

HARVARD LAW RECORD

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TWENTY CENTS

Dunau Receives Faculty Position At Law School

By Daniel M. Taubman

The law school faculty has extended a permanent appointment to Visiting Professor Bernard Dunau, the RECORD has learned.

Dunau, who commutes from Washington, D.C. weekly to teach *Labor Law*, confirmed in a telephone interview from Washington Tuesday that he would be teaching at HLS beyond the 1974-75 academic year.

It had previously been announced that Dunau would be at Harvard again next year as a visiting professor.

Dunau, who doubles as a private practitioner, said that he would be teaching *Labor Law* next year, and would continue his commuting

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Supreme Court Sidesteps DeFunis Case Decision

The question of whether a law school may constitutionally consider race as a factor in admissions decisions was sidestepped Tuesday by a divided Supreme Court which ruled 5-4 that the case in which the issue arose was moot.

For the plaintiff Marco DeFunis Jr. the question of his continued attendance at the University of Washington Law School was certainly a limited issue after registering for his final term there at about the time the case was argued in Washington. As reported in the RECORD March 1, the University of Washington would not have penalized DeFunis by interrupting his education whatever the outcome of the case.

Justices Burger, Blackmun, Powell, Rehnquist and Stewart joined to delay the time when the Supreme Court must rule on the issue of "reverse discrimination" although *DeFunis* had elicited a large number of *amicus* briefs from parties interested in a resolution of the question. Neither Professor Archibald Cox nor Harvard General Counsel Daniel M. Steiner, who worked together on the brief submitted by the University, had any comment on the Court's decision. Steiner said that he thought it would be "inappropriate for me to comment at this time."

The minority in favor of deciding the case charged that avoiding the issue, "clearly disserves the public interest."

1L Petition Protests Clinical Study Cutback

By Patrick Kennedy

Responding to the announcement at pre-registration that Professor Gary G. Bellow will not teach at the Law School during 1975, an ad hoc committee of 1Ls has petitioned the administration to "redouble their efforts" in seeking a replacement to teach *The Lawyering Process*. The petition was signed by 350 members of the present first year class.

In an interview with the RECORD earlier this week, Dean Albert M. Sacks said that the requested search would be "essentially futile." Sacks cited the unrewarded efforts this fall by Bellow, Assistant Dean Jeanne C. Kettleson, and the appointment committee

Professor Gary G. Bellow who teaches the popular *Lawyering Process* course was stricken with a mild heart attack while in California. Doctors report that he is in good condition but will need rest. He is presently undergoing tests to try to determine the exact cause of the seizure.

Bellow is not expected to resume teaching his course this spring, but he plans to grade exams at the end of the course and will continue to read the third year papers he is supervising. Bellow was in California to address a Ford Foundation conference on Public Interest Law.

and concluded that there is no reason to believe a new search at this late date would be successful to fill the vacancy next spring. Sacks was more hopeful about the chances of locating a replacement for the fall of '75, adding that the appointment committee would give it special attention this coming fall. Sacks also said the Law School hopes to provide clinical alternatives to those students who can not get into *The Lawyering Process*.

Meanwhile, the effect of the vacancy is reflected in pre-registration figures. Only 37 of the 97 present 1Ls who requested the course have been enrolled. Because 3Ls have preference for enrollment, all 41

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Faculty Appointment Offered To Dunau at the Law School

(Continued from Page 1)

status. He also said that he has no present intention to return to the University of Virginia Law School, where he had previously taught *Labor Law* on a part-time basis.

Asked whether he would be a full professor next year, Dunau responded, "What the hell my title is beats me."

Dean Albert M. Sacks refused Tuesday to confirm or deny Dunau's appointment. "I've got to stick to what I've always said about appointments and that is that I can't comment," Sacks said. Sacks did indicate, however, that Dunau would be teaching at the Law School in 1974-75.

"His status is that of a visitor," the Dean explained. "There is nothing I can say about that until the processing is complete."

Once a law teacher has been offered an appointment to the faculty, normal procedure calls for its formal approval by the University's Board of Overseers.

Dunau will join Professor Archibald Cox as the Law School's second *Labor Law* professor. The Law School has not had two *Labor Law* teachers since former Professor Derek Bok left in 1969 to become President of Harvard.

Because Cox will be taking a leave of absence next year to teach in England, Dunau will be the only permanent faculty member teaching *Labor Law* in 1974-75.

In addition to Dunau, Visiting Professor David E. Feller of Boalt Hall (University of California at Berkeley) will also teach *Labor Law* next academic year.

Student Demand Quickly Exhausts Course Guides

Results of the Law School Council's course guide questionnaire hit the streets last week and quickly became unobtainable, as the limited supply of the photocopied tabulation disappeared into the gutter of student demand. In a covering letter the council drew attention to the experimental nature of the project and urged students to "join in a collective agreement that this Guide ought not to be employed as a weapon to stifle faculty experimentation or as a defense of the status quo."

Support for the status quo seemed unlikely to result from the poll: principal items of general interest emerging from the data were the extremely low ratings accorded to some professors and courses. The pattern of student response suggested that dissatisfaction was related more to professors' performance than to subject matter.

Generalizations and meaningful comparisons of any kind were made difficult by sampling variations in the poll. Response to the council's questionnaire seldom rose above 40% of enrollment and was sometimes much lower. The representative character of the responses tabulated was thus in considerable doubt.

The greater standardization of the first year curriculum made comparisons somewhat less invidious in that area. The first year course nominated by 1Ls as least stimulating was *Property*. Five first year professors were rated effective by more than 90% of responding students: Professors Arthur R. Miller, A. James Casner, Phillip Areeda, Clark Byse, and Morton J. Horwitz.



Mark McNeil

Ambassador Takeshi Yasukawa discusses current Japanese foreign policy. The Ambassador was a recent participant in the HLS East Asian Law Speakers program.

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Dash Notes Irony of Watergate Defenses

By Ricardo Hinojosa

"Some of the individuals who were once law and order people, who once questioned Fourth and Fifth Amendment Rights are now using every single one of them and they should."

Those were some of the resounding words of Samuel Dash '50, who addressed the annual dinner of the Harvard Voluntary Defenders at the Faculty Club April 19. He gave these remarks while observing that the Watergate scandal has brought "the high and the mighty" into the criminal system.

Dash, who serves as Chief Counsel to the Senate Select Watergate Committee, singled out former White House Counsel John Dean as an example. He alluded to Dean's insistence when he helped draft the penal code reform on the allowance of only use immunity rather than transactional immunity. The irony, Dash asserted, was that before the Senate Committee Dean insisted on transaction immunity but "I was only in a position to offer him use immunity."

Watergate, according to Dash, does not reflect poorly on the practice of law because "most of them [lawyers involved] were not lawyers for real, most of them didn't practice."

The man who became known to millions of television viewers this summer with his hard questioning of witnesses before the Committee, asserted there is a great opportunity today for reform because the

American people have been "jolted" into awareness by the Watergate revelations. "There is a post-Watergate morality and you will be able to take advantage of it."

Turning to the subject of criminal law practice, Dash who has been very successful in this area, remembered how he was often told that criminal law

providing representation" for the poor in criminal trials. He buttressed his criticism by citing studies which he said have shown that "uncompensated representation of the poor, generally means no representation."

Dash also rebuked United States Supreme Court Chief Justice Warren E. Burger whom he charged



Robert J. Cordy, Dean Sacks, Susan E. T. Studlien and Vice Dean Bruce chat with Sam Dash, center.

"was not a paying profession" when he came to the Law School. While at the Law School Dash founded the Harvard Voluntary Defenders 25 years ago.

After some nostalgic remarks about the early days of the Voluntary Defenders, Dash remarked that the trial bar is an important vehicle for the protection of individual rights. However, he did have some criticism for the criminal system, alleging that "despite *Gideon* and cases that followed we have a pretty dismal system in terms of

"has forgotten a lot since he became Chief Justice." He alluded to Burger's prior service on a committee which recommended model standards for prosecutors and defense counsel which had urged that defense counsel be given adequate funds to provide a good defense. But, Dash continued, "when he has been called upon recently in court cases to apply them he has forgotten them."

He closed his remarks with an exhortation for "the highest standards of professional responsibility" by members of the criminal defense bar.

In a brief interview with the RECORD afterwards Dash responded to criticisms that have been made against the Senate Committee asserting "I don't believe that any fairminded person could say" that the Committee has acted in a partisan manner. Brushing aside the charge that leaks from the committee were frequent he commented that it was "not that serious a problem, most of the secrets we kept" and besides the leaks came "mostly from Senators and Senators' staffers."

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Ellsberg — Would Military Topple McGovern?

By Michael Bowen

Daniel Ellsberg suggested in a speech here last week that the election of George McGovern in 1972 might have led to the overthrow of the U.S. Government by the military.

