

HARVARD LAW RECORD

America's Oldest Law School Newspaper

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TWENTY CENTS

Professors Support Minority Admissions

By Tammy Jacobs

Minority admissions quotas at professional schools were supported by four of the five law professors participating in a panel discussion in Langdell Hall last Friday.

The panelists were brought together by the Boston-area Black Law Students Associations, to comment on the pending *Bakke* case, due to be heard by the U.S. Supreme Court next month.

The *Bakke* case involves a claim that the University of California at Davis, as a result of its allocation of 16 first-year medical school spaces for minority students, denied Allan Bakke, a white male, admission to the school.

The California Supreme Court ruled in favor of Bakke, striking down the University's minority admissions program.

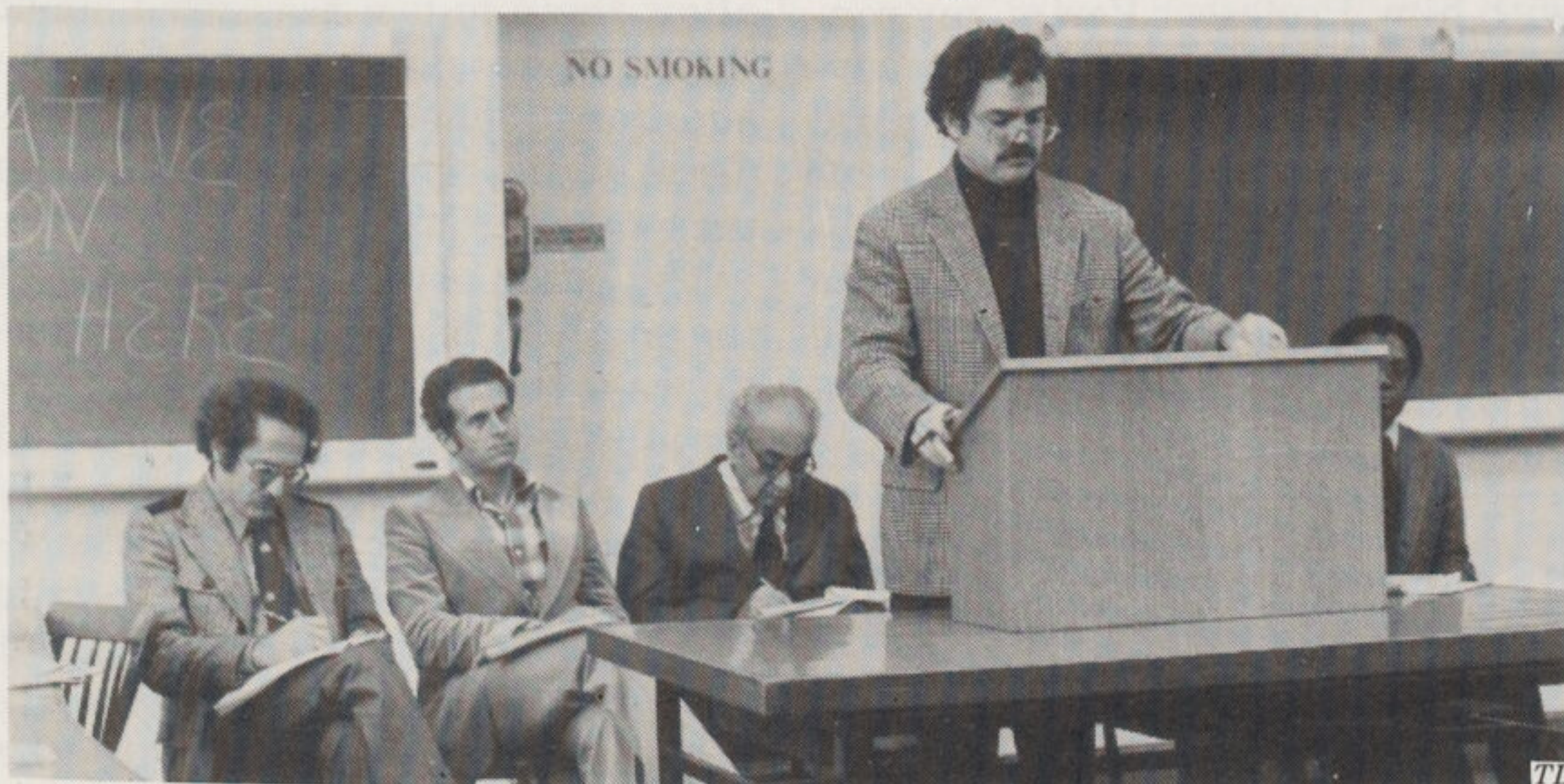
Although the case was to be the focal point for the Law School panel, all five professors used it as a springboard for comments on the broader issues of minority admissions.

Constitutional law professors John H. Ely, Derrick A. Bell, Jr. and Laurence H. Tribe and Prof. Emeritus Paul A. Freund argued in favor of minority admissions programs, although all steered clear of the emotionally-charged word "quota."

Criminal law professor Alan M. Dershowitz vociferously attacked the concept of quota systems while maintaining that professional schools do have an obligation to attract Black and disadvantaged students.

