

# *The Problem with Grades*

## *A Special Committee Tackles Evaluation*

by Professor W. Lawrence Church

Since the beginning of universal education in America, "report cards" have been an important part of the culture — sources of elation and despair, rewards and punishment, tension and ease. Despite dissatisfaction with the competition which results from comparisons of achievement, attacks on the fairness of the process of evaluation, and the efforts to reduce the importance of grades, the "report cards," whatever their basis and form, are firmly fixed in American education.

It is true in Law School, too. A transcript is the ticket to the Outside World. The very highly selective admissions policies which all law schools currently enjoy has insured that all admittees are potentially successful students. Almost no one flunks out of Law School these days. Nevertheless, there is a top 10% and a lower 50%, and these relative standings have a lot to do with the career opportunities of the newly produced lawyers. Thus, one's grades in Law School continue to be important, if for no other reason than that they play a significant role in the career opportunities available. The influence of grades on job prospects may not be as rigidly automatic as it once was, but it is clear that it remains important.

As long as grades do continue to have practical significance, it is imperative that the system that produces and reports them be as objective and fair as possible. Some of the dangers of subjective influence on the grading process have been eliminated with the introduction of examination numbers several years ago, so that faculty cannot identify those whose examinations they are grading. Another serious problem, however, has been a perceived discrepancy in individual grading patterns of the various faculty members. It is, of course, axiomatic that grades should reflect the abilities of students, not attitudes about proper grade distribution held by various teachers. In order to review the perceived problems in this area, a special grading committee was established in 1977. The committee is continuing its work in 1978-79; its preliminary recommendations were accepted by the faculty in May, 1978.

In preparation for its work, the special committee on grading conducted a statistical study of current Law School grading patterns. The committee noted the following matters which it considers to pose problems worthy of attention:

1. Disparity in grading patterns among the large sections of the same first-year course. First-year courses typically are divided into three fairly large sections, in addition to the small sections which are part of the first-year small-section program. The committee noted with approval that the

average grade in large sections of the same first-year course which are taught by different people typically are within a half point of one another. However, it noted that in about one out of every five courses there is a greater disparity, sometimes ranging up to two or even three points, and suggested that even this occasional disparity ought to be eliminated if possible.

2. Disparity in grading patterns among the small sections of the same first-year course. The committee conceded that there is more of an excuse for deviations in average grades in the small sections than in the large sections, but noted some instances in which the differences in the average grades were more than three points, sufficiently large that they could not be explained merely on the basis of the different abilities of the students in the respective sections.

3. Disparity in grading patterns among the large upper-class courses. The committee found large differences in the average grades in these courses, differences which it felt could be explained only by the differences in grading patterns among the instructors.

4. Disparity in grading patterns among small upper-class courses and seminars. As might be expected, this is the area where the committee found the greatest differences among the average grades in various courses and seminars. The grades in these courses and seminars often are based on a paper rather than on an examination.

5. Disparity in grading patterns between large upper-class courses, as a group, and small upper-class courses or seminars, as a group. The average grades tend to run substantially higher in the small courses and seminars than in the large courses.