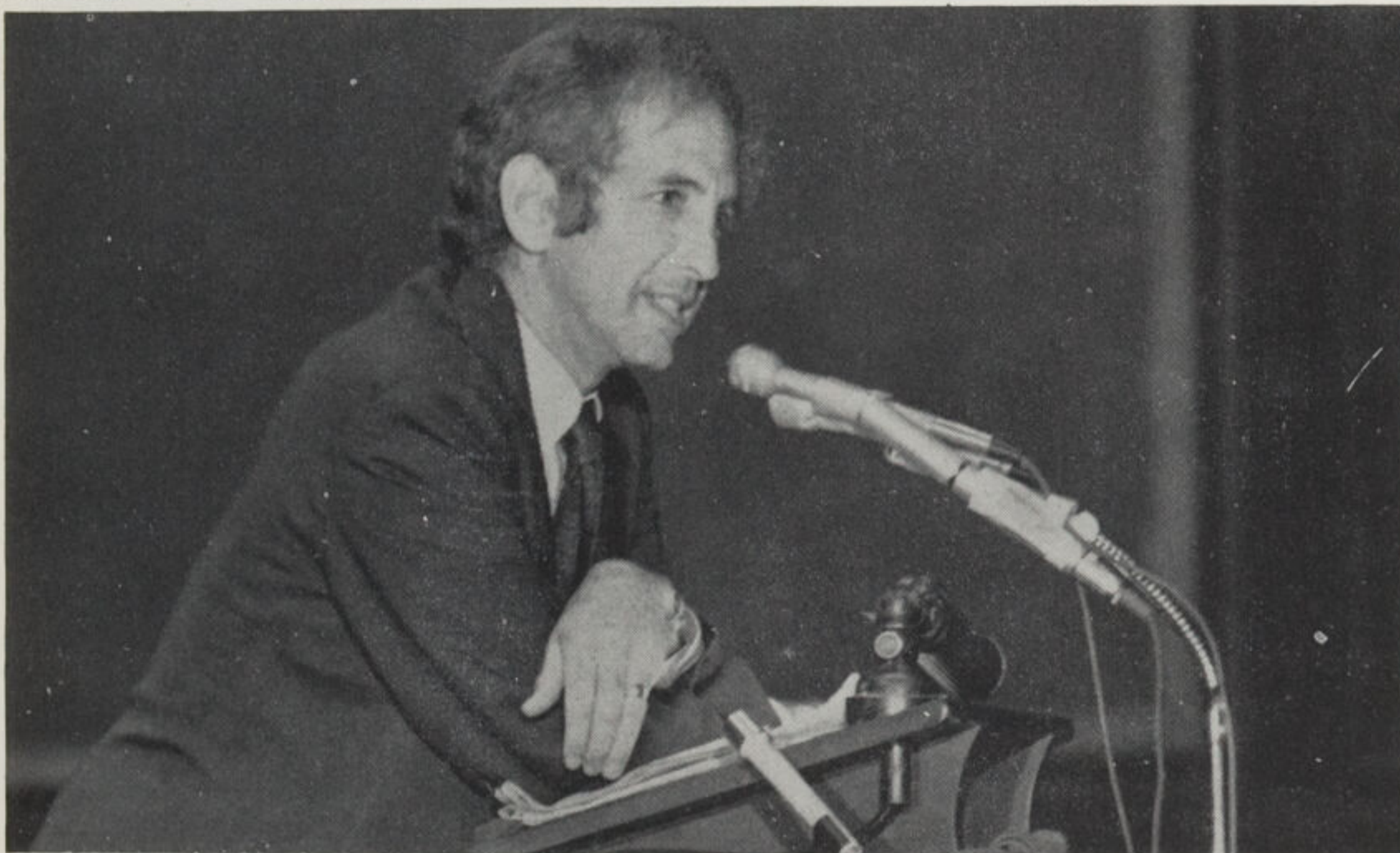
"Had George McGovern won the election," Ellsberg said in response to a question from the audience, "I think the chances of unconstitutional action by the military to reverse that result would have been quite significant."

At the same time, Ellsberg said, the Watergate crisis

power," Ellsberg said. He asserted that this proposition had "the force of physical law."

"Conspiracy law, as we all know, is bad law," Ellsberg said with reference to Vietnam. "But conspiracies do exist. I was involved in one, along with those in the Pentagon — a conspiracy to destroy the people and countries of Indo-China."

Ellsberg suggested that the Government was successful in imposing this policy on the country only because of the veil of secrecy which concealed executive actions from Congress and the public.



Daniel Ellsberg

created no danger of a *coup d'etat* because, "I can't imagine the military being frightened at the prospect of the accession of Gerald Ford, or of anyone who might serve instead of him."

Ellsberg's remarks came in the course of a rambling two-hour presentation at Harvard's Sanders Theater Wednesday, April 17.

The theme of Ellsberg's address, which was interrupted once by a belligerent questioner and once by efforts to repair a faulty microphone, was that secrecy exerts an inevitably corruptive influence on government. He said that both the adoption of disastrous policies in Vietnam and various crimes associated with the Watergate crisis illustrate the corrosive effects of secrecy.

"Give a powerful executive branch the power to keep secrets, and they will abuse that

One example of this, Ellsberg said, was the bombing of North Vietnam during Christmas week of 1972.

"The American people had no more control over their foreign policy at that point than the Soviet people had over the invasion of

Czechoslovakia," Ellsberg asserted.

Ellsberg began his discussion of the Watergate scandal by reading from the *New York Times* account of developments in the Mitchell-Stans conspiracy trial.

"These people are entitled to fair trails," Ellsberg cautioned, after noting that several other Watergate defendants had appeared in connection with the action. "In fact most of them, the grand jury feels, are entitled to several fair trails."

Proceeding from that point to a discussion of the Watergate crisis as a whole, Ellsberg called attention to the parallel between executive misconduct during the cover-up and the Government's conduct of Ellsberg's own trial for releasing the Pentagon Papers. Claiming that then Presidential counsel J. Fred Buzhardt had played a role in the disappearance of an intelligence analysis holding that the release of the Pentagon Papers could not have damaged national security, Ellsberg remarked that, "When I saw that Mr. Buzhardt had been given care of the tapes and of the evidence generally relating to Watergate, I had the feeling that Mr. Nixon had chosen wisely."

Ellsberg concluded by asserting that secrecy and duplicity invariably come together.

"Basically the meaning of the word 'sensitive' is, 'a lie, an illegal act, a criminal act, a deception of Congress, an act that would be politically embarrassing,' " Ellsberg said, "and it's the most secret classification you can use."

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On May 3, 1974, you can arrange to join The Harvard Club of New York City easily and conveniently, without leaving Cambridge.

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Place: Hasty Pudding Clubhouse
12 Holyoke Street

Time: Faculty — 12:30-2:00 p.m.
Graduating students — 2:00-5:30 p.m.

Date: Friday, May 3, 1974
No appointment necessary.

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Profs Weigh AALS Plan For Tenure

By Daniel M. Taubman

The Law School faculty considered two weeks ago a proposal by the Association of American Law Schools which, if approved, would limit the nontenured status of a faculty member to five years. The present limit is seven years, and is established by the regulations of the American Association of University Professors.

According to Assistant Dean Stephen M. Bernardi, the proposal would have virtually no effect on present law school hiring professors, since assistant professors are generally given tenure after four or five years.

The second aspect of the AALS executive committee recommendation is that the number of tenured appointments at a law school not be dependent on a number set by the university of which that law school is a part, nor limited to the number of those faculty members presently tenured. Bernardi said that this proposal, if passed, would not affect Harvard Law School, since at Harvard each school functions independently — "every tub on its own bottom."

In another matter, the faculty approved the creation of an ad hoc committee charged with keeping the faculty informed of efforts of the American Bar Association to interest law schools in teaching legal ethics. Members of that ad hoc group are Professors Andrew L. Kaufman and Robert E. Keeton and Legal Methods Director David Rosenberg.

Also, Keeton reported on behalf of the Faculty Committee on Liaison with the Board of Student Advisers, indicating the criteria that the Board planned to use for selecting members for 1974-75. The committee's recommendations were substantially the same as the criteria indicated by Keeton at an earlier faculty meeting, and included grades, interviews, and an essay on legal education.

Baseball Fever Snarcs Sports Trivia Quizzers

1. Who was the pitcher that served up the Bobby Thompson home run ball in the 1951 play-offs for the National League pennant?

2. Name the pitcher that once hit two grand-slam home runs in the same game.

3. What players are fourth and fifth on the all-time home run list behind Aaron, Ruth and Mays?

4. What American League first baseman is the only man to hit two grand-slam home runs in the same inning?

5. The only man to be nicknamed "Home Run" was Frank Baker of the Philadelphia Athletics and New York Yankees. What was the highest number of home runs that he hit in a single season?

6. Who was the man known as the "Babe Ruth of the Negro Leagues," that was precluded from being a major league home run leader by the "Jim Crow laws?"

7. It has been recently noted that Hank Aaron's first major league home run was hit off Vic Raschi. Off what Hall of Famer did Willie Mays hit his first major league home run after an inauspicious 0 for 21 start?

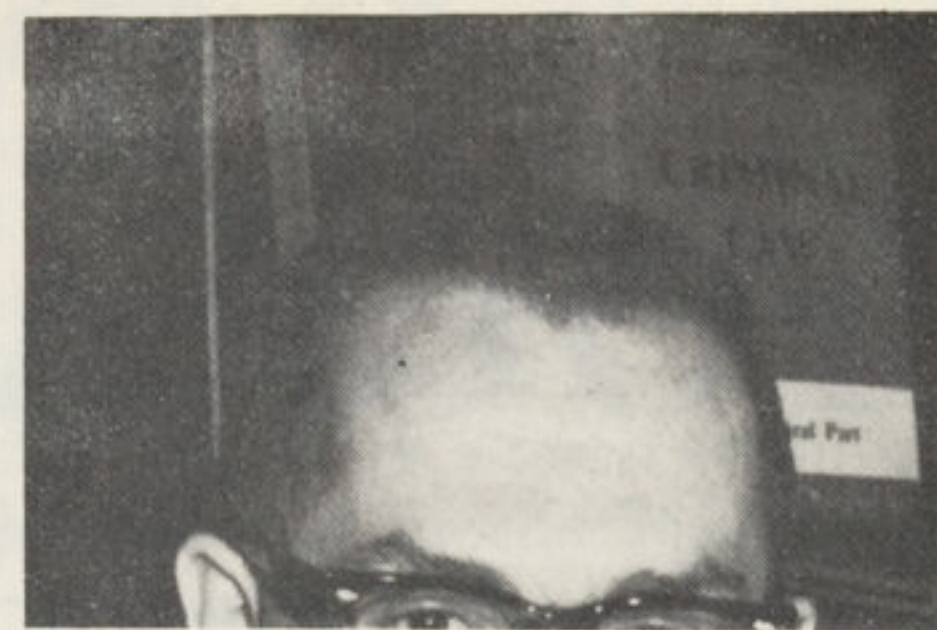
8. What journeyman first baseman and sometimes left-handed catcher is the unlikely holder of the record for the most consecutive games in which he hit a home run?

