 22.

By Richard Hoffman

When the definitive history of the evolution of efforts to protect individuals' rights is written, the name of George Whitmore will still perplex the compilers of such a volume.

Whitmore, who was charged with committing three violent crimes in New York City, was responsible for disclosing at almost every point of his journey through the criminal process how poorly that system can operate.

Arrested in Brooklyn, N. Y., and originally charged with assaulting a woman with intent to commit rape, Whitmore was interrogated during a session about which there remain many unanswered questions. By the time he left the station-house, however, he had been accused of committing three murders in addition to the assault. Two of his alleged victims were known as "the career-girl murders" on New York's upper East Side.

Could Results Of His Grilling Be Used at All?

Almost six years after the crimes occurred, the case of George Whitmore still hasn't been closed. Fred C. Shapiro has sought to trace the twisted path through the legal jungles. And when one emerges, it's the acts and decisions of police and prosecutors which remain in the spotlight.

"It is high time to give serious consideration to whether the pendulum of justice has not swung too much in favor of the crim-

inal," declared one of Whitmore's prosecutors, Aaron Koota, district attorney of Kings County, N. Y., after the Miranda ruling.

"There is a saying: 'It is far better that a thousand guilty men go free than a single innocent man be convicted.' This is a fetish of our society. The chances of an innocent man being convicted are extremely remote," Koota continued.

Whitmore was almost that man, for on the basis of his original confession to three crimes in the Brooklyn police station, he was indicted for the New York career-girl murders. However, another suspect was later apprehended and subsequently convicted. Although the office of the New York County District Attorney (Frank S. Hogan) no longer considered Whitmore culpable, he was tried and convicted in Brooklyn for the attempted rape before Hogan's office discharged the New York indictment.

The indictment was discharged, not dismissed, which means that it remained technically in force. Since the prosecution in Brooklyn relied on the same (obviously questionable) confession which had been found to be false with regard to the New York murders, Whitmore's trial for the attempted rape (conviction) and another murder (mistrial), the one in Brooklyn raised a good many doubts about the fairness of the respective prosecutors.

Mr. Shapiro quotes an assistant in Hogan's office as saying, "They can't blame us for playing it cozy, because that's the way we do it."

Miranda made it impossible for the Brooklyn district attorney to retry Whitmore for the Brooklyn murder. But Whitmore faced two more juries in trials on the attempted rape charge. And he may yet face another.

No one has ever figured out just what happened when Whitmore was first interrogated. The policemen involved deny any wrongdoing but Whitmore says he was beaten until he was willing to confess to anything put before him, which he did. During the trial of the second suspect in the New York murder cases, the conduct of some of the Brooklyn interrogators was revealed as less than commendable. But these men were retired from the police force thereafter with the highest ratings.

One D.A. Seemed Overly Helpful To His Colleague

Perhaps most troubling about the Whitmore case, of course, is the role played by Hogan's office, generally regarded as the finest prosecutorial agency in the country. Although the Manhattan investigators didn't stop their work after the Whitmore confession in Brooklyn, and despite their discovery of the second suspect (convicted), it's never been explained why the indictment against Whitmore wasn't dismissed so it couldn't be used against him in the Brooklyn trials.

That it wasn't quashed undoubtedly aided prosecutor Koota of Brooklyn. His deputy in charge of prosecuting the attempted rape case additionally neglected to disclose the FBI report on a button allegedly torn from Whitmore's coat on the night of the assault. The prosecutor said it was a "solidly guilty circumstance" that the coat and button matched. It turned out that the FBI wasn't quite as certain.

(Continued on Page 14)

Lawyers (Actors?) Star in the Law School Show

Those who support the theory that lawyers make good actors (or actors make good lawyers) will have a chance to test that idea when the 1969 edition of the Harvard Law Show debuts this month.

The largest cast the show has ever had, 38, will present an original musical comedy entitled *The Spider People: An Adventure in the Seamless Web*. The show will be performed on March 14, 15, 21, and 22 in Peabody Auditorium on Linnaean Street. Tickets are now available at the Langdell receptionist's desk, the Harkness newsstand, and the Harvard Coop.