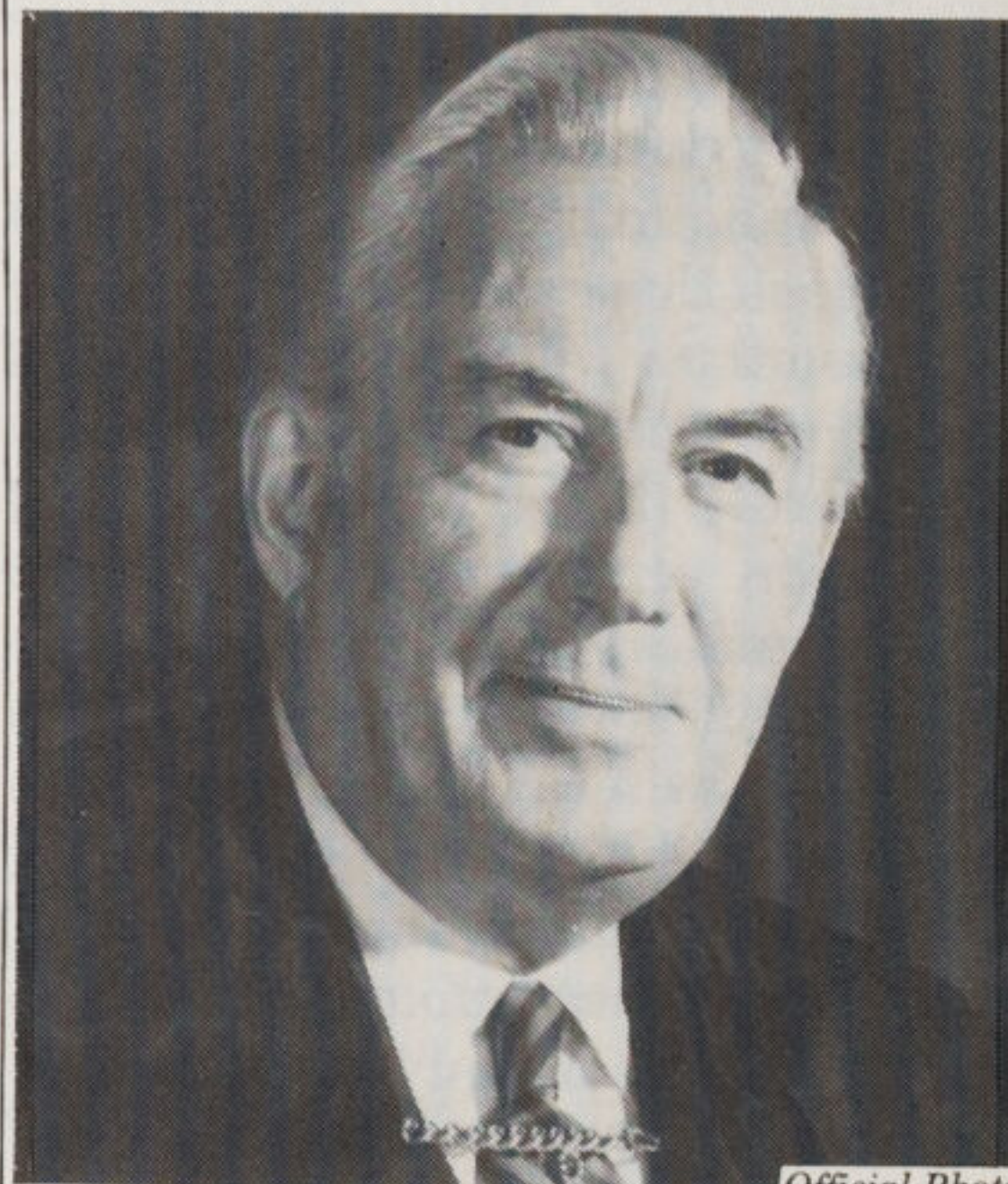
Within the structure of six-to-ten-minute statements, brief rebuttals, and an audience question-and-answer period, the panel was often lively,

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Professors Dershowitz, Tribe, Freund, Ely and Bell debate the concept of admission quotas for professional schools.

Warren Burger To Preside Over Ames Finals



Official Photo

Chief Justice
Warren E. Burger

By Terry Keeney

Chief Justice of the United States Warren E. Burger is scheduled to preside at the final round oral argument of the 1977 Harvard Law School Ames Competition. Burger will head a distinguished panel of jurists, which will also include J. Skelly Wright of the District of Columbia Circuit of the U.S. Court of Appeals and Edward F. Hennessey, Chief Justice of the Massachusetts Supreme Judicial Court.

The Ames final round began earlier this week when the record for the mock case was released to the competitors. The case, captioned *West Bay Point New Freedom Church v. Barns*, concerns a constitutional challenge to a Maine

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The 'One L' Experience

Professors: Awesome and Unavailable

Editor's Note: The following is reprinted from ONE L: An Inside Account of Life In the First Year at Harvard Law School. Published by G. P. Putnam's Sons, New York, N.Y. (Sept. 1977). Copyright by Scott Turow 1977. All characters are fictional. This excerpt is printed with the permission of the author.

Like most first year law students, I found my dealings with my professors often troubling. What was perhaps most disturbing was the fact that there were virtually no dealings at all. I had far less personal contact with faculty members than I had expected before coming to law school. With 140 in a class there is little chance for professors or students to get to know one another well. The situation hardly improves in the second and third years, when classes are often even larger. To an extent the problem of class size is unique to Harvard, where there are more students to be accommodated than anywhere else; but at all American law schools the ratio of students to faculty is notoriously high, probably rivaled among American educational institutions only by the business schools. It is another of the institutional difficulties often laid at the door of Dean Langdell.

"One of Dean Langdell's great contributions to legal education," I heard one professor say later in the year, in addressing a group of students, "was to make it cheap." By establishing the socratic method, he had found a way to educate 140 people at the same time, a form of educational mass production. He proved to the presidents of universities all over America that they too could make money by opening a

law school and hiring just a few people to teach."

Some professors deny that the reason for large classes is economic. A faculty adviser named Thomas Heinrich, a teacher of business and tax courses, was appointed for our Legal Methods group. Heinrich invited all of us to his house one evening, and in the course of conversation he defended the large classes as producing a better educational environment.

"You have Smith over here and Johnson over there and they both want to make the same point. And there's Green there who has something to say to each of them. With 140 people in the same class you get a greater diversity of response and sharper answers." Heinrich also reminded us that the pressures of speaking in a large class may offer good training for people soon to be making their careers in court.