9. In the 1960 World Series, Bill Mazeroski's dramatic 9th inning home run in the seventh game to win the series was hit off what Yankee pitcher?

10. Of all his home runs, perhaps the Babe's most famous was the "called-shot" home run hit in Wrigley Field in the World Series, in which legend reports that he pointed to the spot in which the ball was deposited. Who was the Chicago Cubs pitcher that threw that gopher ball?

Supplied by Harvard Law School Sports Trivia Society.

As a result of requests from readers we are publishing the correct captions to our sartorial quiz.

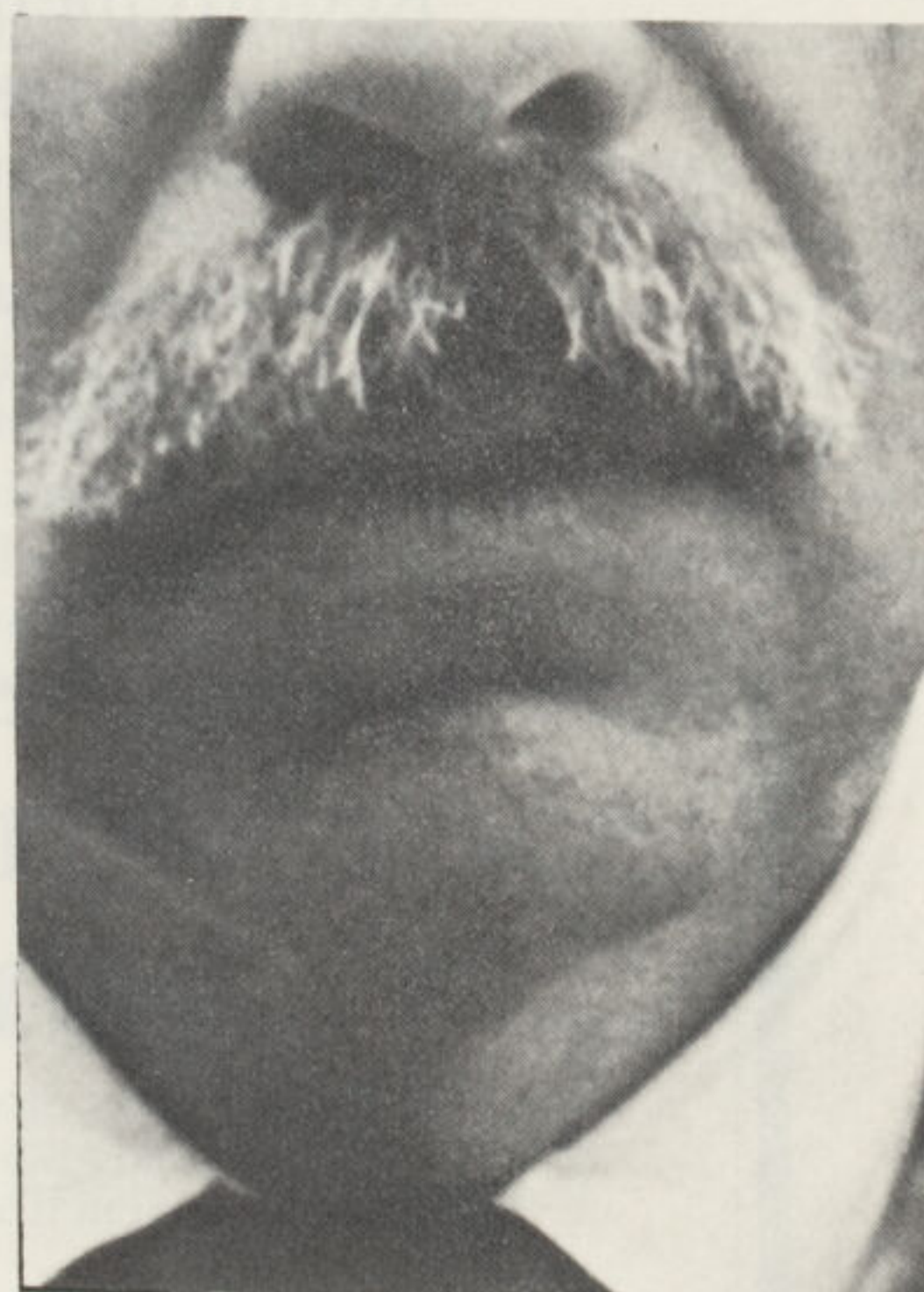


Alan M. Dershowitz (c. 1966)



Charles Soberman

Gary G. Bellow's tie.



Charles Soberman

Stephen M. Bernardi's moustache.



Alan M. Dershowitz today.



