

The Harvard Law School Record

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PRICE TEN CENTS

Forum Sponsors Five Day Series On Modern Values

The Forum will sponsor a five-day symposium on *Values for Modern Man*, beginning next Monday. Four preliminary panels, Monday, February 28 through Thursday, March 3, will culminate in a more generalized discussion of the broad topic, Friday evening, March 4. The regular admission charge of 60 cents will cover the entire series of five meetings.

The opening panel, Monday, 8 p.m., at the New Lecture Hall, will concentrate on *Arts and Letters*. Participants will be Professors Howard Mumford Jones and F. O. Matthiessen of the Harvard English Department, Dean A. Tillman Merritt of the Harvard Music Department, and Dorothy Adlow, art critic of the *Christian Science Monitor*. Professor J. H. Finley of the Harvard Classics Department will act as moderator.

Professor Henry Aiken of the Harvard Philosophy Department, George de Santillana of the M.I.T. English and History Departments, and Pitirim Sorokin of the Harvard Social Relations Department will discuss the *Social Sciences*. Professor Wassily Leontief, economist at Lit-tauer, will moderate.

On Wednesday, 8 p.m., in Langdell Court Room, Professors Philipp Frank of the Harvard Physics Department and Philippe Le Corbeiller of the Harvard Mathematics Department, and Mrs. Cecilia Payne-Gaposhkin, well known astronomer, will examine the *Physical Sciences*. Moderator will be Professor Kirtley F. Mather of the Harvard Geology Department.

The fourth and final preliminary panel, on *Philosophy and Religion*, will be held Thursday, 8 p.m., in Langdell Court Room. Speakers will be Rev. Allan Chalmers of the Boston University Theological School, Father William A. Donaghy, S.J. of Campion Hall, North Andover, and Professor Donald C. Williams, chairman of the Harvard Philosophy Department. Rev. Joseph Fletcher of the Episcopal Theological School will moderate.

Percy W. Bridgman of the Harvard Physics Department, William Ernest Hocking, Alford Professor Emeritus of Philosophy at Harvard, and Dean Walter G. Muelder of Boston University Theological School will speak on the

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PROF. WILLIAM E. HOCKING

Scott Recalls Own HLS Student Days; Only Dreamed of Law For First Month

(This article, by Professor Scott, is the second in a series describing the Law School in earlier days.)

THE LAW SCHOOL IN 1906

It has been suggested by the President of the Record that some of the graduates of the Harvard Law School should give their impressions of the School "in earlier days." At first it seemed to me that I was personally familiar with the School only in later days. But, after all, I entered the Law School in 1906; and, since the School was founded in 1817, I have been in touch with it for nearly a third of its history.

I am in a position where I can comply with the President's request more easily than can most of the graduates. The reason is that when I was a student at the School I wrote to my father twice a week, and, unknown to me, he kept my letters, and I found them after his death in 1922. At first, I put them aside, but lately I have been reading them. Thus I have a contemporaneous record of my student days here. The letters discuss in considerable detail my impressions of the professors and of the students, the law club cases in which I took part, and even the examinations, copies of which I sent him together with a summary of my answers to each of the questions. Curiously enough, this is what he wanted. He was not a lawyer but he had taught what we now call Government and Economics and History. He thought that these social sciences are closely related to that of the law.

I may say at the outset that I had heard great things of the Harvard Law School before I came, so that I expected much. When I came, I found that my experience at the School was even more exciting and rewarding than

Rarity Room Resources Reveal Regal Rapacity

Starting next month the Treasure Room will display documents which represent the cornerstones of the English Constitution. Alongside a facsimile of the Magna Carta, which will be featured, there will be an original sheriff's copy and Edward's Confirmation of 1327. A first edition of *Coke's Institutes* and other valuable documents will also be shown.

The Treasure Room continues to draw distinguished visitors and scholars from all parts of the world. To date the guest book includes signatures of representatives from the University of San Marcos, Lima, Peru, the British Museum, London, and the University of Sydney, Australia.

LAWYER'S GUILD

The Harvard Chapter of the National Lawyer's Guild announces the inauguration of a new series of seminars on the Law Protecting Civil Liberties. All students, both members and non-members of the Guild are invited to attend the seminars which will discuss new subjects not examined in last semester's series.

The first seminar will be held next Tuesday, March 1 in Seminar Room No. 2, at 2 p.m., when Professor Karl N. Llewellyn will discuss the Sacco and Vanzetti case. At that meeting students may obtain reading assignments covering the seminars to follow.