Based on the legend of Faust, *The Spider People* has the omnipresence of the law vying with the spirit of equity for the mind of an impressionable first year law student. Among the topics of satirization include law wives, the ROTC, student protest, and the UCC. The script was written by Don Passman, Dan Shulman, and Mark Brown, all 2Ls; composer George Selden and lyricist Jed Rakoff, both 3Ls, have written 17 original songs for the show; they wrote the score for last year's show.

Leading members of the cast are Ed Overtree, 3L, Dave Sonenberg, 1L, Noan Griffin, 2L, and Anne Jenness, a secretary.

The Law School Show grew out of an annual variety night sponsored by the Dormitory Council. Four years ago, the Law School Drama Society was formed and took over responsibility for the production.



Dan Chill

Some of 'The Spider People' put their best web forward.

First Ames Semifinal Slated

The first semifinal argument in the upper rounds of the Ames Competition will be held next Thursday, March 13, at 8 p.m. in the Ames Courtroom. The case is set in the Supreme Court of the United States.

The participating teams will be Griswold-Kaplan as Petitioner and Learned Hand as the Respondent; they will be arguing before a court presided over by Hon. Walter J. Cummings, Jr., of the United States Court of Appeals for the Sixth Circuit. The associate judges will be the Hon. William H. Timbers of the United States District Court of the District of Connecticut and the Hon. Theodore Tannewald of the United States Tax Court.

The case to be argued is a criminal tax fraud prosecution in which the defendant, the respondent here, seeks to suppress evidence supplied by him to Internal Revenue Agents as obtained in violation of his rights under the Fourth, Fifth and Sixth Amendments of the United States Constitution. Specifically he claims that *Escobedo v. Illinois*, 378 U.S. 478 (1964) and *Miranda v. Arizona*, 384 U.S. 436 (1966), should

apply to criminal tax fraud investigations notwithstanding the fact that the evidence was secured in a non-custodial situation.

In addition, the case also raises the question whether personal and partnership income tax records are "public records" within the meaning of *Shapiro v. United States*, 335 U.S. 1 (1948) and thus not within the taxpayer's Fifth Amendment privilege.

Finally, the last major issue of the case questions whether psychiatric evidence obtained as a result of a court ordered psychiatric investigation as to the defendant's competency to stand trial may be used on the question of whether he wilfully falsified his income tax return.

The oralists for Griswold-Kaplan will be McGee Grigsby and Mitchel S. Ross and for Learned Hand, James J. Foster and John M. Payne. The brief captains are Gordon M. Stevenson for the petitioner and Charles Meyer for the respondent. All are 2Ls.

Briefs and records may be picked up at the reference desk of the library or at the second year Board Office after March 10.

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ILs Taste First Blood During Practice Exam

By Ronald Nussbaum

"Does Andrews have a valid tort claim against Began?" read one of the questions on the first year practice exam of January 11. "In answering this question, do not consider issues of defamation."

"Andrews has a valid tort claim against Began for slander unless Began can prove truth," one student answered, and then went on to the next question.

That student was but one of the more than 500 faced with the perplexing demands of a law school exam for the first time. All were challenged to use the tools of analysis and a good deal of common sense that they supposedly have been assiduously developing since last September. According to Walter Reiser, director of the Legal Method Program, who's charged with administering the practice exam, the results were satisfactory, and not any different from previous years.

The exam is given every year at the beginning of the second term to offer students an oppor-

tunity to evaluate their abilities in law courses. The exam lasts for four hours, similar to a standard law school exam, consisting of five questions, one in each course. The questions were written mainly by the teaching fellows, with subsequent approval by the professors in each section. Some professors, however, write their own questions.

Each student received a separate printed booklet with questions for his particular section. By accident the Property questions for sections I and II were switched. Strangely, none of the first year students complained about the apparent mix-up during the exam. Only one graduate student taking just the property question came into the teaching fellow's office and said, "I don't think we covered that in class." He was right.