Mark McNeil

Roberto M. Unger's headphones



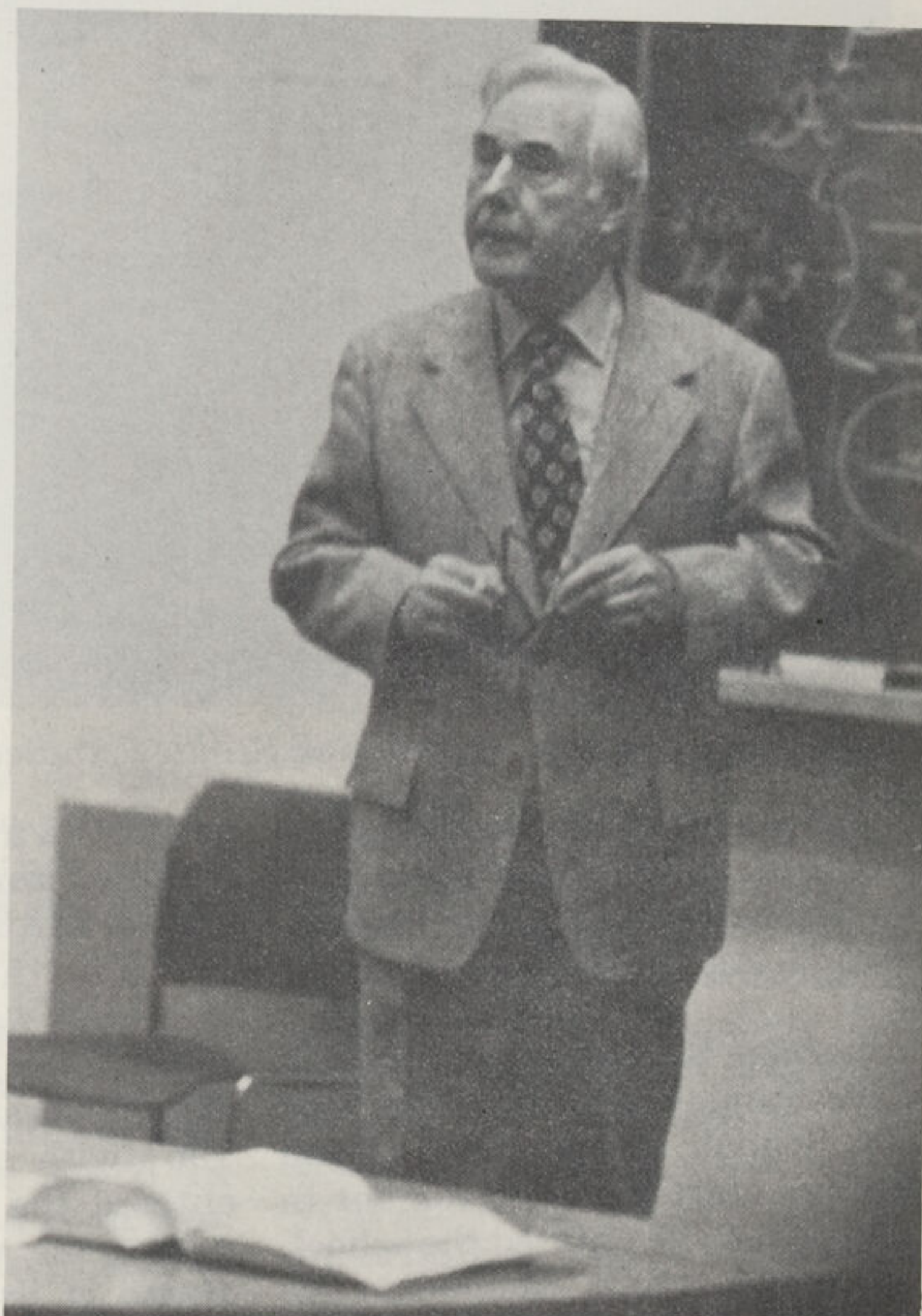
Mark McNeil

Dean Albert M. Sack's bowtie



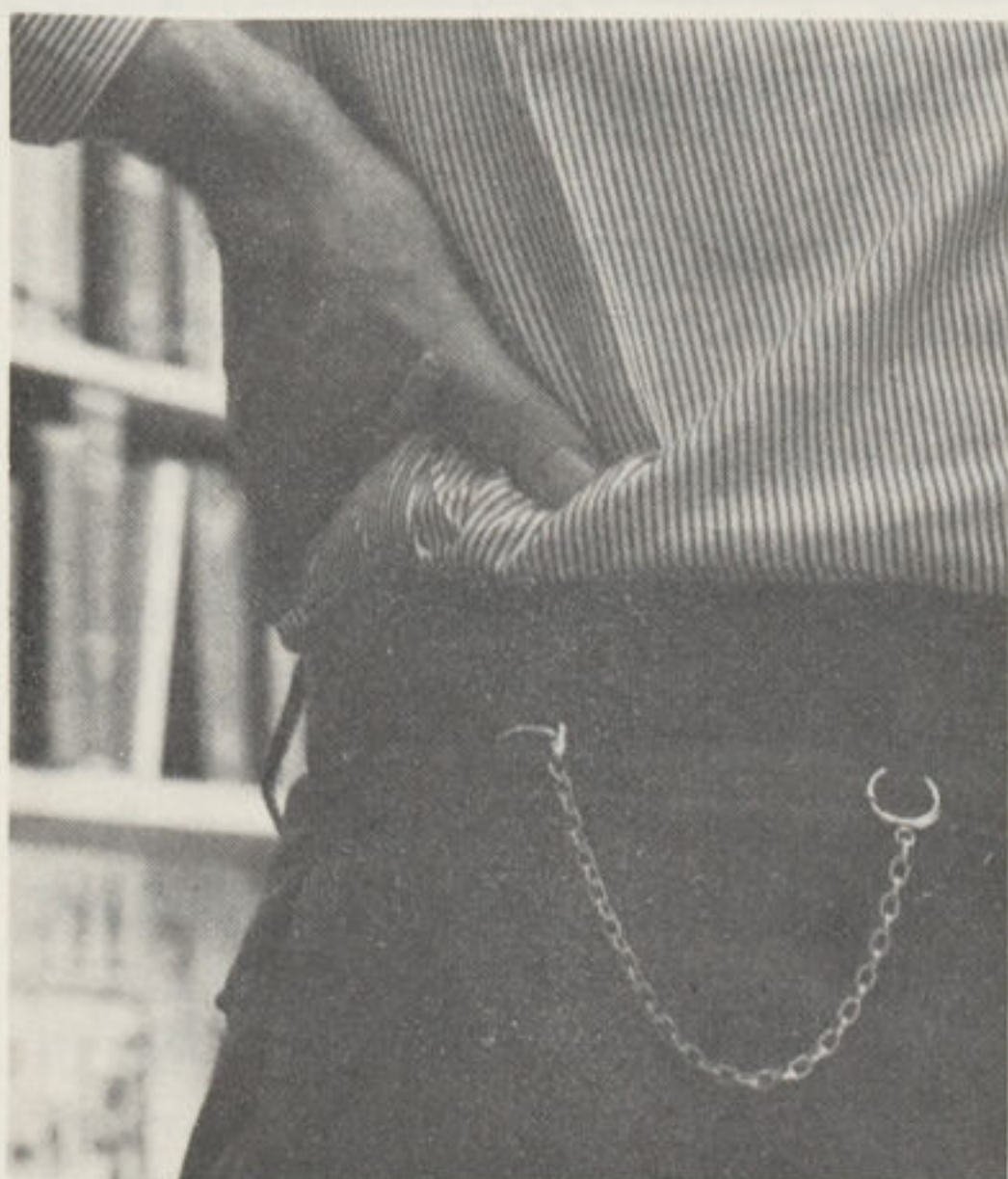
Paula Bonnell

Flower graces Lloyd L. Weinreb's buttonhole.



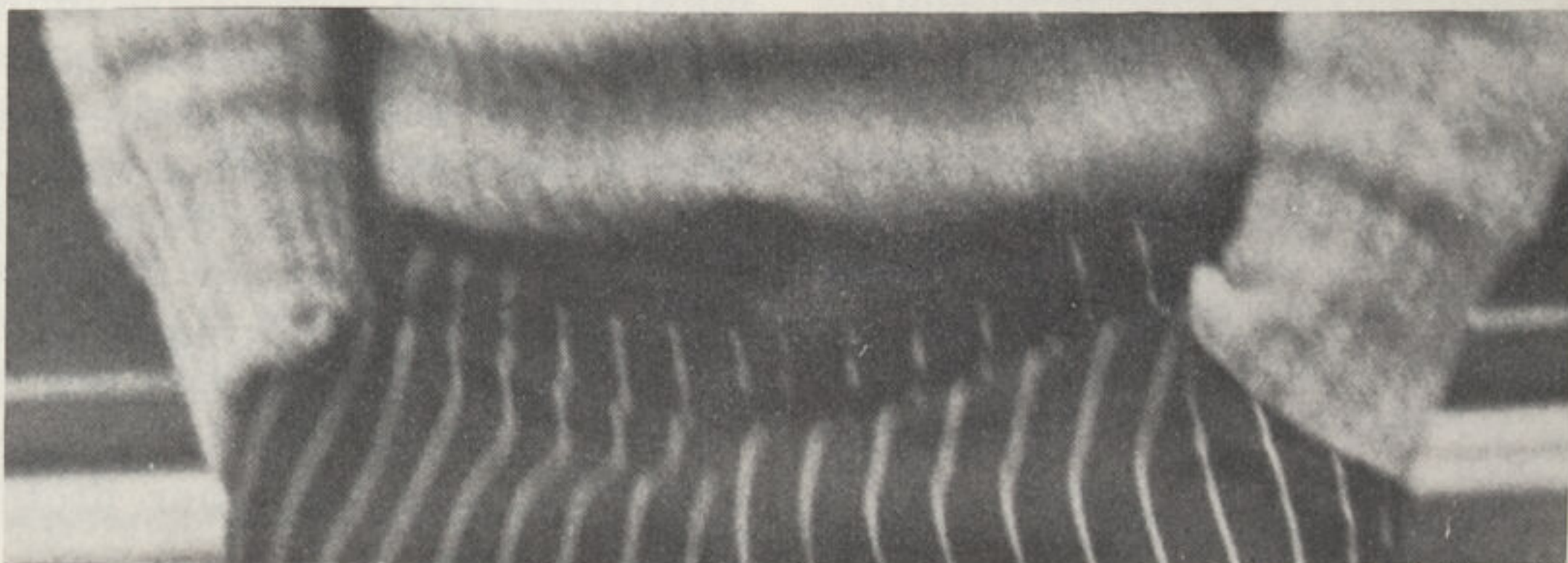
Paula Bonnell

Guess who!



Paula Bonnell

Professor John H. Ely's watchfob.



Paula Bonnell

Contracts Professor Duncan M. Kennedy's beltloops

Stimley Family Contributes Its Share

By Bruce Kuehne

If Harvard Law School ever publishes a *Book of Unusual Achievements*, the name "Stimley" might appear more often than any other. A Stimley, for instance, would appear as the first Black graduate to work for a previously segregated law firm in the state of Mississippi. Another is the first Black woman to work in the Texas Attorney General's office. It is quite possible

tended Alcorn A & M College, where they studied education. After college, they moved to Chicago, where they lived for the next 20 years. In Chicago, their three future lawyers were born. But before the children started school, the Stimleys left Chicago and returned to Jackson, where Mrs. Stimley still resides. They opened a grocery store in Jackson,

civil rights movement in Mississippi. She especially remembers Constance Motley, one of the first Black attorneys in the United States, who is now a federal judge in New York. A couple she met in Jackson, who had graduated from Harvard, encouraged her to apply here. "Frankly, I didn't know anything about it at that time. They told me that Harvard was the best school and I took their word for it. I didn't know how hard it was supposed to be to get into."

According to her brothers, it was Penny who persuaded them to enter the legal profession. Frank said that he "hadn't considered law at all. It was business all the way for me. But then Penny began talking to me, suggesting law and telling me about the new joint program in law and business."

At the same time, Penny was working on Sherman — "I was working as an engineer for an oil company in Houston at the time," he recalls, "but I just wasn't very interested in what I was doing. Engineering didn't involve people. It seemed to me to be mostly numbers and equipment. So I was increasingly disenchanted with it. My sister informed me that there were very few Black lawyers, that law might be my field, saying there were a host of issues and problems that involved Black people and just plain people. She told me that there was no particular background necessary to study law and that if I



Sherman, Pernila, and Frank Stimley studied together in 1971

that only once in Harvard's history have three siblings worked on their law degree during the same year — 1970-71. Again, the name is Stimley.

Sherman Stimley, 3L is the third of the Stimleys to attend Harvard Law School. His sister, Pernila (Penny), started the movement in 1968, when she entered the school. Then came Frank, who began the joint Business School-Law School Program in 1969. Sherman will graduate this spring with a joint degree from the Law School and the Kennedy School. The three legal stars crossed in the 1970-71 academic year, when all three were working on their law degree at the same time. Sherman and Penny were at the Law School at that time and Frank was doing his first year of the joint program at the Business School.

The parents of the three, Bernice and the late Charles Stimley, were both reared in Jackson, Mississippi. They both at-

which was managed by the couple, and then Mrs. Stimley alone, until quite recently.

Penny, though not the oldest of the three, was the first to enter the Law School. She graduated from the University of Pennsylvania in 1967 with a B.A. in History and entered the Law School in 1968, where she was a member of the Board of Student Advisers. After graduation in 1971, she accepted a teaching position at Texas Southern Law School. She stayed there for a year, then started a law firm with two others and subsequently broke away with one of the partners to start still another firm. In 1973, she accepted an offer to work with the Texas Attorney General's office and is now working as one of seven special assistants to the Attorney General, specializing in anti-trust and consumer protection.