Included in the sessions to be held this semester will be: Professor Edmund Morgan on *Habeas Corpus*; Professor Thomas Emerson of Yale Law School on *Suffrage and Political Parties*; Osmond Fraenkel of the N. Y. Bar on *Civil Rights in Wartime*; Professor Henry Hart on *Aliens*; Professor Richard Field on *Rights of Government Employees*; Mr. Louis B. Sohn on *United Nations Declaration of Human Rights*.

Report Lists New Hours, Crim. Law Exam Change

[This is the concluding article of a series of two by Professor Lon L. Fuller, chairman of the Committee on Legal Education, describing curriculum changes for the academic year 1949-50. ed.]

The present installment of this report will outline briefly the changes introduced into the first year by the faculty's recent action, and will then discuss the general principles upon which the new curriculum as a whole is predicated. Finally, some mention will be made of the practical problems that need to be solved in making the new program effective.

Forthcoming Bugle Lauds Frankfurter; Has Student Note

The January issue of the *Harvard Law Review* will be dedicated to Associate Justice Felix Frankfurter on the tenth anniversary of his appointment to the United States Supreme Court. Judge Augustus N. Hand, LL.B. '94, of the United States Court of Appeals for the Second Circuit, has written a short tribute to the eminent jurist.

Dean Louis L. Jaffe, LL.B. '28, of the University of Buffalo Law School, in an article entitled "The Judicial Universe of Mr. Justice Frankfurter" has examined Justice Frankfurter's opinions as a whole and as a reflection of his judicial creed. Justice Frankfurter, LL.B. '06, was Byrne Professor of Administrative Law at Harvard Law School before his appointment to the bench.

Also included in the issue are a discussion by Professor A. James Casner of "Estate Planning under the Revenue Act of 1948" and a second installment of "The Challenge of Soviet Law" by Visiting Professor Harold J. Berman.

Of special interest to students will be a note written by a non-Review editor, Robert Hodes, LL.B. January, 1949. Entitled "A Case Study in Administrative Technique," it was originally submitted as a paper for Professor Hart's course in Legislation.

The note is an analysis of the judicial treatment of the problem of alternative methods of regulatory agencies and uses the case of *SEC v. Chenery Corp.* 318 U. S. 80 (1943) as the basis for a comparison between the manner in which the commission actually handled the case and the different ways in which the agency could have dealt with the problem involved.

The book section will contain a review by Max Radin, Professor of Law at the University of California, on a collection of works by the nineteenth century Italian jurist, Gianturco. Brunson MacChesney, Professor of Law at Northwestern University will review Rabel's second volume of *Conflict of Laws: A Comparative Study*.

lectures were held in Austin Hall. The erection of Langdell Hall was started during the year and it was ready for occupancy in the following year. There was no woman, I believe, on the premises, except the secretary of the *Law Review*, an elderly widow.

Pretty soon, I began writing with especial enthusiasm about the course in Contracts as Professor Williston gave it. In December I wrote: "I find the Contracts which we have three times a week more interesting than any of the rest. It is great." Later, in March, my father wrote to me that a student at the Columbia Law School had expressed great admiration for Professor Terry who taught Contracts in that school. I replied, "I believe he is supposed to be quite a fine teacher and lawyer and down at Columbia they even imagine that he is at the top notch. But I don't believe he can as a student or lawyer or teacher stand much of a show against Professor Williston. But perhaps we here are prejudiced too."

In April, I said this: "Professor Williston has as I told you taken the class in

(Continued on page four)

First-Year Teaching Fellows. The program for utilizing a staff of Teaching Fellows in the first year has already been described in the Record. Men are now being chosen for these positions, and the working out of a detailed program for utilizing their services will be initiated soon with their cooperation.

Comprehensive First-Year Mid-Year Examination. It is planned to have a mid-term examination embracing all first-year subjects. This examination will be graded by the Teaching Fellows under the supervision of the faculty. The grade in this examination will not affect the final grade in the course, which will be based on an examination given at the end of the year and graded by the faculty member who gives the course.

This procedure has been adopted in an effort to meet and to reconcile two demands which seem to be rather keenly supported by most students: that there should be some opportunity to gain experience in writing examinations in law before the final examination, and that the final grade in the course should depend entirely on the judgment of the faculty member giving the course. Since it is impossible to increase the present burden of examination reading carried by our faculty (which probably exceeds that of any faculty in any American university), the solution outlined above has been adopted.

Abolition of the Mid-Year Final Examination in Criminal Law. Henceforth

(Continued on page three)

Fund One-Fifth In; Drive Sparked By Faculty's Pledges

Over \$525,000, about one-fifth of the goal, has been already raised over the nation by the Harvard Law School Fund. According to Dean Griswold, the 40-member faculty of the Law School, has alone pledged more than \$27,000.

The various committees working on the Fund hope to make initial contact with the alumni and students by the end of this month. In New York City an opening dinner for the drive, which was addressed by President Conant, Dean Griswold, and Justice Peck of the Supreme Court of New York, Appellate Division, was attended by over 400 alumni.