This year for the first time all answers were graded. Most students answered all five questions, leaving over two thousand answers to grade. The seven teaching fellows, with some assistance from Reiser, did most of the marking; a few professors elected to review all or some of the papers from their own sections. Reiser estimates that the teaching fellows read as many as 300 answers each.

The exams were graded on a curve: 15% excellent, 25% good, 45% satisfactory, and 15% poor. These percentages were used only as general guidelines.

According to teaching fellow Joseph Howe, who wrote the torts question for all sections, the answers showed differences between those students who had studied, perhaps during the reading week before the exam, and those who hadn't.

"It was plain that those who didn't were groping in their answers, applying criminal law terms in some instances, and non-legal principles — what I call 'barbershop law,' because it's the type of law you pick up from your

local barber — in others. As for those who studied, I think it was clear that their efforts were well worth it."

Howe graded the torts question on a 100-point basis, each part of the question being given a specific weight. Some students, unable to "even apply basics," scored as low as 5, 7, or 11 points. There was one perfect score of 100.

The graded exams were returned to the students over the past few weeks. Besides an overall grade, some of the graders included comments on the answers. One teaching fellow said, "With all the papers I had to read, I only put down comments when I thought it would help."

Students are being given the opportunity to get a more personal and detailed evaluation of their exam answers through the teaching fellows. Those who wish such an appraisal may sign for an appointment with the teaching fellow who taught their Legal Methods course. "Unfortunately," said Reiser, "not over 20% of the first year students have signed up yet."

Reiser believes many students didn't do as well as they could have because they did not allocate their time properly. He suggested that students should spend a few minutes to organize the answer by making an outline of the issues and deciding how to discuss them. Finally, he is interested in hearing from first year students about the value of the Christmas recess reading period.

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Just Visiting

Nobody thought that the Visiting Committee's decision last year to meet with student groups at the Law School was a bad idea. Most wondered why it had taken the Committee so long to increase its range of inquiry. But now that the second annual Saturday morning of meetings with Law School organizations has passed, it's time to assay the committee's role and how well the panel functions.

Last year's session with one visiting subpanel attended by editors of this newspaper was a revelation to all present. Asked to fill the subcommittee in on what was happening at the Law School and how students felt about changes, we found ourselves explaining how it was possible to find time to attend last year's Vietnam course even though one panel member remarked that he couldn't see how it could compare to "Bills and Notes" in preparing us to enter the profession.

But this year the estimable gentlemen, mainly from firms regarded as "impeccable" by those in practice, were less skeptical. Some, of course, met with grade reformers and black students. Others merely sought explanations for what they regard as the Ralph Nader phenomenon. It seemed that they didn't want to ask about what students are thinking any more. The two cultures concept has found its application for the Law School.

Although we all should be reluctant to blame deficient dialogue on age, remembering the example of Mr. Justice Holmes, who at 90 was perfectly able to communicate with any generation, it's not unreasonable to ask why the Board of Overseers mightn't inject a bit more youth into the Visiting Committee's roster.

But more important, we believe, is the background of the committee's membership. Composed of pillars of bench and bar, the panel has had little experience to offer those interested in practicing outside the establishment of large firms and its branch in government.

The Visiting Committee was conceived as an independent watchdog of the Law School. Similar panels assigned to scrutinize other divisions at Harvard University have had to step in when administrations ran awry, as with the divinity school some years ago. The Law School watchdogs luckily haven't been needed to serve such a function. But do they know for what they should be watching?

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Fenno

"Welcome to the Harvard Law Hilton!" Bunky shouted as I stumbled back into Dane Hall after running around the World Tree in my new Bob Cousy Pro-14's. "When you want to check out next weekend," he informed me, "just pick up the phone and call the bellhop."

"What's going on?" I snapped back at him. "And what's that sign I saw on the door to the Roscoe Pound Room? It says 'Health Club'?" I mused.