Penny says that she got interested in law by meeting several lawyers who were involved in the

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To HLS Student Numbers

was dissatisfied with engineering now, there was no sense locking myself into it for the rest of my life."

Like all the Stimley children, Sherman attended Lanier Junior-Senior High School in Jackson. He graduated in 1962 and went to Kansas University on a scholastic-athletic scholarship. There he majored in chemical engineering and was president of his chapter of Tau Beta Pi, an honorary technical fraternity. After graduating, he accepted a job with an oil company in Houston, Texas, where he worked for three years before entering the joint degree program in law and public policy. He will graduate this spring and will work for the firm of Vinson, Elkins, Searls, Connally & Smith in Houston, Texas. He will be one of the first two Black persons in the city to work for a formerly all-white firm. Typical of the family spirit, he looks at the job as a challenge and an opportunity. "Houston is a good place to live, a place with a lot of opportunities. It will be a good chance to prove myself."

Frank, the youngest of the Stimley attorneys, graduated from Columbia University with a B.S. in Computer Science in 1969 and immediately started his joint degree in law and business. His class was the first to graduate under the new program. Besides maintaining the hectic pace of the joint degree program he worked for the Cambridge Rent Control Office during two-and-a-half of his four years at Harvard. Frank graduated in 1973 and returned to Jackson, where he became the first Black associate in a formerly segregated firm in the state. Besides his practice in corporate law and real estate, he teaches a night course in business administration at Tougaloo College. Several other law schools have asked him to teach, but he has no plans to leave private practice now.

All three Stimley attorneys credit their parents for much of their success. "Since they had been to college, they appreciated the value of a good education," said Sherman, "and they instilled that in us. My father was a pretty firm disciplinarian and he made sure we studied and were prepared for our classes. My mother was more gentle, encouraging us by her pride and example." Frank remembers that his father "used to sit me down in the back of his store every day and go over my arithmetic and spelling. He used to keep a big pencil behind his ear and every time I'd make a mistake, he'd crack me on the head with it. That went on through the eighth grade. Consequently, I didn't make many mistakes."

Each of the children remembers different ways that the parents sacrificed to help them get the best education possible, but they agree that one of the most important was their parents' choice of schools when they were in grammar school. They sent their children to a private Catholic school. "The schools in Jackson were sure separate," says Sherman, "but they weren't very equal. The Catholic school wasn't really superior to the public school physically, but it definitely was in matters of discipline. They insisted that you do the work and sent home reports to keep your parents up to date on your progress. It made a big difference. It cost my parents a lot of money for tuition alone, but there were other expenses. For instance, they had to buy a car so they could drive us to and from school. The public school was only a few blocks away."

"I can't say too often or emphasize too much how much my parents helped us and encouraged us. When we were in school, we all were very active. We all played in the high school band, for instance. They bought us our own instruments. I played in the band, on the baseball team, and basketball. My mother came to every single game, even the out-of-town ones. And she did this for all the children. We wanted to do our best as much as anything else because we knew that she was out there watching us. She never stopped encouraging us to do as many things as we could."

"What she did for her children, for a Black woman in the South during that period is phenomenal. I want to tell the world that my mother did a great job."

Students Protest Clinical Offering Cuts Next Year

(Continued from Page 1)

of the present 2L class have assured entrance. These figures may change somewhat. Usually 10 to 12 students who pre-register will elect to drop the course. Sacks believes this trend will continue. It is also possible that the course will be slightly enlarged. This would require finding more clinical associates, usually lawyers from local legal service agencies, to supervise the additional students. Kettleson explained, however, that finding additional help was difficult and would dilute the quality of the course.

For those students who are unable to get into the course, it will not be offered again until the spring of their third year. Some students complained that this was an inopportune time presenting possible scheduling conflicts, while others pointed out they would be prevented from taking Bellow's *Civil Trial Advocacy* which has *The Lawyering Process* as a prerequisite.

Sacks indicated that there might be some new clinical alternatives open to 2Ls next year. The Law School is considering expanding the *Appellate Trial Advocacy* course and they hoped to get Massachusetts Court Rules changed to allow second year students to appear in court in criminal cases. This would allow 2Ls to take *Criminal Trial Advocacy* which could handle 20 more students than have been pre-registered.

In spite of Sack's advice that the search for a replacement to Bellow would be futile, the organizers of the drive, Valerie Wolk 1L, and Lee E. Miller 1L, believe the situation serious enough to warrant a special student-faculty committee to look for candidates who would be recommended to the faculty for approval. Speaking for the group, they pointed out that many students had come to Harvard planning on civil clinical experience in

(Continued on Page 13)

Deciding Not to Decide

The Supreme Court, if it has eyes, stares constantly across First Street at the Capitol, for it is the cynical sibling of the Legislative branch, imbued by both the Constitution and by public tradition with the duty of vacating any Congressional orders which stray too far from the enumerated powers given to the Government in the Constitution.

However in the past there have always been cases, real flesh and blood controversies, which the nation's court of last resort decided not to decide. We must differentiate here between the reasons which actually motivate such decisions and the reasons stated for failing to render a decision. Mootness is one of the latter, a claim that, if ever one existed, no real controversy between the parties still forces the ever-reticent court to dip its collective toe into the uncertain waters of constitutional construction.

The political question doctrine, however, has something of the character of both reason and rationale. The Court has recently rejected what is probably the last test of the constitutionality of the Vietnam War, a suit by Congresswoman Elizabeth Holtzman, '65 and four Air Force officers challenging bombing conducted by the United States.

During our first year of law school, we sat in on the steps of the Supreme Court, singing, "All we are saying is rule on the war." No ruling, of course, was ever forthcoming, although the courageous Federal Judge Charles E. Wyzanski, '30 did circumscribe the government's right to continuation of the war in *Mitchell v. Laird*.

It seems to us that a measure of the greatness of the United States is this country's ability to tame the ravages of the political process through the mechanism of judicial review. As we approach the 1987 Bicentennial of the Constitution, the court on First Street should be mature enough to increase its trust in that mechanism by eliminating or severely restricting such loopholes as the political question doctrine through which Executive action and Congressional acquiescence may be allowed to trample the rights of the individual which the Constitution was designed to protect.

Voiding a federal law or enjoining an executive order on behalf of a single plaintiff always involves the Court's crossing swords with the apparent majority will, and the Constitution may seem a brittle and flimsy weapon. But failure to confront a question which resulted in over 55,000 American dead, a similar number of stateless draft-evaders, and untold death and suffering by the indigenous population must be justified by more than artless cliches which suggest the specter of popular revulsion of the Court's decision.

The passage of the War Powers bill is a step in the right direction. The current judicial handling of the impeachment investigation is another. Perhaps the public outcry at the firing of the first Special Prosecutor has given the Supreme Court more leverage in enforcing its supervision of the Executive Branch.

Failure to adjudicate can only mean the decision-maker acquiesces in the likely state of affairs during the interim before a similar case arises. In the *DeFunis* case, perhaps the Court hopes to give law school admissions committees the opportunity to correct the gross under-representation of many minorities in the profession.

An age of confusion requires explicit communication. The Constitution will be severely tried by the problems which face the United States in a time of rising expectations abroad and decreasing political cohesiveness at home. The great questions of the last quarter of this century are posed in terms of motivating or manipulating large numbers of people, that is, political questions. The tendency of lazy or evil leaders may be to impose their will by short-circuiting the Constitution, without, or more dangerously, with, the apparent approval of the electorate. How will the Supreme Court respond?

HARVARD LAW RECORD

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Fenno

The 1L sat pensively at the table littered with booklets and papers of various sizes and shapes, studying with great attention a legal page covered by intricately detailed handwriting. Fenno, with an intuition of what was happening and an immense reluctance to become involved in it, did his best to pass by without being noticed.

He didn't quite make it.

"Hey," the 1L called, noticing Fenno at the last moment, "Who's better, Brudney or Vagts?"

Fenno sighed.

"Than what?" he asked.

"What do you mean, 'than what'?" the first-year student demanded.

"Well," Fenno explained patiently, "both of them are better than catching pneumonia. On the other hand, neither is better than sex. Or even as good."

"No, no," the 1L insisted. "Which, as between the two of them, is better for Corporations?"

"That depends," Fenno averred bravely. "If you'd like to spend some time working on any of your other courses — or sleeping or doing anything like that — you should probably stay away from Brudney. What else are you taking?"

The 1L frowned and consulted the legal page before him.

"So far, I've decided on *Ethical Problems of the Storefront Lawyer*, *Sociology of Multi-media Litigation*, *Negotiating Contracts for Professional Athletes (Workshop)*, and *The Human Dimension of Legal Practice: Interacting with Graduates of Yale (Fieldwork and Instruction)*."

Fenno shook his head. "Just another protean tool of Wall Street," he murmured sadly. "Tell me something: with a list like that, why are you bothering to take Corporations?"

"I want to keep my options open in case I decide to work for a firm next summer."

"I see. Is that all the hours you have, or do you have to take a couple of other courses?"

The 1L shook his head with dissatisfaction.

"I have to take three more hours," he said. "I'm having trouble deciding between *Comparative Latin American Approaches to the Cross-Examination of Expert Witnesses*, and *Einstein's Theory of Relativity and the Law*."

"That is a tough choice," Fenno acknowledged. "Have you considered *Taxation*? It might come in handy in case you ever have any income to report."

"No way," the 1L scowled. "None of the Tax courses meet after ten o'clock in the morning. And all of them have final examinations."