Whatever the reason for large classes, it is a safe bet that many students would prefer a more intimate setting. During my first term, the Law School Council, the student governing body, proposed that in the future, for 1Ls, one course in each section should be taught in small classes of thirty-five. That compromise, one smaller first-year class, has been adopted at many other law schools — Yale, California (Boalt), Minnesota. At lunch with him, Professor Perini, my contracts teacher, surprised me by saying that he favored the proposal and believed that all classes in all years should ideally have enrollments no higher than forty. But the majority of the HLS faculty judged the proposal too expensive and im-

practicable and it was never seriously taken up.

To me, though, the proposal had made good sense. When I was deciding between law schools, a number of friends had encouraged me to go to Yale, because it has the lowest student/faculty ratio of any law school in the country. I had tended to dismiss the point, but now I could see how valuable an opportunity for more regular contact with the professors would have been for us all.

For one thing, much of that gnawing, maddening sense of not knowing how you are doing could have been eased with smaller classes. Most of the professors were loath to grant us any kind of praise in the large classes, no matter how extraordinary was a student's performance. Their thinking, I guess, was that to do so would only increase the resentments in an environment that was already emotionally taut. On occasion, Nicky Morris, our young Civil Procedure teacher, could compliment students quite skillfully — a quick, casual, "That's very good," after a person had spoken — but much of that ability might have been a function of Nicky's ease in the classroom, hard for many on the faculty to duplicate. In smaller courses, however, professors could easily give individuals the small amounts of personal attention which would allow them to feel reassured about their progress, not to mention the additional benefit of providing students with a sense of recognition as persons apart from the mob.

The other point I felt in favor of the smaller classes was that in subtle ways the teaching would be better and more complete. A lot of snags in learning law, like any other subject, are idiosyncratic — little mental wrinkles that seem to crease every brain in the room but yours. Sometimes peers, who are just getting acquainted with the

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HARVARD LAW RECORD

Legal Advertising Rules: What Comes After Bates?

By Charles Johnson

When the U.S. Supreme Court ruled in June that the legal profession's self-imposed ban on advertising was unconstitutional, advertising proponents eagerly forecast a breakthrough for small firms and clinics specializing in routine services for middle and lower income clients.

But the *Bates v. State Bar of Arizona* decision, as stated in Justice Harry Blackmun's opinion, has had few marked effects on the legal profession as yet. Ads for reasonably priced legal services have cropped up all over the country, but most lawyers say it is too early to measure their effects.

The American Bar Association has amended its Code of Professional Responsibility to "specifically authorize certain prescribed forms of legal advertising," but its effects have yet to filter down to the real policy-making organizations, the state bars.

Elizabeth Bartholet, assistant

"Only a few lawyers, generally solo practitioners or small clinics, have chosen to advertise in the city's daily and weekly newspapers."

professor of law and director of the Legal Action Center of New York City, said the *Bates* decision should help meet the great need for legal services among people who lack knowledge about the nature and cost of the services.

"The real question is what happens after *Bates*," she said. "In *Bates* the court invites the Bar to take over."

Andrew L. Kaufman, professor of law, said the ABA, in its Code of Professional Responsibility changes, has already moved beyond the limited ruling of the *Bates* decision which only authorized newspaper advertising of routine legal services.

"We don't yet know what the ultimate result is going to be," he said.

Responses in the Boston area to the decision reflect the nationwide feeling of uncertainty and ambiguity about the controversial decision. Only a few lawyers, generally solo practitioners or those in small clinics, have chosen to advertise in the city's daily and weekly newspapers.

Those who have advertised have taken fairly inconspicuous ads in the newspapers' classified sections. Some contain prices for routine services like uncontested divorces, while others merely contain the

"Levitte said he had received no comment from local bar organizations about his advertising, but 'a number of attorneys have told me they really don't care for it.'"

lawyer's name and a list of services performed at "reasonable rates."

Several lawyers cited Hal K. Levitte, a Boston lawyer, as the area's biggest advertiser.

Levitte, who heads an office which includes another attorney and three paralegals, said he began advertising a few weeks after the decision and that he advertises daily in the *Globe* and *Herald-American* as well as in the weekly *Phoenix*. He offers, in large bold type, divorce (uncontested) for \$200 plus a \$38 filing fee, a rate among the lowest in the city.

"We handle domestic relations and personal injury cases," said Levitte, a 1973

graduate of the Suffolk Law School. "What I am trying to do is a clinical approach."

He's had an increase in business since beginning the advertising campaign, but he wonders whether it will prove to be profitable in the long run. "Any advertising campaign takes at least six months or a year," he said.

"There aren't too many other lawyers who advertise," he continued. "It's a real gamble. It's a lot of money."

Levitte said he had received no comment from local bar organizations about his advertising, but "a number of attorneys have told me they really don't care for it."

Another young attorney, Mark Shaw, said he has what he thinks is the lowest rate for uncontested divorces — \$150. He's using that as a drawing card for his solo practice and has handled mostly routine cases since beginning practice in 1975.

He's more optimistic than most lawyers about the effects of legal advertising on the profession and on consumers.

"I think it's going to be beneficial to the young lawyer, and it's going to be beneficial to the consumer," said Shaw. "For example, the cost of uncontested divorces has gone way down. I think it's going to have an effect on all lawyers, not just those who are advertising."

Robert W. Huffhines Jr., a 1968 Harvard Law School graduate, began advertising three weeks ago, and he said he has received some business, mostly domestic cases, from the ads in the *Phoenix* and *Real Paper*.

"Once you start it (advertising), you've got to keep doing it," he said. "It's expensive. I keep my overhead to a minimum as it is."

None of the lawyers' advertisements have strayed from the guidelines set forth in *Bates* which permit only newspaper advertising of routine legal services. In protecting the right of lawyers to advertise under the First Amendment, Blackmun said appropriate regulations

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Panelists Support Admissions Quotas

(Continued from Page 1)

was sometimes heated, and was interrupted in several spots for applause, cheers — and occasional hisses.

Moderator Charles Ogletree of the BLSA moved the group from Langdell North to the larger Langdell North Middle midway through the two-hour-plus session, and even the bigger room was unable to accommodate the full audience.