"Sure, Fenno, that's what's happening now that there aren't any grades," Bunky confided. "If there's anything wrong with your room," he advised, "give Dean Sacks a call. He's now called the General Manager."

"Maybe they'll give me a room with a view of Wyeth Hall," I said.

"You don't need that any more," Bunky shot back. "This place will be filled with girls from now on. Every night is Singles Weekend!"

"Bunky, you used to knock yourself out working and at the same time, complain about the quality of life here. Is this what you wanted?" I asked.

"Sure, Fenno, this is what the Dean wants, too. He's cut his handicap by two strokes since grades were abolished. And he asked me to help him with a new welcoming speech for the 1Ls next September. Wanna hear it?"

"I suppose you're planning to cut out the Griz' old warning to keep your cash separate from the clients'?"

"Obviously, Fenno. That's not necessary any more. Legal services should be free. Remember that part about how you should get out and see Boston and Cambridge sometime during your three years? That's been changed a bit.

"Now the dean plans to tell them to try and get into Langdell Hall at some point in the three years and find out how the library works. That's all you need to know as a lawyer: how to look stuff up," Bunky declared.

"I don't know, Bunky. Are there enough pinball machines in Tommy's Lunch to accommodate everybody who'll want to play all day?"

"Fenno, there'll be charter flights to Europe every week. And the Board of Student Advisers is revamping Ames Courtroom for burlesque! What more can you ask for?"

"My money back," I said as I packed.

The J.D.'s Time Has Come

By R.W.S. Schmidt

A new Parkinson's Law: "The amount of time devoted to discussion is directly proportional to the triviality of the issue." So it is with the J.D.

To cite facts: a fall 1969 survey of students found over 70% of those presently in the Law School favor the J.D. degree over the LL.B. Over 85% of the nation's law schools will be granting the J.D. this June. Five years ago the American Bar Association recommended that all approved law schools confer the degree of J.D. as the first professional law degree.

It is reasonable that Harvard, a bastion of tradition, should examine structural and other changes carefully. In this case it has had sufficient time to do so, and now has a wealth of information on which to base a decision. Sensing that the time has long been ripe, a number of students prepared a research paper which was made available to the faculty this month: "On the Adoption of the J.D. Degree at Harvard Law School."

The paper, prepared by Kathy Imholz, 3L, with Charles Hodge, 1L, and Larry Pressler, 1L, summarizes arguments pro and con in 17 pages of text and 7 pages of footnotes and bibliog-

raphy. Feeling that deliberations often have been rooted in emotionality, the students have attempted to set forth more factual argumentative data.

In the course of legal education, for instance, entrance requirements have changed greatly: no longer do students enter without bachelor's degrees. A bachelor of laws is inappropriate for a degree which terminates seven years of study. But the report states, "neither this evolution in the meaning of the law degree nor the large number of law schools . . . would be enough."

"The students who have prepared this report wish to emphasize that they have become convinced of the need for Harvard to adopt a J.D. *only* because they have come into contact with a variety of situations where Harvard law graduates are discriminated against solely because of their degree."

The report cites examples of discrimination in general education: Texas (especially Texas A & M University), Los Angeles, Minnesota, and Oregon. The U.S. government, the Fulbright program, and the U.S. Air Force are also listed. Advisers in developing countries feel the discrimination. Amusing perhaps are the small incon-

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Law Notes

Law School alumni seem to be in a writing mood these days. Robert Coulson '53 has authored *How to Stay Out of Court* available from Crown Publishers at \$5.95. Coulson's book is a guide to the out-of-court settlement of personal and business disputes. He should know what he's talking about; Coulson is executive vice-president of the American Arbitration Association. *The Man Who Wouldn't Say No* is the second novel by Albert Lebowitz '48 who also wrote *Laban's Will*. Lebowitz writes of a lawyer, who on the untimely death of his wife decides to live life responding affirmatively to the demands made upon him by others on a first-come, first-serve basis. Not since John Barth's Todd Andrews in *The Floating Opera* has there been such an interesting fictional lawyer. The novel is published by Random House for \$4.95.