Fenno nodded sympathetically. "At least you won't feel guilty about taking *Business Planning* during your third year," he said.

Letters to the Editor of The Record

Psycho-Legal Collaboration

To the Editor:

Phil Spector's analysis of the use of behavioral science methods in the courts ("Scientific Jury Selection Warps Justice") misuses several points so widely that a clarifying response is required. The complex issues at stake in areas of psycho-legal collaboration to which Spector alludes (e.g., the work of Shulman, Christie, et al during recent conspiracy trials) are difficult to delineate in small space. Our purpose here is only to indicate certain flaws in Spector's presentation and to demonstrate the insubstantiality of two major points of his argument.

First, Spector falsely dichotomizes "intuitive" and "scientific" approaches to *voir dire*, implying that the two are opposed or that they somehow constitute the extremes of some procedural dimension. The term "intuitive" is misleading in that a number of social, political, and psychological filters already exist in the current selection of venirepersons, e.g., voter registration, occupation and so on. To call current procedure "intuitive" and to argue that this approach provides a random sample of peers selected behind a veil of just ignorance seems disingenuous. Current approaches to *voir dire* (whether one chooses to call these "intuitive" or whatever) are instructed by criteria which, for the most part, have yet to be explicitly spelled out. Clearly, "scientific" jury selection is not something that stands in opposition to present methods of jury selection (as Spector would have us believe), but rather represents a spelling out of criteria which are implicit in present procedures.

Spector argues that possession of equal scientific expertise by both adversaries leads to a "cancelling out" effect that returns the jury to a condition identical to one chosen "intuitively." Spector is confounding behaviors intended to maximize the chances of one or another party's winning a particular case with behaviors intended to maximize chances for attaining justice. (The picture he paints is one in which, say, an attorney representing a minority defendant would be trying to eliminate the most prejudiced venirepersons while his adversary tried to eliminate those least prejudiced). Here Spector is obviously wrong. Under conditions of "scientific" jury selection, the jury would be the best possible on as many relevant dimensions as could be ascertained during the adversarial process.

Secondly, Spector places a heavy burden on the possibility that the use of scientific procedures will "irreversibly undermine ... our feelings that juries somehow mystically 'do justice'." "Human inscrutability," admirable as it may be, is perhaps poorly informed. To select juries that will be able to

"do justice," the legal system addresses itself to the problem of finding jurors who are capable of weighing the merits of cases put before them in ways (call them mystical, if you like) that are not influenced by systematic sources of bias. It is the very scrutability of such biases that argues against the point Spector wants to make. To avoid selecting biased jurors is not to eliminate "human inscrutability" but rather to maximize the chances of the merits of a given case to be fully considered.

Gordon Bermant
Bill McKinley
Daniel Jacobovitch
Alan Sanstead
Battelle Seattle Research Center

With Respect to Luiz Slaughter a Lawyer

To the Editor:

With respect to question 6 in the March 22 Sports Quiz, UCLA's 6'5" center in its 1964 NCAA championship season was of course Fred Slaughter. Especially since that same quiz reports that a later UCLA starter (Ken Heitz) recently graduated from Harvard Law School, we think the RECORD should make clear that Fred Slaughter himself, after graduating from UCLA, went on to receive his law degree at Columbia. He then returned to UCLA, where he presently serves as Assistant Dean for Student Affairs in the Law School. In the years that have intervened since that first NCAA championship, Fred has filled out somewhat, and cuts a mighty figure in the Law School's corridors.

Kenneth L. Karst '53
Gary T. Schwartz '62
Harold Horowitz '49
Los Angeles, California

"Chutzpah" Recognized

To the Editor:

I could not help but be amused at the comments regarding the phenomenon of "Chutzpah", referred to in Mr. Simon's letter to the Editor in the March 22, 1974, edition of the RECORD.

The term has received recognition from the judiciary in *Williams vs. The State*, 126 Ga. App. 350, 190 S.E. 2d 785 (1972), wherein the Honorable H. Sol Clark stated:

"Chutzpah" is the appropriate word to describe the crime upon which appellant was tried: burglary by breaking into the Jenkins County Courthouse and asportation therefrom of eight pistols, five shotguns, and rifle shells which were in three locked cabinets in the Sheriff's Office to be used as evidence in another case which the accused had no connection.

Hopefully, it is not "Chutzpah" to at-

tempt to inundate The RECORD with this sort of trivia, and, in the process, expose Mr. Dershowitz' (Mr. Rosten's?) source.

Gerald A. Friedlander '64
Atlanta, Georgia

Law Notes

Students are invited to meet members of the **Harvard Overseers Committee to Visit the Law School** and members of the **Council of the Harvard Law School Association**. Both groups are meeting at the Law School today. The groups are sponsoring a reception today from 6-7 p.m. in the John Chipman Gray Room, Pound second floor, which is open to students.

* * *

The first annual **Sports Trivia Society Sports Quiz Championship** will be held today from 10 a.m. to 3:30 p.m. Interested participants should go to the Board of Student Advisers Office between those hours to take the test. Only individual awards will be given in the quiz which will be composed of 35-50 multi-sport questions.

* * *

Dormitory applications are now available in FOB-104. They must be returned to the dormitory office **no later than 4 p.m. April 30**. Room draw will be conducted on May 1, 2 and 3 with students being notified of their assignments or waiting list number shortly after that.

* * *

Harvard-Radcliffe Hillel will present a celebration of **Israel Independence Day** 7:30 p.m. April 28 at Sanders Theater in Memorial Hall. The program will include a performance by the Hamakor Dance troupe, Israeli singing and dancing, and magic shows. Sidewalk cafes will sell Middle Eastern and American food. Admission price is one dollar for adults and fifty cents for children.

* * *

Students who have recently received clerkships should submit their names to the office of Assistant Dean Stephen M. Bernardi. The names will be published in the last issue of the RECORD.



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Chicano Boycott Provokes

To the Editor:

It is significant that the comments attributed to Mr. Chris Lucero in your article, "Chicano Members Pull-Out of Civil Rights Law Review," 58 Harvard Law Record No. 7, p.1 (April 12, 1974), were solely individual observations.

The Chicano Law Students Association, the Chicano and Native American editors and staff of the *Harvard Civil Rights-Civil Liberties Law Review* (CR-CL), Mr. Anthony Marquez, and Mr. Jose Angel Silva declined your personal invitation to comment upon the factors which led to the walk-out.

After considered review of the article, reflection upon questions addressed to us from the members of the Law School community regarding ambiguities, and what we feel were inaccuracies surrounding the events portrayed, we are of the belief that further comment of an official nature is necessary.

It is with the objective of clarification that we are compelled to make public the attached letter. You will note that the letter was written as a prelude to enjoin publication of Mr. Marquez' article. We feel that the letter illustrates in a very personal manner the confrontations and deceptions experienced because of the prevailing attitudes of the CR-CL editorial staff.

The enclosed letter should be considered with the following additional factors which are of paramount importance and must be underscored if one is to understand why we are affronted:

1. **We feel that the election was racial in character. The fact that it broke down along racial lines was an indication of the underlying racist attitudes present at the meeting. We could not and did not anticipate a "white backlash" against increased minority participation on the Review, participation and work that had origins with the first Chicano law students at Harvard. When an individual works for two years, contributing heavily throughout, and then loses to another with five months of nominal experience, something is wrong. It is not, however, the fact that the first minority candidate lost that is upsetting; but the process and the degree to which individuals were willing to go to preclude minority advancement.**

2. The decision to no longer participate in the Review was made very soon after the March 7 election. The minority staff and editors involved felt that the manner in which the election had been conducted coupled with the past treatment of minority writer, and the insensitivity toward a true commitment to civil rights and civil liberties on the part of the editorial staff were reasons sufficient to force this action. As far as the minority staff was concerned the CR-CL could only produce those articles which were so weak and so non-committal to

any ideological guideline, that the Review had become more of a hindrance than an aid to the progress necessary in the field of civil rights. The contention that minorities are not equipped to address the broad scope of issues and subjects with which the Review deals is an insult not worthy of comment.

The meetings with Michael Goldberg were not negotiations in the true sense. Our feeling of moral indignation and outrage could not be bargained away. We requested that there be implemented a type of policy board. This was in light of the absolute nature of the backlash as well as the abject lack of editorial direction which left minority input unprotected against the ravages of purported editors. At no time did our proposal change shape in form or substance. We felt that some plan of reorganization necessary to effect institutionalization of minority input above the level of tokenism was essential. This measure of positive change in the Review became our "bottom line" in any attempt to rectify the racism.

There was never an attempt to overturn the election. At no time was there the taste of sour grapes. This was made explicit to the Editor-in-Chief at the meeting held on Saturday, March 16, by Mr. Chris Lucero, Mr. Anthony Marquez, and Jose Angel Silva, who represented the minorities. This point was reiterated at every meeting subsequent.

3. Finally, it was our hope that this incident would remain a private matter and that some solution satisfactory to all parties concerned would be resolved. This was not the case. The sacrifices we have made (a) withdrawal of all articles earmarked for publication, (b) resignation of present editorial positions and, (c) the rejection of future editorial positions offered, fully demonstrate the degree of our moral indignation with the racist and insensitive attitudes of CR-CL, and its inability to respond to higher needs. We can no longer sanction or give added credibility to an association so fundamentally at odds with the moral and philosophical basis of minority advancement. To do otherwise would constitute an insult to our integrity as individuals and an utter rejection of the responsibility we have to the communities we represent.

