

Law Students Vote to Join Strike

By Michael Lurey

The aftermath of the tragic killing of four students at Kent State and President Nixon's announcement of expanded American involvement in the "Indochina War" was felt at Harvard University as elsewhere in the nation.

Initial reaction following the Kent State shootings, Monday May 4, led to a call for student boycott of classes. Some 2500 to 3000 students—primarily from the College and the Graduate School of Arts & Sciences—participated in a mass meeting held jointly in Memorial Hall, Sanders Theatre and Lowell Lecture Hall.

First organized Law School response came Tuesday afternoon with an open meeting in Ames Courtroom attended by 700 students and faculty which considered Harvard Strike Demands adopted by the University meeting the night before. But even before this meeting, many students stayed out of classes and spent their time instead discussing the issues and arguing over what to do.

The Law School meeting passed a resolution calling for the faculty to show its support for the anti-war protest by cancelling exams, scheduled to begin the following week for 3L's. The resolution which originally "demanded" faculty support was changed to "ask for support" by voice vote.

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M. Stul Oppenheimer

Dean Bok listens to student views.

Faculty Alters Final Exams

By Bob Hernandez

In a major departure from tradition, the Law School faculty has voted to administer all examinations on the honor system, allowing each student the option of taking any or all of his exams away from Cambridge, while requiring that exams be completed.

The move came in response to a strike vote by students, which had included a request to the faculty to cancel exams for all students participating in the strike.

At the College, students were

granted options of taking regularly-scheduled exams, or making arrangements with individual instructors to receive grades or "passes" for work thus far completed in the year.

The Law School faculty had previously rejected the no-exam proposal in a meeting on May 5, immediately following the strike vote. At that time they unanimously adopted a resolution to allow students on an individual basis to petition the Administra-

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Text of Faculty Letter to Congress

An Open Letter to the United States Congress —

The events of the recent days have caused concern to all Americans. As members of the Harvard Law School faculty we have, against considerable pressures, reasserted the importance of law and legal education by declining to cancel classes or examinations. But as individuals we have a wider concern in these events, and it is as individuals that we are writing to you.

We are a diverse group. Our individual political views cover a broad spectrum. In the almost six years since American involvement in Vietnam became a matter of controversy, opinions among us have varied widely. Yet, like the public at large, we have come to doubt that continued U.S. involvement in war in Vietnam can serve U.S. interests and purposes.

The recent American military action in Cambodia and the recent new bombing of North Vietnam have further eroded our confidence and deepened our concern. We recognize that we lack confidential information and specialized

knowledge about the military tactics involved. But we also recognize, as should have been apparent to the Administration in advance and as events of the past few days have demonstrated, that the implications of this expansion of the war far transcend the level of military tactics.

As both teachers and parents we have watched the progressive disillusionment of a generation who have received no convincing answer to the question why they should be required to kill and be killed in Vietnam. As citizens we have witnessed the substantial distraction of the energies of young and old away from urgent needs at home and abroad. As lawyers we have observed the alarming damage that accumulating frustrations over Vietnam and its consequences have begun to inflict on traditions of respect for law and mutual forbearance.

Because these concerns can no longer be suppressed, we write to share them with you.

1. The strength of our country depends upon its internal vitality. This

requires a united people, working in a prosperous economy, to achieve political, economic and social justice through law.

2. The Vietnam war has divided us as a people. Many citizens, including many young people, are so distressed by the continued killing and violence of this war that we risk their total disaffection. The war has menaced our economy and crippled our efforts to achieve political, economic and social justice through law. Today's crisis is one of the most serious in our history.

3. In foreign policy terms alone, our Indo-China intervention has involved a grossly disproportionate allocation of the time and thought of our national leadership, as well as our trained manpower and material resources, to a single sector at the expense of others of greater importance.

4. In consequence, the harms to our national interests, both domestic and foreign, caused by the Vietnam war vastly outweigh any disadvantage that could arise from a speedy, consistently-

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c/o Prof. Abram Chayes

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HLS Groups Begin Peace Activities

By Michelle Scott

With flexible examination requirements adopted to free students for political action against the widening war, members of the Harvard Law School community undertook lobbying in Washington, D.C., political canvassing in Boston and their home communities, research on factual and legal issues and fund-raising to support anti-war projects.

An estimated 400 students and professors traveled to the nation's capital to speak with legislators and participate in the mass demonstrations on the Ellipse on May 8-9.

One group making the trip on a Law School chartered bus arrived in Washington only after some difficulties. The group riding with Professors Abram Chayes, Stephen G. Breyer and Laurence H. Tribe was stranded in Sturbridge, Mass., at 3 a.m. Friday morning when their bus broke down.