* * *

An extensive study of the nation's law school curriculums, commissioned by the Association of American Law Schools and financed by Ford Foundation funds, is scheduled to begin soon. Heading the study will be Professor Paul D. Carrington of the University of Michigan Law School and Professor William Klein of the University of Wisconsin Law School. Possible topics of study will be use of educational psychology as a basis for curricular planning, relation of legal education to the needs of minority groups, and integration of legal education with related disciplines.

* * *

Harvard President Nathan M. Pusey has said that ROTC programs will continue at Harvard provided that satisfactory arrangements along the line suggested by a recent vote of the Faculty of Arts and Sciences can be made with the Federal government. "Harvard University will therefore continue to cooperate in the ROTC program if a new arrangement can be concluded satisfactory both to the services and to us which will meet the issues of faculty control of curricular offerings and academic appointments," Pusey said.

* * *

The Law School isn't alone in studying changes in the grading system. A special committee at the New York University Law Center is studying the school's grading and examination system. The committee study was recommended by the chairman of NYU's student-faculty committee; he also recommended that both students and faculty serve on the special committee, according to *The Commentator*, the student newspaper.



"This citation of *Monarch Bar-Notes* on page three of your brief is just too much, counsel."

Letters to the Editor of the RECORD

Lubell's Defender Recalls 1950's

To the Editor:

I cannot express to you my unalloyed joy upon reading in *The RECORD* (February 18) that the Harvard Legal Aid Bureau has resolved to deplore the treatment accorded Jonathan W. Lubell in 1953. You may be interested in some background.

I was Lubell's defender (self-appointed—as Lubell was not present himself—and he had too much reticence, not to mention intelligence, to select me) in the Legal Aid Bureau proceedings which defamed him. I think you will find this impossible to believe, but only two persons in the entire bureau defended his right to membership.

This is how McCarthyism worked in that case: The bureau's legal standing in the State of Massachusetts was then rather weak. We were constantly told that we were flirting along the boundaries of practicing law without a license. An attorney named LeCam from the Boston Legal Aid Society used to come over once a week, listen to our cases, and sign himself up as attorney of record. The big bugaboo was that if we permitted Lubell to continue to be a member, we would be investigated and put out of business.

A story circulated that there was a member of the bar (in the Leach sense of the term) who supposedly was out for our hides because we stole cases (and fees) he would otherwise have gotten. Thus one did not have to fight McCarthyism; one could simply come out four square for the preservation of the Harvard Legal Aid Bureau. Benjamin Franklin had something to say about this in his Autobiography:

"I believe I have omitted mentioning that in my first voyage from Boston

to Philadelphia, being becalmed off Block Island, our crew employed themselves catching cod and hauled up a great number. 'Till then I had stuck to my resolution to eat nothing that had had life; and on this occasion I considered, according to my Master Tryon, the taking every fish as a kind of unprovoked murder, since none of them had or ever could do us any injury that might justify this massacre. All this seemed very reasonable. But I had formerly been a great lover of fish, and when this came hot out of the frying pan, it smelled admirably well. I balanced some time between principle and inclination till I recollected that when the fish were opened, I saw smaller fish taken out of their stomachs. 'Then,' thought I, 'if you eat one another, I don't see why we mayn't eat you.' So I dined upon cod very heartily and have since continued to eat as other people, returning only now and then occasionally to a vegetable diet. So convenient a thing it is to be a reasonable creature, since it enables one to find or make a reason for everything one has a mind to do."

Benjamin Harrison Frankel '54

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The Time Has Come For the J.D. Degree

(Continued from Page 9)

veniences: library stack privileges and academic bows to titles.

The *RECORD* this year has printed letters from a vice-president of marketing in Europe, two professors of business law, and other writers. Several editorials, articles, and comments have been published. On October 31, 1968, Dean Derek C. Bok wrote that the Brown Committee had been established several weeks previously, and that "further communication from alumni and students would be welcomed."