Anthony Marquez 2L

Jose Angel Silva 2L

Chris Lucero 3L

Charles Luna 1L

Chicano Law Students Association

James Youngblood Henderson 3L

Native American Law Students

Mr. Michael Goldberg
CR/CL Editor-in-Chief

Dear Mr. Goldberg:

It is unfortunate that we have not been able to communicate with you, but since the night of Tuesday, March 26, Jose Angel

Silva, Jr., and I have been working for Malcolm McGregor, Esquire, and associates on an appeals brief for the Court of Appeals for the Fifth Circuit. Since that time we have been working every day on the brief in order to have it prepared for filing on Monday. We had personally committed ourselves to this *pro bono* work on behalf of an indigent criminal defendant in the matter of *United States v. Rogers*, Civ. No. 74-1252, before any of the following was brought to our attention.

On Tuesday, March 26, at about 1:30 p.m., I was personally threatened by Robert Brown of the Harvard Civil Rights - Civil Liberties Law Review with an ultimatum that my article entitled, "*N.L.R.B. v. Mansion House Center Management Corp.: NLRB Recognition of Union Discrimination*," would be published with or without my permission. Robert Brown simply asked me if I wanted my name on it or not. I told him that I had withdrawn my article from publication. He told me that he had a person who was willing to work on it. He accused me of stealing property that he claims belongs to the Harvard Civil Rights - Civil Liberties Law Review. The only property I have is the original of my 5th or latest draft. I may or may not have copies of my earlier drafts, but I have thrown most of those away. Upon my return to Harvard, I will definitely check to see what materials I do have, but I can assure you that all I have are my drafts and my copies of my article. However, in order to fully understand the implications of this dispute, the following facts should not be overlooked.

On March 7, the Harvard Civil Rights - Civil Liberties Law Review (hereinafter the review) held its annual election. At this election my article was misrepresented by Ed Eitches as the worst piece ever offered for publication with the review. Ed Eitches had always informed me that my article was very good and excellent for someone who had not taken a labor law course. During the course of the election I had obtained a plurality of the votes on the first two ballots of the four candidates running. Even so, the crucial point came when my work was represented as incompetent. This not only included my article, but work which I had done for almost two years on the review. This came as an unbelievable shock to me since my work on the review had always been represented to me as excellent. After the election, Ed Eitches apologized to me and admitted that he was prejudiced towards Michael Goldberg, who had won the election. He told me that he was not going to work for the NLRB. I suddenly realized that Ed Eitches had been playing me for a fool and was only interested in having an article published that would not be adverse to the Board's present view since he might be working

HARVARD LAW RECORD

S More Comments

for them in the future. I could not believe the lack of intellectual integrity that I had to confront nor the reality that my article had been discredited on policy grounds. The fact that the final ballot broke down completely along racial, ethnic lines was indicative of how the election was conducted.

Since September, 1973, I had been working on my article with almost little or no assistance. Neither Chris Bensick nor Ed Eitches gave me any substantive editing in the preparation of my article. Ed Eitches himself thought that Chris Bensick ought to have been removed from the list of articles editors for not doing his job. Nevertheless, I was told that my comment was the most difficult, but that I was doing an excellent job. I just wasn't getting the editing that was required for a good piece. I was also told that my article had to be held up, pulled from galleys, because the NLRB was on the verge of issuing some regulations in this matter. To this day the NLRB has not even decided whether to proceed by rule-making or adjudication.

In light of the unfair circumstances of the March 7 election, on March 8 I pulled my copies of my latest draft which was typed at my expense. To this date, no work has proceeded on this article. On March 10, Michael Goldberg, Editor-in-Chief, understood that whether I would have my article published with CR-CL depended on what all minorities wanted to do in light of the unfair circumstances of the election held Thursday night. I had already given the review notice by the withdrawal of my latest drafts from the office. I specifically told Michael Goldberg that if I decided to publish my article, I did not want Ed Eitches to edit it or have anything at all to do with it. I made clear to Michael Goldberg that my further participation in or association with the review as well as the publication of my article was contingent upon the outcome of negotiations that would be proceeding between himself and the minorities.

On March 16, Chris Lucero, Jose Angel Silva, Jr. and I spoke with Michael Goldberg and stated our grievances. The consensus was that unless minorities were given a substantive role in the review we could not see any reason for promoting its image in the eyes of Civil Rights - Civil Liberties advocates when it was hostile to us. After the meeting broke up, I remained and gave Michael Goldberg my impressions and suggested some alternatives to remedy the situation. On March 18, Robert Brown asked me if I were going to finish my article. I told him that I did not know. On March 20, after meeting with Michael Goldberg three times, I personally decided to leave and forego all association with or participation in the review. All the Chicanos and American Indians walked out. There was not a

consensus among the blacks, but I for one would not continue to work as a mere "token" and insult my personal integrity. On March 23, Michael Goldberg called me to confirm this. Finally, on March 26, I was threatened by Robert Brown if I did not accept his will.

I must say now that this whole affair offends my deepest notions of right and wrong; it is morally repugnant to how I have been taught to treat other people. As Chairman of the Chicano Law Students' Association, I tried to do my best to do whatever I could for those who without prior knowledge of the law or Harvard wanted to come here and become practicing attorneys. But now, in a situation in which there was never any guarantee that my article would be published, and where it had been represented as the work of an incompetent, I cannot sit still and allow a few individuals to steal from me what is so completely my work product. If an injunction is found necessary, I will do what I must to protect the moral and intellectual integrity of my work product.

Anthony P. Marquez 2L

To the Editor:

I am writing to correct certain inaccuracies in the April 12 article on the Harvard Civil RIGHTS/Civil Liberties Law Review's election of the editor-in-chief. I also hope to explain in more detail the election process. The article stated that Chris Lucero was upset because I was the editor of Tony Marquez and Mike Goldberg and that I "seemed to clearly favor Goldberg." The article continued, "Lucero felt that some of Eitches' crucial comments were based on an article by Marquez ... which Eitches had praised shortly before the meeting."

My preference of Goldberg over Marquez had nothing to do with ethnic factors. I also believe that had another Chicano run, someone who is taking a leave of absence next year, he probably would have won the election, again not because he was Chicano but because the members believed that he was the most qualified candidate for the post.

I did not comment on the quality of Tony's piece before the election. I knew that I might be put in a precarious position because I had also been Goldberg's editor. Since I was Tony's editor, at the election meeting I was required to comment on his writing and analytical skills.

During the run-off between Goldberg and Marquez, I was asked to make a comparative judgment. I did clearly favor Goldberg and my opinion was apparently given much weight. But anyone could have criticized or supported my views. Portfolios of all the candidates' writings were available in the office all week; anyone could have read them. Nobody at the election meeting disputed my critique of the quality of Goldberg and Marquez' work.

Edward Eitches 3L
Cambridge, Mass.

Woolf, Trope Lunch Speakers For STS Today

Bob Woolf and Mike Trope, professional athlete representatives, will speak at a luncheon today at 1:15 in the Mallory Smith room at Harkness. The luncheon is being sponsored by the HLS Sports Trivia Society. Woolf is widely recognized as the premier sports attorney in the business. He has represented over 400 professional athletes including Jim Plunkett, Bobby Orr, and Joe Theismann. He negotiated Derek Sanderson's one million dollar release from the Philadelphia Blazers and currently represents 9 of the 12 Boston Celtics.

Trope formed his own company World Sports Management Inc., one and a half years ago at the age of 20. He has since represented over 40 professional athletes including Johnny Rogers and 12 other consensus All-Americans. The contract he negotiated for Rogers was the largest in the history of the Canadian Football League. He also represented the first three collegiate players to sign with the new World Football League.

Students Protest Clinical Cutback

(Continued from Page 9)

the second year. Speaking privately some questioned Harvard's commitment to the program and found the failure to fill the vacancy another manifestation of the Law School's corporate orientation. Additionally they condemned the lack of notice.

Both Sacks and Kettleson testified to the strength of Harvard's commitment to the programs. Sack's explained that the clinical offerings have grown substantially over the last five years. He said he believes they will continue to grow. Kettleson said that Harvard's offerings compare very favorably with programs at other Law Schools. Kettleson also described the unusual difficulty finding someone to fill this position saying that the position requires one with an interdisciplinary background.

Students React to Legal Methods Changes

By Phil Heageny

"The Legal Methods-Ames-BSA programs seem to represent the extent of Harvard's commitment to teaching lawyering skills and lawyering processes directly in the first year. As such, these programs are a woefully inadequate compromise with an effective introduction to these kinds of skills and knowledge. The School should establish a rigorous program in this area as a regular part of the first-year curriculum, or it should abandon these programs all together. At present, Legal Methods and Ames are the step-children of first-year education at the Law School."

This comment by a first-year law student summarizing the reactions of many 1Ls to Legal Methods, Ames and the BSA may surprise many people involved in these programs. It will surely disappoint David Rosenberg, the director of the teaching-fellows program, who substantially revised Legal Methods this past summer after stu-

selves and learning from their mistakes," Rosenberg said. "I wanted the program to challenge their abilities but not make them feel foolish or resentful when they were wrong. But I wanted them to see the implications of making a mistake when they were really lawyers."

The Board of Student Advisors was also determined to make first-year education a more distinctive experience at Harvard, and they saw the Legal Methods program as an important part of their efforts. Henry B. Gutman, 2L the new president of the BSA, noted that the Board had agreed with Rosenberg's goals. The Board assigned one member to each Legal Methods section and provided administrative aid on projects related to the program. In addition, the Board sought to emphasize Legal Methods as an opportunity for students to get to know each other and to discuss reactions to law school.