Ely spoke first, admitting that he finds "the moral issue posed by affirmative action programs extremely difficult."

The constitutional issue, he said, is less difficult. Since the 14th Amendment is structured "to protect minorities, not to say that race is irrelevant," he said, minority admission programs are constitutional.

Ely, commenting that "this remains, I think, in important ways, a racist society," asserted the need for minority programs.

He also raised the issue of Jewish groups' objection to such quotas, but said it does not follow that admitting more minority students will result in anti-Jewish prejudice in admissions.

"Of course, some Jews will be hurt by these programs, as whites generally will; but as long as it's a cross-section, I don't see how there's any reason for concern."

His position drew severe criticism from Dershowitz later in the discussion.

Couching his position in gentler terms, Freund said he used the *Bakke* case as "an exercise in ethical analysis."

He defined the problem of the case as "whether some preference may be given on racial grounds to a limited number of admissions to a professional school where those admitted are all qualified . . . and where this program has been adopted as a matter of academic policy by the university."

Starting with the "acceptable proposition" that race may be validly considered in some situations as a remedial factor, Freund spoke of academic free-

dom to set such quotas for professional schools.

"The racial factor does not make for an inherent injustice and immorality," he asserted, adding that final decisions on the issues should not be made until enough years have gone past to allow a hindsight evaluation of the results of quota-system admissions.

"Minority admissions," said Bell, "are not the result of a court order . . . they were created out of political pressure by black kids and white kids a dozen years ago. . . . Minority admissions are not going



Prof. Emeritus Paul A. Freund supports admissions quotas.

to rise and fall on what the Supreme Court says."

While the *Bakke* case may have far-reaching effects on groups as diverse as athletic students and those who profit from alumni connections, Bell said, he decried the fact that the minority view is expressed in this case through majority middlemen such as the California school system.

Those minority groups most vulnerable in the *Bakke* case "will not be present" when the case is decided, and "have been reduced to seeking judicial representation for their views through amicus briefs," Bell objected.

The California Board of Regents, he added, "can hardly claim to represent minorities."

Many of the facts of the *Bakke* case have been lost in the ensu-

ing arguments, he said, and minorities "might bring a badly-needed realism" to a situation "that often reads like a law school exam question."

Dershowitz said he agreed with Bell — "except the therefore."

While he spoke out for preference to disadvantaged students, Dershowitz said, "there is no way of justifying a preference for an advantaged black over a disadvantaged white."

Giving an exaggerated hypothetical example of the wealthy black headed for Wall Street versus the "blind child of a poor broken family" who wants to work in his old, poor neighborhood, Dershowitz spoke in favor of "quotas that ask the right questions."

He also blasted Ely's argument that more blacks don't necessarily mean fewer Jews admitted to professional schools. Add racial quotas to geographic distribution systems, Dershowitz said, and you have a system that discriminates against Jews, who traditionally apply from urban areas.

"I do not want to see the Supreme Court chisel into the Constitution the fact that race alone may be considered as an admission criteria," he said.

"Let's get back to some kind of morality in admissions."

The issue, countered Tribe, is "whether it shall be etched into the Constitution that under no circumstances whatever can institutions take race into consideration."

"Whatever category of disadvantaged you will select," Tribe said, "the fact is that belonging to a minority group is on balance an additional disadvantage. . . ."

Although the results are not yet in, he added, one must respect the opinions of professional schools and feel national board scores are skewed in favor of middle-class whites, and admit lower-scored blacks accordingly.

"I don't find the constitutional issue in this case even remotely difficult," he added.

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Alumni Group Funds First Women's Law Journal

By J. P. Macon

The first issue of the *Harvard Women's Law Journal* is planned for publication in mid-April 1978, in conjunction with *Celebration 25*, a week-long series of activities commemorating the twenty-fifth anniversary of the graduation of the first women from Harvard Law School.

Planned originally as a one-time publication to serve as a lasting record of the *Celebration 25* programs, the enthusiasm sparked by the idea led its originators to propose the establishment of a



Beth A. Willensky HLSY

permanent law journal dealing with the ways in which women affect the law and how the law affects women.

According to the coordinating editors, the theme of the publication will be "the relationship between institutional responsiveness, development and change on the one hand, and personal commitment, self-image and growth on the other."

The publication of the first issue of the *Women's Law Journal* is under the auspices of the Women's Law Association Project Committee for *Celebration 25*, headed by Sheila A. Kuehl, 3L. A team of three coordinating editors will be responsible for actual production.

Funding for the first issue is being provided by the Harvard Law School Association, an alumni group that has been "very supportive," according to the editors. Work has already been begun to obtain financing for future issues. The editors hope to supplement