A rescue bus arrived two hours later and brought them to Hartford, Conn., in time to catch a 7 a.m. flight to the capital. Contributions to the Law School strike fund underwrote the extra expense of the plane trip which enabled the stranded part of the Harvard contingent to attend group meetings scheduled with leading anti-war Senators.

Many students took advantage of the take-home examination option to join primary campaigns for peace candidates around the country. In the Boston area, many joined the Democratic primary campaign of peace candidate, the Rev. Robert F. Drinan, S.J., former dean of the Boston College Law School.

Some students remaining in Cambridge joined research groups studying issues arising from the extension of the war into Cambodia. Others explored the confrontation of Congress and the President over the extent of presidential power and the constitutionality of the war.

Professors Frank I. Michelman and Abram Chayes and several members of the Law Review headed by Jerry L. Schulman and Joel I. Klein have produced a twenty-page statement on constitutional issues. The study was prepared for senators spon-

soring the McGovern-Hatfield amendment to limit funds for the Indochina War.

According to Professor Chayes, the study has been well received already. "They thought it was the best thing ever to hit Capitol Hill," he reported.

Factual background on military operations in Cambodia, domestic and foreign reaction to the expanded conflict and congressional action is being compiled under Linda M. Mathews and John Herfort, 1Ls. This information will be printed in kits and brochures compiled by various University research groups for canvassers.

Both the constitutional and invasion research may also be printed commercially by a major publisher.

Professor Charles M. Haar is directing research to show how appropriations in the national budget are distributed. He is also conducting a drive to enlist "eminent citizens" in the peace movement.

Some students joined already-existing groups studying the draft, civil disobedience, GI coffee-houses, the Panther trials, jail conditions and executive impeachment.

Three faculty members, Livingston Hall, Frank E. A. Sanders and Stephen G. Breyer, head the fund drive for the Coordinating Committee for

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Lauren Kahn

Students Support National Strike

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The meeting, however, narrowly rejected — 308 to 263 — the further proposal that students be permitted to take exams if they wished.

It endorsed the demand overwhelmingly adopted by the mass meeting the night before, that the U. S. government immediately withdraw all forces from Southeast Asia, and stop its oppression

of political dissidents. However, the group refused to endorse the demand for an end to University-conducted defense research and for the release of Black Panthers.

The Law School faculty convened in the Pound Room at 4:30 Tuesday afternoon but adjourned about 6:00 for dinner because a bomb-scare forced the building to be cleared. A number of students attended the meeting and were

permitted to voice their views. But an angry group of 15 to 20 students was barred entry because the room was "full."

Tuesday evening the faculty met in the New Classroom Building and voted to allow students the option of taking exams during the first week of September, rather than following the original schedule. 3L's were given the further choice of delaying exams one week.

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At the Breaking Point

After years of protest, disturbance, and turmoil, beginning with one President's decision to send massive numbers of American combat troops into Vietnam, most of this country now believes that it was wrong for us to get into the Vietnam War and that it should be ended forthwith. So what has our government done? We have invaded Cambodia, a neutral country, and we are heavily involved in Laos, an involvement which the government has attempted to keep secret.

This is why tens of thousands of students from campuses all over the nation have gone on strike. We have reached the breaking point. Our government is so totally unresponsive to the protests of a huge minority of the electorate, it is so adept at hiding from the people what it is doing, that one finds it hard to call it our government at all.

To be sure, some have taken advantage of the strike to take their vacation sooner than expected. But for many, if not most, the strike is not an opportunity to shirk exams or school work. It is a balancing of needs, and the need to go out to work against the war in this period of crisis was more important than continuing the routine process of education.

And what have the students done with the time

freed by the strike? About four hundred Law School students trekked down to Washington to lobby with members of Congress against the Cambodian invasion. Others have organized letter-writing efforts to help persuade Congressmen; more have canvassed in favor of anti-war candidates.

But one wonders whether even the massive response of many American citizens, besides the students, to the news of the Cambodian invasion, is enough to change the course of national policy. Up until news of the invasion broke, the Administration, if not committed to peace, at least seemed to be responding to the protests of millions of Americans. Yet then, in one sudden stroke, the President informed the nation that he, without consulting the elected representatives of the people, was taking a serious chance in expanding the war. His tone and attitude indicated that the prospect of military victory in Vietnam is still influential in his thinking.

We urge all to vigorously oppose the policies of the Nixon Administration with regard to Indochina, not only because the war in Vietnam is unconscionable, but because the administration is exercising close to dictatorial powers and is completely unresponsive to the people.