The objectives of the Fund provide \$1,650,000 for the construction of the Law School dormitories, including the rehabilitation of Hastings Hall; \$250,000 for increased scholarship aid, to be expended over five years; \$125,000 to be expended over a five-year test period for teaching fellows; \$250,000 for five years to aid in research assistance; and \$225,000 for the next five years for effecting improvements in the Law Library. In the words of Dean Griswold, "Unless the School can muster more resources than heretofore, we must reconcile ourselves to a relatively lower standard of performance."

The Harvard Law School Fund, according to John B. Marsh, its national chairman, was established to assure the continued advance of the School. The training of the Law School has already helped to contribute 10 justices of the United States Supreme Court, deans of 34 law schools that are members of the Association of American Law Schools, and numerous other leaders of the bar and nation.

NEWS IN BRIEF

WORLD LAW GROUP

The next meeting of the World Law Group will be held March 1st, Tuesday, at 1 P. M., at the Bella Vista Restaurant. Professor A. N. Holcombe of the Dept. of Government, Harvard University, will talk on the subject, "Human Rights in the Modern World."

NEW CONCORD HEADMISTRESS

Mrs. Livingston Hall was recently appointed headmistress of Concord Academy, effective this June. Mrs. Hall is president of the Weston Parent-Teachers' Association. She received an A.B., magna cum laude, from Radcliffe College, where she was elected to Phi Beta Kappa.

FORUM POSITIONS

All men interested in competing for positions on the staff and board of directors of the Law School Forum are asked to attend a meeting at Gannett House, tomorrow, 1:10 p.m. There are positions open in public relations, business advertising, and preparations.

The Harvard Law School Record

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Letters to the Editor

To the Editor of the RECORD:

In your issue of January 5, 1949, you reported the final talk by Dr. Moritz on "Medico-Legal Aspects of Lunacy." In reading this I was pleasantly surprised to find that according to the standards which Dr. Moritz says exist in our civilian practice, that our military practice on this point is considerably more progressive. It has long been the practice in military law that for a man to be held responsible for his acts he must not only have been able to distinguish right from wrong, but he must have been able mentally to adhere to the right.

Now in the new Manual for Courts-Martial, 1949, it is definitely set forth that in each case the burden is upon the prosecution to prove beyond reasonable doubt an affirmative answer to each of the following three questions, if the issue of sanity is raised at the trial:

"a. Was the accused at the time of the alleged offense so far free from mental defect, disease, or derangement as to be able concerning the particular acts charged to distinguish right from wrong?"

"b. Was the accused at the time of the alleged offense so far free from mental defect, disease, or derangement as to be able concerning the particular acts charged to adhere to the right?"

"c. Does the accused possess sufficient mental capacity to understand the nature of the proceedings against him and intelligently to conduct or cooperate in his defense?" (Page 122, Manual for Courts-Martial, 1949.)

Two recent cases illustrative of this point show in practice how these principles are applied. In one, the accused was charged with sodomy; in the second, with a series of larcenies. In both, the accused were persons of better than average intelligence. There was no question of their ability to cooperate intelligently in the preparation of their own defense. In both cases, the psychiatrists reported that beyond reasonable doubt these men had been able to distinguish right from wrong at the time of the commission of the offenses, but in both cases the psychiatrists were unable to give an affirmative answer to the question—Were these men at the time of the offenses mentally able to adhere to the right beyond a reasonable doubt? In both cases, therefore, charges were dismissed and the men referred before appropriate administrative boards for release from the service under the provisions of pertinent Army Regulations.

It must be emphasized, however, that this question of being able to adhere to the right refers only to mental ability, not to mere lack of moral fiber or defect of character, will power or behavior.

With best good wishes for your continued successful publication, I remain

Sincerely,

IRVIN M. KENT,
1st Lt., JAGC
Class of '47 ('43)

Off the Record

RULES OF UNCIVIL PROCEEDURE (Continued)

Dilatory Pleas

By codes of legal ethics
And by your lawyer's oath
You won't delay for lucre,
Or pleasure, or for both.

And so for other reasons
Which may occur with ease
You'll file a formidable list
Of dilatory pleas.

That man was not your agent,
The service wasn't good;
And though the sheriff said it was
He just misunderstood.

The court's no jurisdiction.
There are many reasons why
Forum non conveniens;
At least it's worth a try.

And if, in spite of all you've learned
You think the bill deficient,
A timely motion to dismiss
May prove it insufficient.

By these and countless other ways
You use your ingenuity
To keep the case from issue
From now till perpetuity.

And though success may never crown
Your efforts such as these,
You add to your *per diem*
With dilatory pleas.