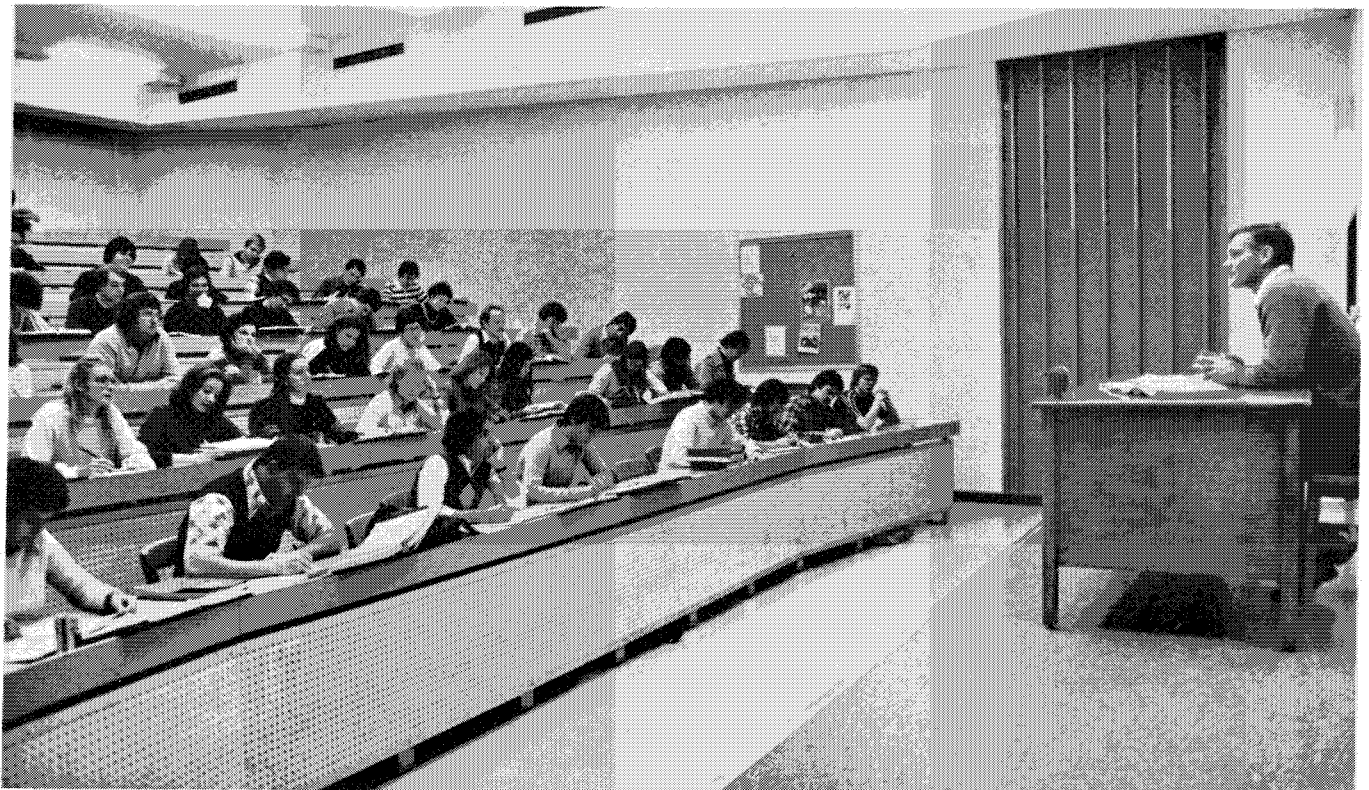
6. Deviations in grading patterns at the upper and lower ends of the grading scale. The committee noted that it is difficult to draw statistical conclusions in this area, but that it appears that some members of the faculty tend to compress their grading scale far more than others, thus giving fewer low and fewer high grades.

It is easy to make too much of the disparities noted above. Law students are likely to be exposed

to both high graders and low graders throughout their law school careers, and so the effects of both the unusually high grading patterns and the unusually low grading patterns are likely to be cancelled to a considerable extent in any particular student's grade point average. Nevertheless, the committee noted that under a hypothetical "worst case" (but not an absurdly impossible one), the following could have happened to two students during the past three years. Assume that both students received the average grades of their sections of all the courses they took. Student "A" was unlucky in the sense of being placed in the sections of the required courses which had the tough graders and in addition

managed to select the optional courses which happened to have the toughest graders. Student "B" was at the opposite extreme and managed to take the courses with the easiest graders. After having taken 73 credits during the period of 1974-77, student "A" would have had a cumulative average of 82.1 and student "B" would have had an average of 85.8. This represents the difference between the bottom third and the top sixth of a law school class. The committee concluded that even though it was posing a worse case, the possibility that such a result might occur was sufficiently serious so that the matter of grading should be reviewed rather carefully.

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## GRADES

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Grading, of course, is a very sensitive matter. Much must be left to the judgment of individual faculty members. The committee therefore approached the matter cautiously and decided to limit its initial recommendations to the first-year courses where the students are assigned to sections or professors. The committee's preliminary recommendations, which were adopted by the faculty last spring, are as follows:

(1) Faculty members teaching large first-year sections should attempt to keep average grades for their respective sections within about a one point range, from the highest section to the lowest;

(2) Faculty members teaching small first-year sections should attempt to keep average grades for their respective sections within about a two point range;

(3) A range of grades in a large first-year section of less than 17 points or more than 27 points should be regarded as extraordinary; in a small section, a range of

grades of less than 12 points should be regarded as extraordinary;

(4) Faculty members teaching large sections of the same subject should consult with one another in order to attempt to keep the grading pattern for their respective sections consistent; similarly, faculty members teaching small sections of the same subject should consult with one another;

(5) The Dean's office, with the assistance of the faculty concerned, should, at the end of each semester, prepare, post and distribute grading information in accordance with the committee's recommendations as set forth in its proposal.

The committee is continuing its study and will make recommendations pertaining to grading of upper-class courses in a report to the faculty during 1978-79. It is hoped the Law School grading system will come ultimately to reflect as faithfully as humanly possible the abilities of the students it evaluates, to the benefit of both those who rely on the grades and those being graded.

## CREDITORS'

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I am pleased to be able to report that some relief is in sight. As reported above, the Supreme Court appears finally to have decided what the Constitution means with respect to collection remedy procedures. Consequently, less time need be spent in future creditors' rights courses in speculating on how the Court might go. More importantly, Congress has just put the finishing touches on a new Bankruptcy Act.



Professor Bernstine