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Letters

Kent Deaths Due to Irresponsible Dissent

To the Editor:

The primary responsibility for the unfortunate deaths at Kent College rests on the shoulders of those irresponsible politicians, educators and writers who have encouraged immature young people to think that throwing a rock large enough to crush a man's skull at a law officer in the performance of his duty is a peaceful protest of the same character as carrying a picket sign and that throwing a torch into a bank or college building is in no way different from carrying it in a procession.

Unless this nonsense is brought to a rapid halt, it is obvious that there will be many more similar episodes.

Franklin N. Cunningham '48

Bell Critic Regrets Letter

To the Editor:

My view of Mr. Bell's unprotesting ineffectiveness at HEW has been reinforced by his letter to the RECORD of April 23. However, my own letter to the RECORD, written after Mr. Bell had left the government, was an inappropriate forum and time for such criticism, and I regret having written it.

Monroe H. Freedman '54

Professor of Law
George Washington University

TFX Contract Defended

To the Editor:

Professor Yarmolinsky's efforts to counter allegedly defamatory statements concerning his friend Mr. Gilpatric (Harvard Law RECORD, February 5, 1970, p. 10) only casts additional slurs. For a person assumedly knowledgeable about the circumstances surrounding the TFX contract award, Professor Yarmolinsky also presents an oddly strained picture of defense contracting decision-making.

His letter depicts the victory of the President's civilian advisors, or the "good guys" (who based their decision supposedly on "the weight of the technical evidence" and evanescent "cost savings") over the currently unpopular "military departmental bureaucracy" (which presumably based its TFX recommendation on more selfish, subjective factors).

However, the "gut issue" in the TFX contract award concerned a highly subjective, political factor: the dire financial straits of the contract winner, General Dynamics, which was approaching bankruptcy due to its dilatory entry into the commercial jet transport market. Because of Boeing's success (as reflected by a tremendous backlog of jet transport orders) and General Dynamics failure in the jet transport market, Boeing was handicapped in its chances for winning the TFX contract.

If General Dynamics produced a plausible TFX design (which it did), it was likely to win the contract. The President and his civilian advisors wisely recognized the subjective point

Letters to the Editor of the RECORD

that the military avoided: that it would have been against national and partisan interests to let a large defense contractor (such as General Dynamics) wither away.

The civilian advisors' disregard for "the weight of the technical evidence" was revealed by their justification for denying the TFX contract to Boeing. They asserted as a key flaw in the Boeing TFX design the proposed use of the metal titanium.

This metal was allegedly risky due to lack of flight testing. Shortly after the award of the TFX contract to General Dynamics, Secretary McNamara somewhat lamely announced the use of titanium in the high-speed successor to the U-2. The new plane had been testing titanium successfully for a lengthy period before the award of the TFX contract.

I do not wish to depict Boeing as the paragon of defense contractors (see for example Boeing's use of Lockheed's design for the supersonic transport — after Boeing had beaten Lockheed in the SST competition). I do wish to present a clearer picture of the subjective political factors involved in defense contract decisions. Professor Yarmolinsky's letter unaccountably disregards these factors.

Edward W. Stern '67

Tribe Scores Record Accuracy

To the Editor:

Mr. Knedlick must have been most attentive at the Earth Day Mini-Forum held in the Ames Courtroom. Much that was said was indeed "standard and obvious," as he accurately reports in

his story in your April 30 issue. My own position was in rather stark disagreement with that of the other panelists, but it is hardly surprising that Mr. Knedlick missed such subtleties; the more obvious point that I was not in fact the panel's moderator seems to have escaped him as well, as a glance at the dialogue he "reports" on page 13 will reveal. I did not in fact ask *any* of the rather banal questions attributed to me in that dialogue, and although I have a high tolerance for inaccuracy, blatant misquotation seems to me a bit too much in a law school publication.

Laurence H. Tribe
Professor of Law
Harvard Law School

Dorm Council

New officers of the 1970-71 Executive Committee of the Dorm Council are Joe Newberg, President; Michael Sonberg, V.P.; Carleton Eastlake, Sec.; Melvin Cox, Treas.; and Norm Bonner, Compt.

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Exams . . .

(Continued from Page 1)

tive Board to be able to take all exams in September instead of during the normally-scheduled time.

Following student meetings which reiterated the strike demand, including a third-year meeting which proposed optional take-homes, the faculty reconsidered its decision.

While declining to cancel classes or examinations, the new faculty resolution sought "to offer students the maximum flexibility in making their own plans consistent with the educational aims of the Law School."