The Answer

When at long last, as Edward said,
Your answer full is due,
Unlike that Monarch, never mind
If what you say's not true.

Although there's scarcely any fact
You'll question at the trial.
You should not hesitate to serve
A general denial.

There's no such corporation
As the plaintiff, so you fear;
You have no knowledge, or belief
In anything you hear;

You are unable to admit,
(Or if able, do not try;)
You've no real information,
And so you must deny.

But don't stop there, that won't suffice;
It would be negligence
If you forgot to mention an
Affirmative defense.

Allege the suit was filed too late;
Assert there was no writing;
Assign the accident was due
To plaintiff's own inviting.

And if you feel that's not enough
To give the plaintiff pause,
Allege his undertaking
Would violate the laws.

Against each phase of plaintiff's claim
You'll plead some neat defense,
Alleged with generality
To keep him in suspense.

The Trial

At last the pleadings all are filed,
From bill to replication;
The depositions are complete,
And the interrogation.

Each party ready; case prepared;
The witnesses all lined up;
The jury's drawn; the papers read,
For plaintiff's opening wind-up.

Like two on-rushing railroad trains
You meet head on. Alack,
Just like two trains you pass right by,
Each on a separate track.

BAILEY ALDRICH, LL.B. '32

Boston.

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Sad Sic

Unimpeachable sources have said
There are faces unseasonably red
In circles where a kiddo
Thinks a spouse of a widow
Can probate her will 'ere he's dead.

See 62 H.L.R. 318.

• • • • •

The Legal Athlete

Lo, children, the returning Law School student fresh from his weekend at the ski resorts. Notice how tenderly the hospital attendants load his pretzel-shaped body onto the waiting stretcher. He is fortunate for his broken spine will mend under the careful guidance of the hygiene department just in time for him to take next year's Torts exam. Then, too, he will spend many pleasant, never-to-be-forgotten days in the infirmary, where they have promised not to blood-let him more than twice a day. Contrast the beatific smile on the face of his uninjured companion. He did not go along to ski, but rather, to observe possible causes of action in the north country on a contingent fee basis. Now he will hurry to the Middlesex County District Court where he will file a negligence suit in behalf of his friend. Surely this suit will merit our attention in the bleak days to come.

PUBLIUS

Gallery

NOCHEM SAMUEL WINNET
Municipal Court Judge



"His opinions constitute an admirable contribution to our case literature. His personal charm, urbanity and sure-footedness in the conduct of his court inspire litigants and counsel alike with a sense of the high tradition of the judicial process under the common law even where the smallest claims and most petty offenses are involved." *The Shingle*, journal of the Philadelphia Bar Association, wrote this praise of Judge Nochem S. Winnet in an issue dedicated to him in 1945, which justly and fittingly characterizes his career as lawyer, judge and leader in community affairs.

In 1940, when Philadelphia needed an Assistant Director of Public Safety, the mayor appointed Judge Winnet, then engaged in the private practice of law. He was the first lawyer in 20 years to hold that position, and now smilingly recalls the short time he bossed Philadelphia's burly firemen and policemen. In that same year Judge Winnet was appointed by the Governor of Philadelphia to fill a vacancy on the bench of the Municipal Court of Philadelphia. In 1941 he was elected to this seat. The Municipal Court is a busy court having a wide and varied jurisdiction. Judge Winnet hears civil cases involving amounts up to \$2,500, criminal cases excluding certain felonies, domestic relations cases; he sits in adoption cases and in the Juvenile Court, which is a part of the Municipal Court. Besides criminal cases, the almost 400 civil cases and like number of adoption cases Judge Winnet hears every year keep his court humming with activity.

That judges should remain aloof is a tradition Judge Winnet refuses to accept. "I cannot deal with people in trouble," he says, "unless I mingle with people and learn to understand their problems." This desire to understand the causes of the problems arising in his court has made him a fighting judge who believes it necessary at times to roll up his judicial sleeves and tangle with the problems before they reach him on the bench. As a result, Judge Winnet leads numerous civic groups set up to attack community sore spots. In 1941 he became chairman of a Fair Rent Committee, which received national praise for its accomplishments in preventing, on a voluntary basis, rent increases and evictions. The Committee ceased its work only when federal control went into effect. He was one of a small group which organized Child Day Care Centers during the hectic war days. He led a drive for additional foster homes for dependent and neglected children. With another small group he was responsible for the establishment of a City Planning Commission in an effort to bring about order and sense in the physical development of the city. Judge Winnet headed a committee which organized a campaign for V.D. education. He was chairman of a state-wide committee on the reorganization of the public welfare services. His work on the Committee of Illegitimacy of the Council of Social Agencies produced his famous pamphlet "Babies for Sale" which attacked the black market in babies. Read in every state of the nation, the pamphlet aroused public indignation and action. Currently, Judge Winnet is the head of a state-wide committee on child welfare legislation.