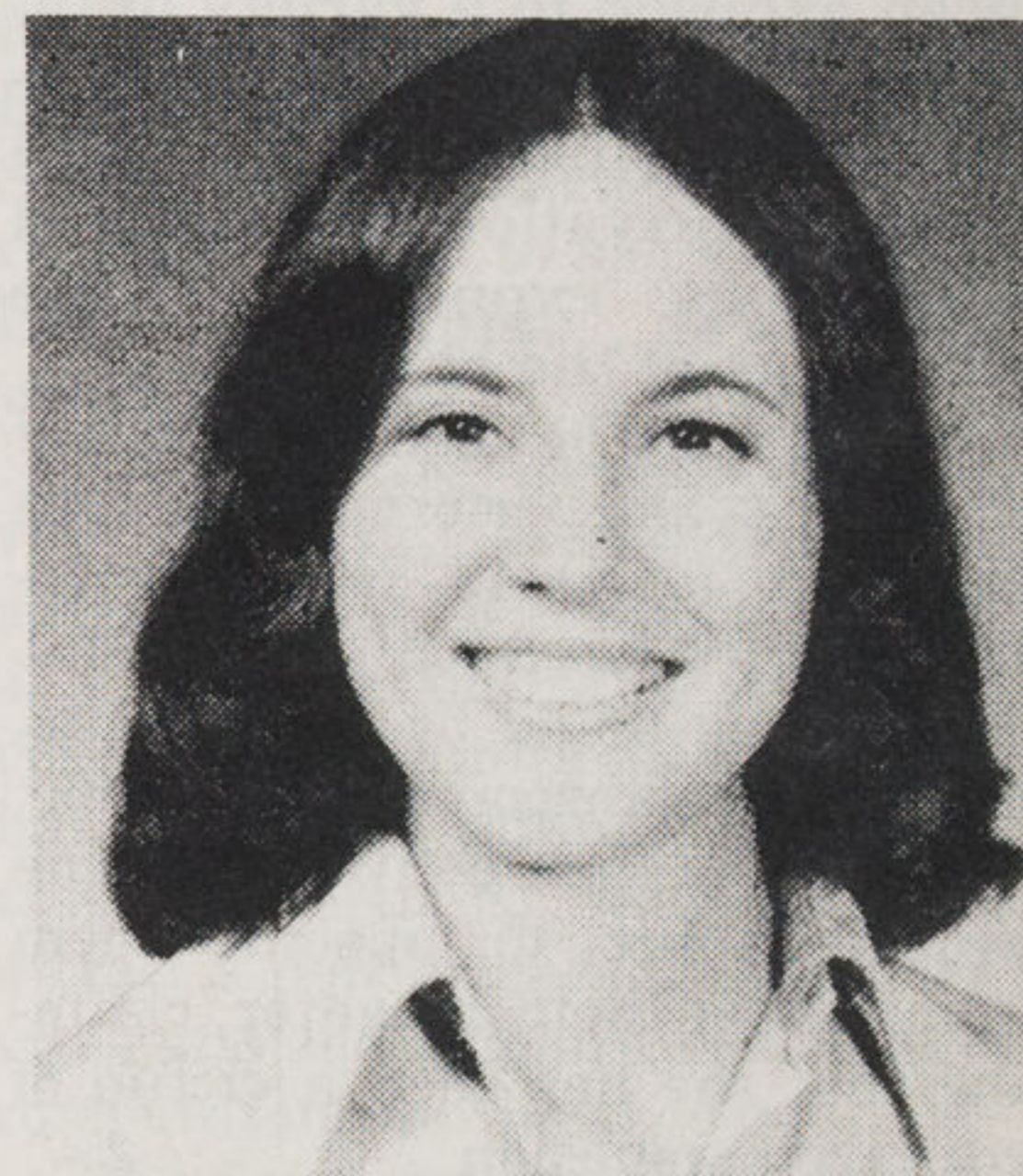
revenues from subscriptions and advertising with grants from foundations, law firms, organizations and individuals who are interested in the aims of the *Women's Law Journal*.

The journal hopes to provide a forum for women who have made significant contributions to the law and to the legal profession. The first issue is expected to contain ten articles written by women about recent developments in the law as they relate to women. Notables contributing to this issue include Betty Southard Murphy, a member of the National Labor Relations Board, who will be writing about the ways in which women can use the negotiating process to achieve what legislation has not. Legal historian Dorothy Thomas is writing an article concerning women and the law during the past 25 years, while sociologist Rosabeth Kanter will address the current sociology of women in the law. Other articles which are planned focus on issues of significance to women in the areas of criminal law, family law and international law.

Coordinating Editor Lisa C. Woods says that the current plan calls for publishing two student-written articles in the first issue of the *Journal*. These may concern any of what she calls the "burning is-

ssues," such as employment discrimination, property, abortion, the ERA, lesbianism and constitutional questions.

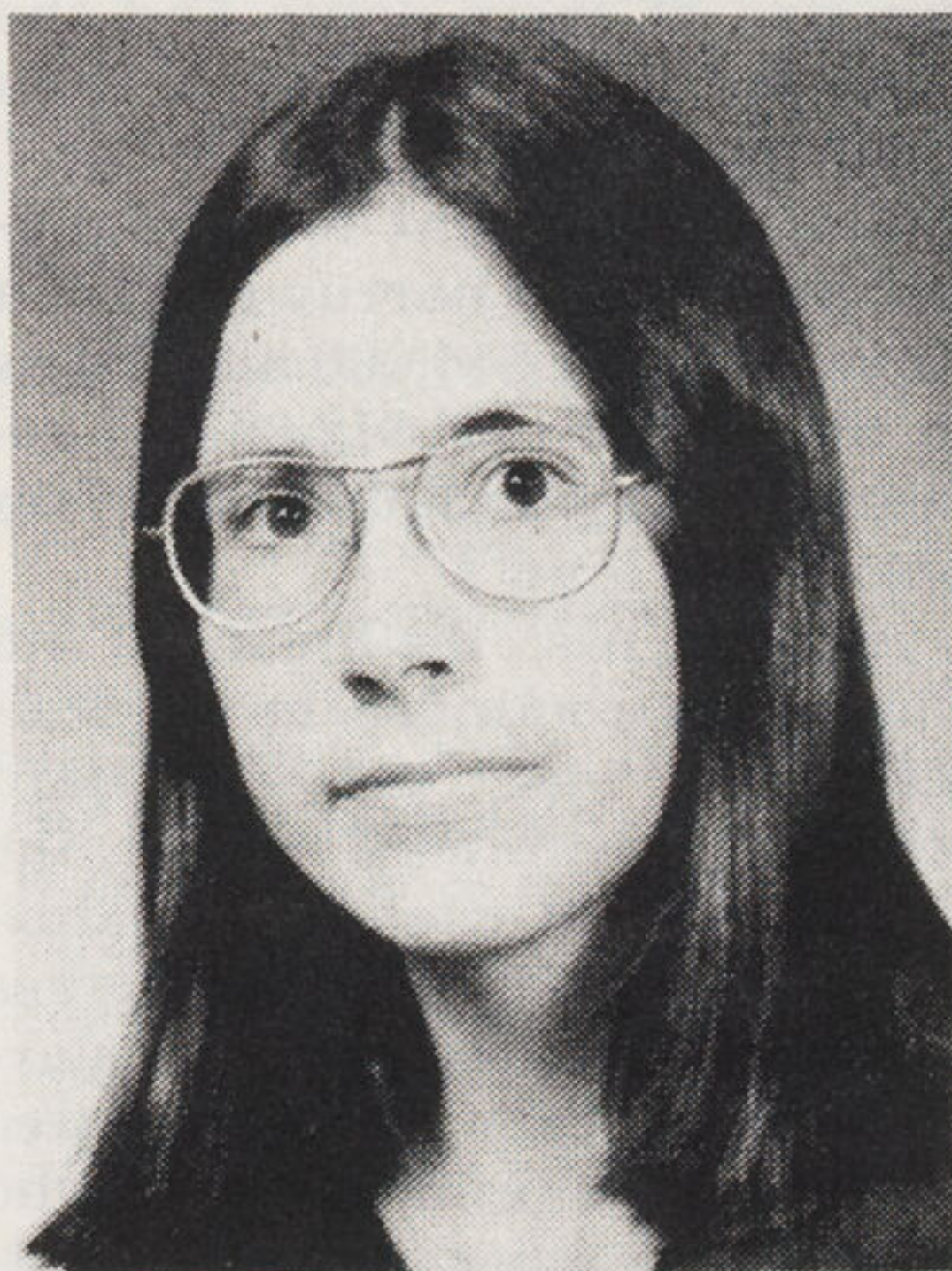
The *Harvard Women's Law Journal* will be the first publication of its type and scope in the United States. While it is certainly an ambitious undertaking, Coordinating Editor Beth A. Willensky, 2L, sees the problems facing the *WLJ* as similar to those facing any new journal with the major task of "translating enthusiasm into ex-