Third year students and graduate students were granted the option of taking their exams at the regularly-scheduled times, picking up their examinations early, or having them mailed to them, "to be taken on a self-administered basis, pursuant to any terms set forth on the examination, and on the honor system."

Honor System Governs Take-Home Examinations

At the instructor's option, take-home exams might differ from the regularly scheduled examination. Students desiring to receive their degrees in June were to return them by May 27.

Examinations will also be mailed to any first- and second-year students who do not appear for one or more of their regularly-scheduled exams. These examinations are due by September 1.

Student reactions were mixed to the faculty resolution. Many complained that the system offered no real choice for many students, whose summer commitments would prevent them from making use of the take-home option. Many immediately left campus to begin political work in their home towns or in the Boston

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Statement By Dean Bok

The Law School faculty has traditionally refrained from making institutional statements on political questions, preferring to leave such matters to the individual consciences of each faculty member. Let me therefore make clear that I share and deeply sympathize with the anguish of faculty, students, and employees over the distressing events that have recently taken place both here and abroad, most notably in Cambodia and at Kent State University.

I support my colleagues who

are making efforts in various ways to express their opposition to these dismayingly events. While mindful of the freedom of those who wish to continue with their educational work and the duty of the School to pursue its academic responsibilities, I also support and call attention to the resolutions adopted by the faculty to provide a flexible system of examinations to permit and encourage students who desire, out of feelings of conscience, to work constructively toward the expression of their feelings of dissent and disapproval.



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Peace Activities Begin

(Continued from Page 3)

Peace. Together with three students, Joseph Shapiro, 2L, and George Simon and Gail Miller, 1Ls, they will assign funds to various peace activities, including congressional and political canvassing and publishing.

Contributions to the Committee are being received at Professor Chayes' office at the Law School. In addition to supporting student efforts, the fund directors will forward contributions to special activities and organizations designated by donors. Part of the \$700 already contributed was used to subsidize the emergency plane fare for students on the stranded Washington-bound bus.

Deans Visit Officials, Students See Businessmen

Dean Derek C. Bok and Professor Albert M. Sacks, assistant dean, are serving on the University National Anti-War Fund Committee. This group is raising funds from university and college faculties around the country. The fund will be primarily used to assist peace candidates this fall.

Both Bok and Sacks, as well as many other members of the faculty, have been speaking to government officials in the capital and elsewhere about ending the war.

A first-year student, John B. Davidson is operating an advisory office for campus groups seeking assistance with fund raising drives around the country.

Several students have contacted businessmen to urge them to support the peace movement. Stuart I. Fuchs, 1L, stressed the economic effects of the war in a discussion with the chairman of the board of John Hancock Mutual Life Insurance Co. in Boston.

Fuchs is also meeting with middle-echelon insurance executives. They are arranging community meetings for ten to twenty married couples to discuss the current crises. Fuchs noted that this program is directed at community groups who are not ordinarily affected by student campaigns.

Another 1L, James N. Bailey, has been meeting with bankers to discuss their participation. Bailey has already spent two days in Washington and a week in New York. Meetings are also planned in Boston.

Marsha Cohen, 2L, is organizing law students who will be in New York City this summer for work in the peace drive and political campaigns. They will also examine the social and ethical commitments of law firms.

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Striking Law Students Cut Class Attendance Sharply

(Continued from Page 3)

The purpose of this mini-delay was to free students to attend the Washington rally and lobbying of Congressmen being organized for the following weekend.

Students rejected the faculty proposal. Classes were picketed and attendance ran as low as 10 per cent later in the week. Section and class meetings, as well as another mass meeting, were held on Wednesday.

The third year class meeting came up with the flexible exam schedule ultimately adopted by the faculty. Professor A. James Casner and several other professors with third-year courses attended the meeting. They told the class they would accept a system which accommodated students desiring to spend the coming weeks lobbying in Washington for the peace amendments. But the professors stressed that exams in some form had to be given.

Faculty Letter to Congress

(Continued from Page 2)

pursued withdrawal of American forces from Indo-China.

We therefore write to ask that you support pending legislative proposals which you believe best calculated to promote a speedy, consistently-pursued withdrawal of American forces from Indo-China.

Sincerely yours,

William D. Andrews, Paul M. Bator, Derrick A. Bell, Stephen M. Bernardi, Harold J. Berman, Derek C. Bok, Robert Braucher, Stephen G. Breyer, Guido Calabresi, David F. Cavers.

A. James Casner, Abram Chayes, Jerome A. Cohen, Vern Countryman, Archibald Cox, John P. Dawson, Alan M. Dershowitz, Melvin A. Eisenberg, John M. Ferren, Richard H. Field, Lon L. Fuller.