Perhaps citizens of Philadelphia are most grateful to Judge Winnet for his ceaseless fight against juvenile delinquency. As Chairman of the Crime Prevention Association of Philadelphia, he operates eight complete boys' groups, all supported by the Community Chest, two of which have been established in areas of great need within the last few years as a result of his personal efforts. His name has been identified with many of the techniques of the Crime Prevention Association. Judge Winnet has followed juvenile delinquency to its breeding grounds—the homes, the schools and

Sub Judice

A WOMAN'S PREROGATIVE

Despondent over marital troubles, Mrs. Comfort decided to commit suicide. She turned on all the gas burners, wrote a suicide note and lay down and went to sleep. About midnight she woke up, very much surprised, since she thought she would "go to sleep and never waken." No longer desiring to commit suicide, Mrs. Comfort went to the stove, turned off the burners and decided to light the pilot light again. She struck a match and lighted the pilot light. When she attempted to blow out the match, the gas in the room ignited and burned her face and caught her hair. She filed a claim with the Continental Casualty Co. on her insurance policy covering her for loss in time and medical expenses caused by injuries due to accidental means. The insurance company refused to pay the claim, and Mrs. Comfort brought an action against the company in which a jury verdict was given in her favor. The trial court refused to direct a verdict for the company on the question of whether the loss was caused by "accidental means," but instructed the jury instead that an accident is "an event that happens without the concurrence of the will of the person by whose agency it is caused. . . . an effect the actor did not intend to produce and which he cannot be charged with designing to produce." *Held*: Affirmed. The court said that the rule given by the trial judge in the instruction was in line with the authorities and was evidently taken verbatim from one of the leading cases. Accepting this definition of an accident, the court said, "While it is true that the gases were in the house as the result of a contemplated suicide, upon the part of the appellee, yet if her testimony is to be believed, the act happened without the concurrence of her will, and was an effect which she did not intend to produce." In cross examination at the trial, Mrs. Comfort said she did not know the house was filled with gas when she struck the match. Firemen testified that the smell of gas was very strong all over the house when they arrived. *Comfort v. Continental Casualty Co.*, 34 N. W. 2d 588 (Iowa 1948).

the streets. "How can a judge," he asks, "see thousands of children in trouble come before him and not have a compelling desire to want to do something about it?" Writing on this subject in many periodicals, he says, "Blaming parents is not the solution. The responsibility is society's in providing better understanding by parents of the problems of their children, better homes, better schools, and increased facilities for leisure time activity." Judge Winnet is an officer of both the Pennsylvania and National Council of Juvenile Court Judges, and is vice-president of the Pennsylvania School of Social Work, a graduate department of the University of Pennsylvania.

Judge Winnet's community activities have never interfered with his duties on the bench. He has a real love for his work in the court and gives to each case an interest and enthusiasm that often surpasses that of the litigants. His own experience as a lawyer and his delight in advocacy makes him restless and impatient at times with some of the uninspiring arguments presented before him. "A lawyer should know the issues perfectly and recognize what the disagreement is," Judge Winnet advises. "Then with the realization he is fighting for one side, and no matter how small the amount of the claim, he should throw himself enthusiastically into the case."

After receiving his B. A. from Harvard, Judge Winnet took his legal training at Harvard Law School and was graduated in the Class of 1923. As a young lawyer, he engaged in individual private practice, though he later became associated with several law firms in Philadelphia. The prospect of Pennsylvania practice, he says, was as discouraging then as it is now. Judge Winnet's kindly and unaggressive outward appearance led him at first to shun trial work since he did not think he looked the part, a part he considered best played by the tall hawk-like advocate. But his work in a Philadelphia law office forced him into the court room where he found himself very much a master of the art of a trial practice, and he has not wanted to leave the scene since.

Judge Winnet believes that the courses at Harvard Law School give an excellent background for the practice of law. He would add just one requirement, a working knowledge of accounting. To the graduate looking for a job now, Judge Winnet passes on the advice Dean Pound gave to him in 1923: "Go where you want to live and, somehow, you will make your way."

S. D.

Alumni Notes

LL.B. '28—A. H. Feller has been designated by the Secretary-General to represent the United Nations as counsel in the forthcoming proceeding of the International Court of Justice on the advisory opinion relating to reparations for injuries incurred in the service of the United Nations. The advisory opinion was requested by the General Assembly to clarify the legal questions arising out of the deaths of Count Bernadotte and other U.N. officials during the fighting in Palestine. This will mark the first appearance of an American lawyer before the International Court.