Why should Harvard Law School cater to the ignorance which causes this discrimination? The report says simply: "institutional and administrative rigidity are universal. . . . If it were possible to clarify every misunderstanding, the argument in favor of the change would be weakened." Not only can't all situations be rectified, but why should Harvard alumni and students assume the inconvenience or burden of continual explanations?

(Continued on Page 14)

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Extensive Cartoon Collection Decorates Law School Walls

By Joseph Rafalowicz

"The currents of American thinking," it's been remarked, "have been etched into the people's minds by the cartoonist's pen."

And Harvard Law School, according to Associate Librarian Philip A. Putnam, "has one of the finest collections of cartoons relating to the law and to politics found anywhere."



Mike Lurey

The cartoons, of which only a small number are actually on display, hang in the first floor of the west wing of Langdell Hall, in the teaching fellows sector of the Langdell basement, and scattered throughout the library stacks. The majority of the cartoons, however, haven't been hung or framed and are still in storage.

Unlike the Law School's portrait collection, which hasn't adjusted to the unfinished lighting conditions of the new faculty office building, the cartoons have flourished in the darkness of the Langdell west wing, appreciated especially by students waiting to speak with professors.

Among the better known cartoonists included in the collection are Honoré Daumier, the great early French caricaturist, and Spy and Ape, pen

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Recent Book

Papers of Symposium on Human Rights Collected

By Parvez Hassan

International Protection of Human Rights; Nobel Symposium 7; edited by Asbjörn Eide and August Schou; Interscience Publishers/Almqvist & Wiksell; \$17.50; 300 pages.

One of the characteristic features of our times is the ever-increasing interest in the international protection and promotion of human rights. The United Nations, in designating 1968 as the International Year for Human Rights, had appealed to all concerned private and public organizations to hold discussions on human rights before and during the International Year.

In response to this appeal and with the objective of furthering Alfred Nobel's ideal of "fraternity between nations," the Norwegian Nobel Institute organized a symposium on "International Protection of Human Rights" in Oslo between September 25-27, 1967. The volume under review records the proceedings of this symposium.

Twenty-four participants attended the symposium. While only fourteen presented papers, all took part in the discussion of each paper.

The participants were largely drawn from judges, professors, and scholars representing mostly "Western" cultures. The only non-Western participant was Latif Adegbite of the University of Lagos in Nigeria. Given this geographical orientation, it is not surprising that the symposium reflected some bias.

In the first paper on "Natural Law and Human Rights: An Idea-Historical Survey," Professor Castberg of the University of Oslo shows that human rights had a basically European origin. But missed completely by him is the fact that some of the earlier African and Asian cultures had subscribed to several of the contemporary human rights concepts.

Fourteen centuries ago, for example, Mohammad in his "Farewell Address" enunciated a declaration of rights which visualized a universal brotherhood of man, affirming the principles of equality and non-discrimination, free-

dom from hunger, rights of women, and inviolability of property and reputation.

Adegbite's paper on "African Attitudes to the International Protection of Human Rights" includes an explanation of some of the underlying reasons behind the contemporary mistrust of the new African states toward strengthening the international protection of human rights. But some of these familiar arguments, also raised by the new Asian states, are misconceived. The Afro-Asians, for example, cannot seriously argue that because they did not participate in the drafting of the U.N. Charter, its human rights provisions represent alien notions unsuited to the needs and problems of their societies.

These provisions were subsequently elaborated in the Universal Declaration of Human Rights (1948), which in turn was further elaborated in the Covenant on Civil and Political Rights and in the Covenant on Economic, Social and Cultural Rights (1966). The drafting of these two Covenants took almost two decades. As René Cassin (France) pointed out, "One might deplore the long time which elapsed before the Covenants were adopted . . . but the benefit of this was that the

young states came to participate for ten years in . . . [their] drafting . . . and that hence the Covenants were theirs as much as anybody else's."