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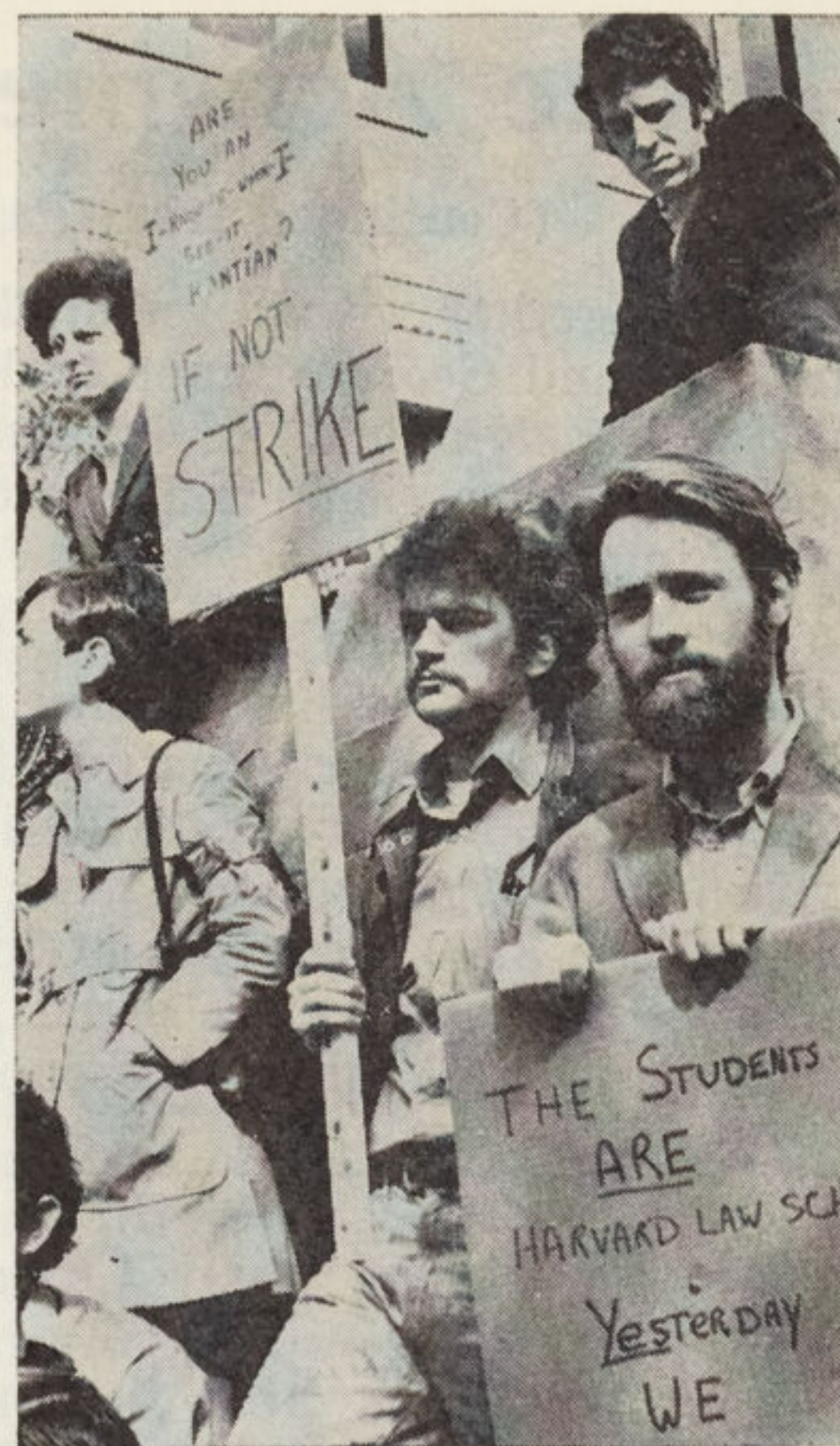
Elizabeth A. Owens, Walter A. Reiser, Leonard Ross, Albert M. Sacks, Frank E. A. Sander, Austin W. Scott, David L. Shapiro.

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Lauren Kahn

Students picket outside Langdell.

Exams Altered

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area. A few made their way to the beaches of California or summer jobs.

Meanwhile, several faculty members marked their distaste for the take-home option by requiring monumental works, some of Law Review length and quality.

One first year section was expected to spend 48 hours of writing time on each of four take-home examinations. Working eight hours a day, each student who chose the take-home option would have spent 24 days on these exams. Several professors finally agreed to lower the time requirements.

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