LL.B. '31—William J. Brennan has been appointed a Judge of the New Jersey Superior Court. Mr. Brennan has been a member of the firm of Pitney, Hardin, Ward & Brennan of Newark, N. J.

LL.B. '33—Wilfred S. Mirsky has been elected to the Massachusetts General

Court from the 13th Suffolk District. He reports that he will join his classmate, Howard Whitmore, Jr., in introducing and passing legislation for the commonwealth. Mirsky is a member of the Democratic party, and Whitmore is a Republican.

LL.B. '34—John H. Meagher was elected President of the Worcester County Bar Association at the annual meeting held December 14, 1948 in Worcester. He is associated in the practice of law with John W. Ceaty and Philip J. MacCarthy, 390 Main Street, Worcester, Mass.

LL.B. '36—Henry C. Lowenhaupt has been granted indefinite leave from his St. Louis law firm in order to serve as a member of the Excess Profits Tax Council, Bureau of Internal Revenue.

LL.B. '37—Theodore Chase has been elected president of the corporation of the Charles River School, Dover, Mass.

CURRICULUM—(Continued)

the final examination in Criminal Law will occur at the end of the year as in all other first-year subjects. This means that the mid-year examination described in the last paragraph will in its entirety be a kind of dry run without effect on the final grade.

Changes in the Allotment of Hours in the First Year. In the process of working out a program for the first year, it was found that the most satisfactory allotment of hours could be obtained by taking the Christmas vacation as the turning point for changes in schedule, rather than the mid-point of the school year. The new schedule for the first year is as follows:

	Before Christmas Vacation	After Christmas Vacation
Agency	—	2
Contracts (incl. Spec. Perf.)	3	3
Criminal Law	2	1
Procedure (incl. some Equity)	3	3
Property I	3	3
Torts	3	2
	14	14

This schedule represents an additional hour of class work each semester in comparison with the present schedule. There is also, of course, the weekly 80-minute session with a Teaching Fellow. The meetings with the Teaching Fellow will not, however, represent any substantial addition of new subject matter, and it is hoped that these meetings will tend to reduce rather than to increase the total burden carried by the student. Furthermore, it is planned to suspend these meetings well in advance of examinations.

The effect of the increase in classroom time from 13 to 14 hours will be watched carefully. If it turns out that this increase affects adversely the quality of the student's work, or places an undue burden on him, the matter will be re-examined. It may be noted that in the prevailing practice of American law schools, 14 or 15 hours a week is the normal first-year schedule.

Changes in the Content of Particular Courses. The program adopted by the faculty contemplates two changes in subject matter that are indicated in the schedule printed above, that is, Contracts will include more of the law of specific performance than it has in the past, while some of the more funda-

mental problems of equity jurisdiction will be taken up in the course in Judicial Remedies, now renamed Procedure.

Those offering the course in Criminal Law are now engaged in revising the course to give it a somewhat different orientation, which will shift the emphasis from the substantive definition of crimes to the administration of criminal justice.

Premises Underlying the New Program. The new program was worked out after about three years of study. In the course of this study two surveys of opinion were conducted; one among a systematic sampling of the graduates of the School, and one (last year) among all the students enrolled in the School. The committee early prepared a kind of tentative analysis of the problems of curricular organization which was circulated among the faculty, the Committee to Visit the Law School, the Corporation, and other alumni and friends of the School who had shown a special interest in the problems of legal education. About 200 pages of comment were received and studied by the committee and the faculty. Many issues were considered, ranging from the basic premises underlying legal education to the smallest curricular details. It would be impossible to summarize here all of the considerations that went into the new curriculum. There is space only to mention certain matters of fundamental and pervasive importance.

The Clogging-Up of the Curriculum with Practical "Musts." For years there has been a steady increase in the number of courses that are regarded as more or less indispensable to a general education in the law. Our present curriculum was developed prior to the growth of public and administrative law that has occurred during the last 20 years. That curriculum originally filled a three-year course rather tightly with subjects falling almost exclusively in the field of private law. Gradually new public-law courses, such as Taxation, Administrative Law, Labor Law and Government Regulation of Business, have become so important that students are inclined to feel that they must take as many of them as possible. With the introduction of a course in Accounting, students are likely to be advised by members of the profession that this is another course they should not miss.

The growing importance of these new subjects does not, unfortunately, imply any decline in the value or significance of the older courses in private law. It simply means that a situation has developed in which there are more courses the student feels he must have than he could possibly take in three years. This is a situation that confronts American law schools generally today, and it requires either an extension of the law course or a reorganization of the curriculum. Our faculty has decided to take a step in the second direction, as the new program indicates.