Lisa C. Woods HLSY

perience." The editors expressed gratification at the amount of interest expressed at the organizational meeting, especially by 1L women. This enthusiasm from students, coupled with the cooperation thus far received from alumni and the help and support of Dean Sacks is encouraging to the editors.

The *Journal* is anxious to attract others interested in working on any aspect of the publication. Although the *Journal* will deal with issues concerning women, men are also encouraged to become involved. According to Woods, "the first issue is envisioned as written entirely by women in honor of the 25th anniversary of the graduation of the first women from Harvard Law School. Other subsequent editions won't follow the same format and anyone who is interested in setting policy should join the staff now."



Elizabeth Thomas HLSY

Burger To Head Ames Finals Panel

(Continued from Page 1)

statute which permits the appointment of a guardian for persons who are victims of "coercive persuasion" — or brainwashing.

The distinguished panel of judges will hear a case never before heard above U.S. District Court level, Ames organizers claim. The case involves a 16-year-old girl who has left her parents to join a radical religious organization. The girl has been exposed to a variety of indoctrination techniques, including extended isolation in a small room, deprivation of food and continuous exposure to the teachings of the church.

The girl has become a member of the church and performs the duties of church members, including solicitation of funds on city streets. After being found by her parents, the girl is transported back home. The parents then petition a Maine probate court to appoint them guardian of their daughter, claiming that she has been a victim of coercive persuasion.

The case has reached the Supreme Court after the Maine Supreme Judicial Court upheld the probate court's appointment of the parents as guardians.

Stuart T. Rossman, organizer of the final round of Ames, noted that the facts of the case parallel experiences of parents who have tried to re-gain custody of their children after they have joined such religious groups as the Unification Church and Hare Krishna. The guardianship statute is similar in language to one that is scheduled to be considered by the Vermont legislature next term. Similar legislation is also being considered in New York and California, Rossman said.

The arguments in the case are expected to center on First Amendment, due process and vagueness questions. One issue crucial to the case is whether the alleged religious group is, in fact, a religion and whether it is protected by the

First Amendment. But perhaps some of the most interesting arguments may be derived from consideration of what constitutes brainwashing.

"Some of the testimony we're using was taken directly from the Patty Hearst trial," Rossman said. "The case has ramifications beyond the area of religion."

Representing the appellant church will be the Bushrod Washington Club. John Pagan and Sheila Kuehl will be the

oralists and Robert Shapiro, Winthrop Minot, Cass Sunstein and Stephanie Smith will assist on the brief.

An independent team, headed by oralists Jonathan Schur and Marc Gottridge, will represent the parents, the appellees. Neal Beaton, Mark Segall, Hume Steyer and Joseph Sandler will join in preparing the brief.

The final Ames arguments are scheduled for Thursday, November 17.

Loan Repayment Plan Formalized

By Elaine Exum

The Harvard Law School Financial Aid Committee is formalizing new and more flexible loan repayment schedules for HLS graduates who are deterred from accepting relatively low-paying community and public service jobs.

The Committee reports that of the 310 students in the graduating class of 1976 who received aid, 15 left school with loan debts in excess of \$15,000, 45 owed between \$10,000 and \$15,000, 96 owed between \$5,000 and \$10,000, and 96 owed less than \$5,000.

Clearly, for some of these debtors, the desire to do public interest work was dampened by the size of their debts and the need for a larger income than such positions normally pay. Under the present loan repayment scheme, a borrower with a salary of only \$14,000 and loans in the amount of \$12,000, is required to pay \$1,390 annually on his or her loan.

As in the past, the Financial Aid Committee continues to offer alternatives to the standard schedule. Where need is clear, the Committee will extend loan maturity dates, reduce interest charges retroactively, and postpone repayment of the loan. The Committee will now do more for borrowers who have made a long-term commitment to relatively low-paying

community or public service jobs.

According to Russell A. Simpson, Director of Financial Aid, the new plan now being shaped by the Committee will probably offer alumni:

- Reduction or forgiveness of the loan interest after three years of work in community or public service positions, and
- Reduction or forgiveness of repayment of the principal after five years in the position.