"... They should understand that this involves a lifestyle and a set of standards..."

dents complained for several years that the old Legal Methods program was a waste of time.

Rosenberg said that his goals had been to make Legal Methods the foundation of the first-year program and to raise questions in Legal Methods which other first-year courses side-stepped. Rosenberg emphasized that he wanted Legal Methods to force students to examine roles lawyers play in society, to think about what a professional commitment to lawyering means, to study the responsibilities of an advocate, and to ask what effects legal education and professional lawyering would have on them and on their values.

"When you tell people to think like lawyers, they should understand that this involves a life style and a set of standards and commitments, not just an occasional method of acting," Rosenberg explained.

Rosenberg focused the Legal Methods exercises on the skills of building and interpreting a case record and of litigating real problems. The program retained the products liability cases as an exercise in legal analysis but expanded the scope of materials which students read and criticized. Following this exercise, each teaching fellow taught a litigation problem in which students played roles and carried the issues from the fact setting through to trial and appeal.

Rosenberg explained that the program was intended as a rigorous introduction to a lawyer's professional responsibilities but also as an opportunity to use imagination. "I wanted the atmosphere to be challenging with students competing against them-

The last phase of the Rosenberg-BSA experiment was to move the compulsory first-year Ames competition to the second semester. Professor Robert E. Keeton, a member of the Liaison Committee between the BSA and the faculty, explained that this change was made so that students could use the skills they had developed in research, analysis, and writing through the Legal Methods exercises. Dean Sacks added that moving Ames to the second semester would give first-year students more time to devote to the program.

Thus, this year's 1Ls were presented with a Legal Methods-Ames program that had undergone significant changes and with a Board of Student Advisors that planned to take an active role in first-year education. How did the students react to these attempts to improve the introductory legal education at Harvard?

Outside of the exercises run by Rosenberg himself, little enthusiasm could be found for these projects, and some first-year students were highly critical of Legal Methods, Ames, and the BSA. One student summarized the feelings of more than a few of her classmates when she commented, "The nicest thing I can say about those programs is that they were a complete waste of my time." Focusing on Legal Methods, another student said, "After two hours in those classes, my day was ruined."

A number of people said that they had expected the Legal Methods sections to offer a more relaxed environment than the regular law school classroom setting. Instead, they found the atmosphere of the sections made them just as reluctant to speak and

just as concerned about making mistakes.

The program created other false expectations. "I expected a moderate amount of work and a lot of feedback, a 1L said, instead I got as much or more work than in my regular courses and almost no useful feedback." Some students noted that they still had not been given back briefs that they wrote in early November.

A number of 1Ls were equally critical in their comments about the Board of Student Advisors. Many students found individual BSA projects like the library research exercise or the model trial useful in themselves. But they added that the BSA seemed to spring these projects on them throughout the fall with little advance warning and less explanation. "The BSA and Legal Methods always seemed to be intruding on your schedule with some new project as if first-year students had nothing to do with their time" was the way one student summarized his reactions to the BSA activities.

"Board programs were usually disorganized, a member of Section II, commented, but BSA members would become angry when you asked them to clarify their directions or pointed out their mistakes." One student summarized his classmates' perceptions of the BSA: "Some of the BSA people were friendly and worked very hard, but, in general, the organization presented an attitude of disdain mixed with humorlessness. It was hard to believe that these people had once been first-year students themselves."

First-year opinions of Ames were also critical, although students who worked on Ames Alternatives expressed some enthusiasm. Crowded library facilities, the low quality of the BSA-teaching-fellow

Shapiro will survey first-year students

criticism, and the pressures of regular course work turned the program into an annoyance. In addition, the program projected a high school spirit with its long instructions on the details of typing and assembling briefs.

Faculty and BSA members responded to the suggestion that some 1Ls had found the Legal Methods-Ames-BSA projects useless or even counter productive with denials, explanations, and counter-attacks. Dean Sacks said that his informal soundings revealed that first-year students had been excited and pleased by both Legal Methods and Ames. He doubted that there were any conflicts among the program's various goals. The Dean concluded by noting that his office was planning to conduct a formal survey of 1L reactions to Legal

(Continued on Page 16)

HARVARD LAW RECORD

COOP ELECTIONS FOR STUDENT DIRECTORS

*To Coop members who are degree candidates
of Harvard, Radcliffe, M.I.T., or
The Episcopal Theological School . . .*

If you did not receive your ballot in the mail for the election of student directors of the Harvard Cooperative Society, you may, upon presentation of proper identification, obtain one from the Cashier's Office on the mezzanine level of the Coop's Harvard Square Store or any Coop Store. Ballots must be mailed in time to be received by May 3.



HARVARD SQUARE
M.I.T. STUDENT CENTER
HARVARD BUSINESS SCHOOL
CHILDREN'S HOSPITAL MEDICAL CENTER
LAW SCHOOL

Dorm Council Sets Budget Sports Answers

The Law School Dormitory Council was presented with a \$9,000 budget for 1974-75 at its meeting Monday which included another heated discussion of the dorms pay telephone subsidy for next year.

A motion was made after the budget was presented to drop the proposed partial subsidy for the telephones which was proposed by the Telephone Committee and to continue the present full subsidy policy. Members supporting the full subsidy argued that the revenue estimates from dorm cards

and coke and pinball machines were too conservative. By using a higher figure these members argued a full telephone subsidy could be provided, while at the same time having a balanced budget.

After debating the subject the motion for a full subsidy failed to carry, since the vote was 14-14. Procedural wrangling continued after the close vote, with the result that the telephone subsidy issue continues unresolved.

Also defeated was a proposal to increase the allocation for athletics.

1. Ralph Branca
2. Tony Cloninger
3. Frank Robinson (4), Harmon
4. Jim Gentile
5. 12
6. Josh Gibson
7. Warren Spahn
8. Dale Long
9. Ralph Terry
10. Charlie Root

Rule 26:



Q. Why can't someone synchronize the clocks in the classrooms. It's hard to get from one class to another when they're as much as five minutes off.

A. Dean Bruce reports that classroom clocks are synchronized every Monday by the janitorial staff.

Q. Why doesn't the library stock the Miami Law Review?

A. The library does — you can find it under *University of Miami Law Review*.

Q. The Graham Room opposite Pound 102 never has good newspapers, just a radical paper called *The Guardian*.

A. *The Washington Post* and *New York Times* are delivered there daily. Presumably someone takes them home. No one seems to know where *The Guardian* comes from.

Q. Are or are not bikes allowed in the buildings?

A. Dean Bruce says they are NOT. He further notes that they violate fire laws and that a blind student was recently injured tripping over one. In the near future they will be removed "by whatever means necessary" and taken to as of yet undesignated "Bike Pound".

Q. Why were some 3Ls kept out of Appellate Trial Advocacy when a certain 2L was let in?

A. Jeanne Kettleson explains that, contrary to the catalogue description, the course next year is open to both 2Ls and 3Ls and that the 2L in question was admitted to the course through the regular lottery procedure.

Legal Methods Experiments Criticized by 1L Participants

(Continued from Page 14)

Methods, Ames and the BSA projects through Associate Dean David L. Shapiro.

Professor Keeton emphasized that many of these projects were experimental in nature, and so they needed time to develop. Keeton noted that administrative problems plagued some of the projects, and agreed that the attempt to make Legal Methods more challenging might create some conflicts with its image as a relaxed, small-group program with considerable individual feedback. Keeton doubted whether anyone could give an accurate assessment of the strengths and weaknesses of these projects at this point since channels of communication were not well developed at the Law School.

David Rosenberg believed that his goals of making Legal Methods a central part of the first-year curriculum and a rigorous introduction to "the processes and responsibilities of lawyering" remained valid. But he felt that breakdowns had occurred between himself and some of the teaching-fellows during the fall and that the design of the litigation projects had failed to consider the inexperience of first-year students.

Rosenberg admitted that the proper workload for the course remained problematic and that some of his students had initially developed false expectations about the purposes and methods of the course.

Rosenberg said that he wanted the first-year faculty to participate in Legal Methods but that the program was still an experiment. "Until the program has proved itself, I can't honestly demand that the first-year faculty pay it more attention," Rosenberg concluded.

Michael J. Critelli, 3L a member of the BSA, noted that the workload for both 1Ls and BSA members increased noticeably this year. "The BSA has been increasing its activities for the past three years without asking about the quality of the work it was doing," Critelli said. "Some BSA programs have been badly organized as a result, but some first-year students haven't understood

the administrative problems the Board has had."

Gutman repeated Critelli's comments that "this year's first-year students seem to be somewhat more grade-conscious and hard-working than the past few classes have been. In addition, some of these people complained no matter what we did for them, for example, when we offered choices in the Ames topics this year for the first time. Some of the 1Ls wanted everything their way or not at all and they didn't seem to care about their classmates."

Overkill effect on first-year class

Gutman also believed that the large number of BSA programs this year had had an overkill effect on the first-year class. "The Board should have given more thought this past year to the time, energy, and interest limitations of the 1Ls. By the time Ames began, some people were fed-up with these projects. The Board was involved in so much that it wasn't doing a very good job on some of its traditional programs."

Gutman explained that Rosenberg "sometimes gave more thought to his goals than to the practical problems involved in achieving them. This was one reason Legal Methods and the related BSA programs had a lot of administrative difficulties. Also, we still don't know what the role of the BSA people should be in the Legal Methods program or in what spirit the program should be presented to 1Ls in the fall."

A third BSA member said that 1L complaints about the Board were justified because "most BSA people were obnoxious this year. They didn't remember the frustrations of the first year, and they didn't work well with people. I expect that applications to the Board will drop this year because we antagonized so many people."

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