The Rejection by Our Faculty of a Longer Course of Resident Legal Study. In an effort to solve the problems outlined in the last paragraph, there has developed a strong movement among American law schools toward a four-year course. A considerable number of schools have adopted such a course as an alternative to the usual three-year course. Most of these schools are working toward making the four-year course the standard curriculum. One school recently found its solution for the problem in a program of year-round operations including three regular school years and two summer sessions. This program has

since been modified, but other schools are considering adding at least one required summer session.

After giving this matter careful consideration our committee and our faculty have rejected any extension of the course of resident legal study. We find almost no sentiment for this change among the practicing members of the bar. Putting it into effect means either a lowering of the standards of pre-legal training, or a lifting of the economic bar to entry into the profession. For these reasons our faculty has preferred to adhere to the three-year course, accomplishing the needed economies in time by a reorganization of the curriculum, a slight increase in classroom hours, and a program of summer readings to be completed during the first vacation.

The Elective System v. a Prescribed Basic Course. One easy way out of the difficulties of curricular planning is to pass the responsibility to the student through the elective system. In most American law schools only the first year is formally prescribed, and in one school everything is elective after the first semester. Our faculty has decided against any extension of the elective system. The reason for this decision does not lie in a fear that under such a system students will elect highly specialized courses and neglect subjects of fundamental importance. Experience in other schools shows that even where a wide election is permitted in theory, students usually follow a fairly orthodox and well-trodden path as the result of advice coming through the "grapevine" or because of the counsel of friends and faculty.

The real danger of the elective system does not lie so much in the fact that students will make unwise choices as that they will be unable to make wise choices. The organization of a curriculum through joint faculty action is a difficult matter, that involves the kind of democratic planning often demonstrated to be impossible. Unless the faculty keeps before it the compulsion to assume corporate responsibility for planning the bulk of the curriculum, the conflicts of opinion among members of the faculty that would affect the development of a common program are never resolved. Courses develop without coordination or common plan, and it becomes in time impossible for the student to elect a course of study that will give him a rounded general training.

In other words, if the system of free election is followed for a sufficient period of time, the student can no longer elect the kind of program that would have been prescribed for him had the faculty faced the difficulties involved in collective planning. This is one of the most cogent reasons why we have retained the present system of prescribing the content of the first two years. This action is in accordance with the views of the students themselves expressed in the recent questionnaire, since only one fifth of those answering our inquiry indicated any desire to change that system, and a majority opposed any extension of electives.

"Public Law" v. "Private Law." The new program incorporates Administrative and Constitutional Law in the prescribed curriculum and advances them from the third to the second year. Many will discern in this action a recognition by the faculty of the increased importance of public law in modern practice. Perhaps a more accurate statement of the considerations that entered into this decision can be given in the following terms.

The old curriculum contemplated that the first two years would be largely given over to private law, while a good part of the third year would be devoted to public law. The difficulty with this has proved to be that men come into advanced third-year courses in the public-law field without a proper grounding in Constitutional and Administrative Law. A situation almost worse pedagogically is where half of those taking, say Labor Law, have had Constitutional Law and half have not. Hence, even if there were to be no increased emphasis on public law in the curriculum as a whole, some reorganization of courses would be desirable.

Furthermore, the really significant thing for modern law practice is not the increasing importance of public law as a

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Calendar

LAW WORLD Ames Finals

The date for the finals argument has been changed from April 1 to March 30.

Law Wives

There will be bridge tonight at Kendall House at 8 o'clock. Also, all wives interested in trying out for the play should be present.

UNIVERSITY WORLD Sunday Services

President Arthur C. McGiffert of the Chicago Theological Seminary will conduct Sunday services in Memorial Church, February 27 at 11 a.m.

Harvard Catholic Club

Catholic members of the Law School are invited to attend the Club's spring communion breakfast, this Sunday, February 27, at the Hotel Commander at 10:30 a.m. Tickets are \$2.00 and may be purchased at the door.



CURRICULUM—(Continued)

specialty, but lies rather in the fact that it is no longer possible to draw a sharp line of distinction between questions of public and private law. Almost any problem that comes into a law office is likely to have an aspect that leads into public or administrative law. Accordingly, there is need to achieve a closer coordination in the curriculum as a whole between public and private law, and this can be obtained only by moving forward into the basic prescribed curriculum the fundamental courses in public law.

There is no intention on the part of the faculty of neglecting a fundamental training in private law. By taking Constitutional Law and Administrative Law out of the third year, it is hoped that more of the work done in that year can relate to private-law subjects or will deal with problems that cut across whatever boundaries may be left between the fields of public and private law.