To receive these benefits, the alumnus must have an annual salary of less than \$15,000, although the ceiling is expected to rise as factors in the economy change. While no one has yet requested reduction or forgiveness on his loan principal, two alumni have had the interest rates on their loans reduced to zero.

Simpson feels it would be unwise to estimate the financial demands on the program or the future demand for public service positions. Thus the guidelines now being established are open to revision as demand increases and as more information on alumni in public interest jobs becomes available to the Committee.

Students considering community or public service jobs should contact the Financial Aid Office for more complete information on the plan.

Ad Ban Lifted; Questions Remain

(Continued from Page 3)
may be established to restrain false, deceptive or misleading advertising and, to some extent, to control the time, place and manner of advertising.

To comply with the decision, the ABA, always an outspoken foe of legal advertising, devised two proposals to amend its Code of Professional Ethics which indirectly governs the regulations of the state bars.

At its August convention, the ABA adopted the more restrictive of the two proposals. The new rule lists 25 specific categories of information to be allowed in "dignified" newspaper and radio ads. It does not permit television advertising, but lawyers may appeal to the controlling state agency if they want to advertise in a way not specified in the guidelines.

The less restrictive proposal, rejected by the convention, would have placed general restrictions on impropriety and self-laudation, but it apparently would have allowed lawyers' more flexibility in advertising.

But just what the Bates decision allows is not so clear.

"The court left a lot in the laps of the bar associations . . ." said Bartlett.

Bartholet pointed out that the ABA's proposal, although it is not binding, would provide guidelines for the state bars in determining their own advertising standards.

Joseph W. Bartlett, president of the Boston Bar Association agreed, but he said the Supreme Judicial Court of Massachusetts has yet to ask for bar association recommendations to establish new state guidelines.

"Obviously we'll have to make some changes," he said of existing Massachusetts laws pro-

hibiting legal advertising. "The issues are very thorny, and the more you try to draft legislation, the thornier they get."

decision on the profession and the practice of law "unless you start allowing flamboyant ads on television."

But many lawyers and professors view the lifting of restrictions on advertising as a boon to small firms and solo practitioners, and especially to legal clinics specializing in handling high volumes of routine cases.

Bartlett said the BBA anticipated the results of the *Bates* case and formed a special committee to recommend changes in the state bar's ethics code.

"I hope to make some requested or gratuitous recommendations to the Supreme Judicial Court in the next 60 to 90 days," he said. "At least we will recommend to amend the code to conform to what it appears the *Bates* case allows."

But just what the Bates decision allows is not so clear.

"The court left a lot in the laps of the bar associations of the specific states," said Bartlett. "There's all kinds of differences of opinion. It's a very emotional issue, but it doesn't seem to have much practical effect."

He discounts the effects of the

"One of the problems is that it's expensive," said Bartlett of Boston's large firm of Gaston, Snow, & Ely Bartlett. "And I couldn't afford to see any of the kind of people advertising would attract."

But many lawyers and professors view the lifting of restrictions on advertising as a boon to small firms and solo practitioners, and especially to legal clinics specializing in handling high volumes of routine cases. Advertising, they feel, will attract a new market for legal services and add a healthy element of competition into legal fees.

"The firms that specialize in prepaid legal service-type work will grow," said Kaufman. "But you might have these things without advertising."

HLS DORMITORY COUNCIL

TGIF: Friday, Sept. 30 from 4-6 p.m. in the Hark.

"A FUNNY THING HAPPENED ON THE WAY TO THE FORUM"

Saturday, Oct. 1 at 8:00 p.m. and 10:00 p.m. in the

Harkness Commons Dining Hall.

Admission: \$1.00 or \$.50 with HLSDC Activity Card. HLS DORMITORY COUNCIL MIXER: Friday, September 30 from 8:30 p.m. to 12:30 a.m. in the Harkness Commons—above Harvard Square near Mass. Ave. and Everett St. Admission: \$1.00 for women—college ID or age 21 and for men—college ID or grad students.

HLSDC Card Holders admitted free. Live Rock Band.

FRUSTRATED JOURNALISTS

Tired of banging out briefs?
Yearning to bang out hard-hitting features instead?

The HARVARD LAW RECORD is always on the lookout for reporters, feature writers, photographers, copy editors and anyone else who enjoys the whirl and excitement of bigtime journalism.

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Our consulting practice is concentrated upon the policy questions that determine resource allocation, price policy, financial structure, and competitive behavior. This is corporate strategy.

BCG's professional staff are located in Boston; Menlo Park, California; London; Paris; Munich; and Tokyo. BCG continues to enjoy appreciable growth, and we have already established ourselves as the leading strategy consulting firm in the world.

The backgrounds of our consultants vary. Although the majority hold MBAs, a substantial number have JDs or advanced degrees in economics, science and other disciplines. Fourteen members of the three most recent HLS graduating classes have joined BCG. We value their professional contribution to our consulting practice. We seek to hire more. Regardless of background, however, successful consultants must demonstrate keen conceptual and analytical ability in dealing with important unstructured business problems and the ability to deal maturely and effectively with top level executives of major corporations.

An informal discussion will be held at 3:30 P.M. on Wednesday, October 19, 1977 in the John Chipman Gray Room, second floor, Pound, for those interested in learning more about strategic consulting and BCG.

1977-78 Visiting Professors at HLS



Clockwise from left, above:

Carole E. Goldberg. Professor of Law at U.C.L.A. Law School. Clerked for Judge Robert F. Peckham, U.S. District Court, Northern District of California.

Murray Schwartz. Professor of Law at U.C.L.A. Law School. Clerked for Chief Justice Fred Vinson. Special Assistant to U.S. Attorney General. First Deputy City Solicitor for Philadelphia.

William Burnett Harvey. Professor of Law and Political Science at Boston University. Served as Dean of University of Indiana Law School. Visiting Professor at the University of Nairobi, Duke University, and Fletcher School of Law and Diplomacy, and as Dean and Professor of Law at the University of Ghana.