Another controversial issue raised by Adegbite was the view taken by some leaders in developing countries that civil and political rights should be protected only to the extent that they do not hinder economic and social development. It is interesting to note that the introduction in recent years by some African governments of discriminatory measures against persons of Indian and Pakistani origin is premised on the related objective of correcting "unjust colonial imbalances." The dangers inherent in going all along with this approach can hardly be over-emphasized: many governments could rest their oppressive policies on the convenient crutch of "economic progress." Not surprisingly, the symposium appears to have rejected this thinking.

In addition to the dialogue on the difference of emphasis in the developed and the developing countries, the symposium built a bridge of sorts between "socialist" and "capitalist" thinking. This resulted from the papers of Imre Szabó (Hungary) on "The Theoretical Foundations of Human Rights," Milan Marković (Yugoslavia) on the "Imple-

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Mr. Hassan is an S.J.D. candidate at the Law School.

Whitmore Confessions . . .

(Continued from Page 5)

Mr. Shapiro's reportorial work appears complete and is crowded with the products of interviews with principal figures in the case. Observing that newspaper coverage of the case ebbed and flowed with headline moments, he has filled in the gaps.

It was apparently a difficult task, considering the probable unwillingness of district attorneys and the police to comment on a defendant whose case pointed up many deficiencies of prosecutorial behavior.

The story is a fascinating one, more for its profile of the criminal justice system than its portrayal of George Whitmore himself. Despite the large amount of space devoted to Whitmore's background, one leaves this description with a feeling of *déjà-*

vu. What we haven't seen before, however, is the kind of detailed look at the criminal process' attitude, from arrest to appeal, provided by Mr. Shapiro.

Although the articles, which seem certain to be published in book form, one cannot escape the air of 'we know what we're doing' displayed by the police and prosecutors. All too often, they knew no such thing.

These revelations make *The Whitmore Confessions* an important study of the criminal process. Whether one is prepared to question, as Mr. Koota was, the need for freeing a thousand guilty men for a lone innocent to escape conviction or not, Mr. Shapiro's lively account of how our system operates enables us to start considering the whole question a good deal more realistically.

The Time Has Come For the J.D. Degree

(Continued from Page 10)

Education alone is obviously not the answer. Disregarding what would appear to be good sense, recently the Air Force gave the status nod to the J.D. over the LL.B. (RECORD, Feb. 3). At the same time it could be asked why Harvard Law School should hold out against that uniformity which the ABA recommended back in 1964?

The arguments used against the J.D. include the fact that the law degree is not a research doctorate. The report replies: true, but then again neither is the M.D. In academic circles, where differences continue to be recognized, the distinction remains.

A second argument holds that "it would upset the degree structure of the university." But other three-year programs, which perhaps aren't strictly comparable, include the M.P.A. and D.P.A., the M.B.A. and D.B.A., and the M.A.T. and Ed.D.

Whether or not it would upset the J.D. to LL.M. to S.J.D. procedure, one need look only at the medical field: M.D. — Med.Sc.M. — Med.Sc.D. If it is of great concern, then the much-discussed LL.M. program could play the name-game as well. Maybe even Leg.St.D.?

As to what the report calls the "bootstrap" argument of J.D. — instant status by lesser institutions, the question may be asked: does this mean all 85% of the law schools, including Columbia, Cornell, Michigan, and Chicago?

It is likely that the Law School will make some decision very soon. The Brown Committee may be forwarding a proposal. The Joint-Student Faculty Committee is meeting early next week to make its recommendation. The RECORD has learned that the agenda for a possible faculty meeting on Tuesday is as yet uncertain.

Careful consideration of the issue is to be lauded, but cautiousness should not be allowed to breed unnecessary delay. It is unfortunate that so much energy has had to be expended on what, ultimately, could have been simply a trivial issue.

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Book Collects Varied Papers on Human Rights

(Continued from Page 13)

mentation of Human Rights and the Domestic Jurisdiction of States" and Rudolf Bystrický (Czechoslovakia) on "The Universality of Human Rights in a World of Conflicting Ideologies."