Some Practical Difficulties. The program outlined in these articles was discussed for many long hours in faculty meetings. It incorporated a considerable measure of democratic compromise. It is accordingly not a plan so tight in its logic as to leave no room for the play of tradition or personality. If this be an imperfection, it is probably one that will tend in the end to promote the success of the program. Because the new curriculum is a joint product, it carries with it the genuine desire on the part of the faculty as a whole to make it work. This is, after all, the most essential ingredient for insuring the success of any educational venture.

It is hoped that the students will lend their support to the program, and will suspend judgment on any features that

may seem puzzling or doubtful until it has actually been tried in operation. Mention has already been made of the increased hours in the first year, which may cause some measure of dismay. There are certain difficulties in arranging the second-year program that should be discussed frankly. The most likely scheduling of the second-year courses is as follows:

	First Half Year	Second Half Year
Accounting	2	—
Administrative Law	—	3
Commercial Law	2	2
Constitutional Law	2	2
Corporations	2	2
Course in the field of Jurisprudence, Legal History, Legislation or Comparative Law	2	—
Property II	2	2
Trusts	2	2
	14	13

The second half year of this schedule (when the chief burden of examinations is imposed) involves no substantial departure from previous practice. For years the standard pattern in the school was a schedule of 12 hours a week consisting of six courses running two hours through the year. The schedule for the second term follows this pattern except for the addition of one classroom hour.

The first half year unfortunately involves teaching seven courses concurrently, and thus spreads the student's work over a slightly wider area. An apparently easy way to avoid this result would be to arrange the schedule so that more courses would be completed in one term; if this were carried to the limit, it would mean four courses each half year. There are very real difficulties in accomplishing this result, however. For one thing, most of the faculty believe there are distinct educational advantages in a course spread over the whole year, and this opinion seems to be shared by many students. An even more serious obstacle lies in the problem of arranging individual faculty teaching schedules. For example, if Trusts were concentrated as four hours in one term, and two sections were taught by Professor Scott, this would produce a teaching schedule for him of eight hours in one term. This would throw his whole year's program out of balance, and probably prevent him from teaching a section of the first-year course in Procedure.

The problem of achieving a schedule that is educationally sound and at the same time effects a workable apportionment of the faculty's time is, therefore, a difficult one, for which no perfect solution is likely to be found. If the new program turns out to have serious defects, we shall know best how to correct them after a period of actual experience. Meanwhile the faculty intends to continue the practice of drawing on student opinion, and it is hoped that students will feel free to communicate their opinions about the new program and its actual operations in practice.

Conclusion. The impression may have been conveyed in this account that all of the changes introduced into our curriculum are wholly novel. Of course, this is not true. Certain features of the program are new in the sense that very few law schools have adopted them. The summer reading program seems to be a unique feature of our reforms. On the other hand, some schools have carried farther than we have the matter of advancing the public-law courses into the early years; in a considerable number of schools Constitutional Law is taught at least in part in the first year.

In accomplishing our reforms we have sought not so much new values as new ways of achieving old values. As a Chinese philosopher said, "If you want the same things the ancients had, you must not use the same means to get them that the ancients used." By and large we want the same things as our ancients did; we want the School to continue the tradition of its great periods under Story and under Langdell and Ames. We want the School to continue to provide a

course of study that will stir the minds of students while they are here, and that will, at the same time, provide a solid foundation for professional competence when they become members of the bar. It is hoped that the new program marks an advance toward both of these goals.

the curriculum has been overhauled, the students have grown in numbers and perhaps in wisdom, but the professors, they are always the same. *Plus ça change, plus c'est la même chose.*

AUSTIN W. SCOTT

SCOTT—(Continued)

Pleading, though we have it now only once a week. With all due respect to the Dean it does seem to me that Williston can teach the subject better. The Dean spent about half the time answering foolish questions which the askers, had they stopped to think, could easily have answered themselves; so that only about half of the time was there any use in taking notes. But with Professor W. we get new ideas every moment; and he presents them in such a way that we have to discover them for ourselves."

I may say that when I sat under Dean Ames the next year in the course on Trusts I had one of the most stimulating experiences of my life. Certainly Dean Ames, both as teacher and scholar, was at the top notch. I told my father that we understood that Dean Ames was the greatest legal scholar since Coke.

Finally, in the middle of May, I wrote: "Everybody is working pretty hard now in anticipation of the early approach of the examinations—there are only two more weeks of lectures after this week. In several of the classes they are hustling up a bit to cover the required amount; which keeps us pretty much on the jump to prepare the cases. The unfortunate students, how the professors make them scurry just at the time when the examinations are approaching."

Since the time when I was a student, the law has vastly changed, the buildings and the library have grown in bulk,

FORUM—(Continued)

general topic, *Values for Modern Man*, at the final meeting of the series, Friday, March 4, 8 p.m., Cambridge High and Latin auditorium. Professor Lon L. Fuller of the Law School will act as moderator.

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