From among these, Marković's paper is particularly thought-provoking. One of the interesting points he makes is that all the members of the United Nations have a positive duty to sign, ratify, and observe in good faith the 1966 Covenants. He argues that this obligation arises under Article 56 of the Charter wherein member states pledge themselves to take joint and separate action in cooperation with the United Nations to promote the universal respect of human rights.

Appropriately, the symposium gave special attention to the Covenants. Egon Schwelb (U.S.A.) presents a panoramic introduction to some of the significant issues in the drafting and the final texts of the Covenants. Professor Capotorti (Italy) examines the inadequacies of the international measures of implementation provided in the Covenants. Sean MacBride's (International Commission of Jurists) suggestions to strengthen the international machinery for the protection of human rights are noteworthy. But the serious failing in some of MacBride's proposals is his inability to distinguish between long-term and short-term objectives. Thus his proposal for a Universal Court of Human Rights with an "automatic" right of appeal to it by all individuals, laudable as it may be, appears unrealistic today.

Instead, this reviewer feels it would be more useful to work at least for the time being within the institutional framework that has so far been accomplished. The proposed Human Rights Committee, envisaged by the Covenants, is still untested. In spite of its drawbacks this Committee may, if given a proper chance, gradually develop (as similar institutions have

done) into an international standard-setter and an effective guardian of the rights of individuals. A growing faith in it could lead, over the years, to acceptance by all States of the Optional Protocol which affirms the right of individual petitions. Similarly, the scope of the authority of the Committee could be widened by subsequent amendments.

Accordingly, the most important challenge to advocates of human rights lies in their aiding the future task of the Human Rights Committee. Bin Cheng's (U.K.) paper is a contribution in this direction. He shows that some of the decisions of international courts and tribunals particularly those relating to the doctrine of State Responsibility, can be drawn upon in determining international standards of human rights.

Of some relevance to the Human Rights Committee would also be the jurisprudence developed by regional human rights organizations. Roger Pinto (France) outlines the various regional efforts toward the protection of human rights. Ulrich Scheuner (West Germany) and A. B. McNulty (European Commission of Human Rights) relate the successful experience with the European Convention. The significance of the reservoir of the I.L.O. experience is explained by Wilfred Jenks. Also included in the symposium is a provocative paper on the controversial subject of self-determination by J. E. S. Fawcett (U.K.).

The volume as a whole, although attempting to "cover too much too fast," is a significant contribution to the growing literature on human rights.

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Cartoon Collection Decorates Law School Walls

(Continued from Page 12)

names of two well-known turn-of-the-century cartoonists whose works appeared regularly in *Vanity Fair* magazine.

The carbons of Thomas Condon Nast, creator of the Boss Tweed Ring sketches attacking New York Tammany Hall politics, were once used to illustrate political corruption at a Law School seminar on municipal corporations.

Other cartoons in the collection include caricatures of faculty members, usually made by student groups, cartoons from past yearbooks and other student publications, and an assortment of odds and ends taken from a wide range of British and American magazines.

It was Dean Roscoe Pound,

who, in the early part of the century, was most responsible for starting and gathering up the bulk of the collection at the Law School. "He had a very great interest in graphic arts of all kinds," remarked Putnam, which, unfortunately, has not been equalled by anyone since."

The cartoons, consisting primarily of the *Vanity Fair* collection, then were hung in a separate reading room of the library, which at that time consisted only of the existing main center section of Langdell. Since that time both Langdell and the library have grown; the collection has been since dispersed throughout other parts of the building.

"Many of the cartoons in Langdell have since been taken down because of the construction," Put-

nam said, "but we hope to place them elsewhere: possibly in the faculty and classroom buildings." He hopes to place some of the cartoons on a monthly rotating display in places where people often gather. Related groups of cartoons and pictures might be placed in the meeting and reception areas in the new building.

In the past the Law School has had other collections of cartoons on display in such locations as the New York State Law Library's collection. Putnam would like to see more of this done, with displays in other areas as well.

While meandering through Langdell, you take a closer look at some of the cartoons that hang there. If the pen isn't mightier than the sword, then at least it is bound to be more amusing.

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