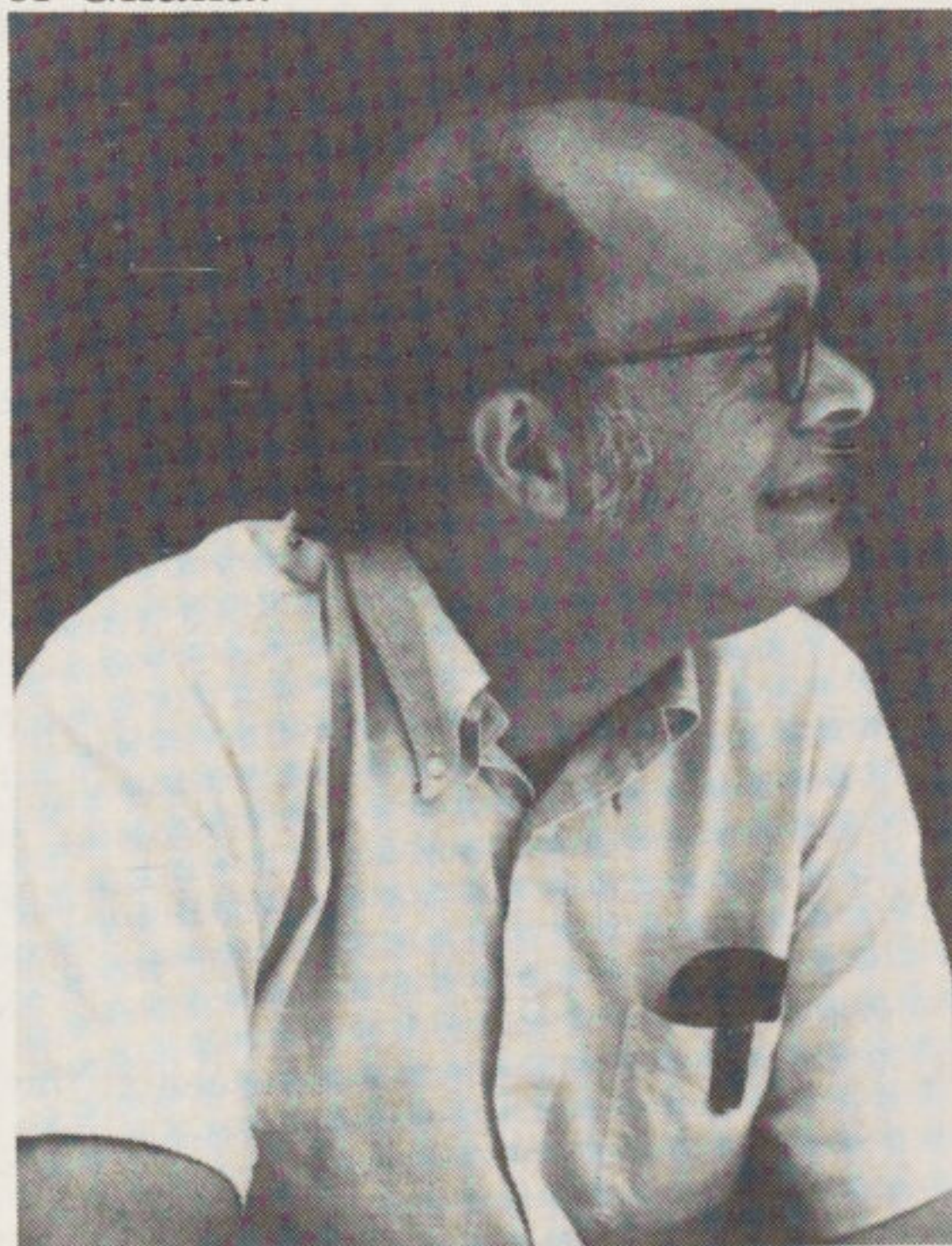
Telford Taylor. Nash Professor Emeritus at Columbia Law School. Assistant Solicitor in the Department of Interior, Senior Attorney in the Department of Agriculture, Associate Counsel for Senate Interstate Commerce Committee. Special Assistant to the Attorney General. General Counsel to the Federal Communications Commission. Chief Counsel for the United States in the Nuremburg Trials.

Mitsuo Matsushita. Professor at Sophia University in Tokyo. Has also been a Lecturer at Tokyo University and Tohoku University.

George Schatzki. Professor at University of Texas School of Law. Was also Visiting Professor at the University of Pennsylvania.



Photos by TL.



Getting Started Toward Reform

Change at the Law School — as at all educational institutions — is inhibited by the annual student turn-over. It takes most students a year to identify the Law School's flaws and another year to conceive possible means of reform.

Students must begin as early as possible the inevitable annual push for reform. Although we don't necessarily agree with all of the conclusions in the 1977 Class Committee's letter to class members, the following suggestions which it advocates serve as a useful starting point for discussion:

- increasing the Placement Office's encouragement and assistance to students who seek non-corporate, non-urban and/or public interest employment;
- improvement of dormitory conditions;
- changing the academic calendar so that first-semester examinations end before winter break;
- development by the Legal Education Committee of coherent educational goals for the all-too-amorphous second and third years;
- increasing the percentage of women and minority students and professors; and
- increasing student participation in the Law School decision-making process.
- allowing the Law School Council to appoint half of the voting members of all committees whose actions affect student life, thereby increasing student participation in the Law School decision-making process;
- moving the December 15 job acceptance date to February 15 in order to allow students to consider public interest employment and
- compiling Placement Office statistics in order to determine whether certain law firms discriminate against women and/or racial minorities.

Like the 1976 Class Committee, the 1977 Committee has urged its class members to boycott the Law School's fund drive until serious reforms are undertaken.

Most of the items on the Committee's list continue to create discontent each year. If students would present to the Administration constructive suggestions early enough in the year, perhaps there would be time to correct some of the perennial problems before another year goes by and another list of the same grievances is drafted.

HARVARD LAW RECORD

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Fenno

Fenno, strolling leisurely down the primrose path by Langdell North, espied a 2L emerging from the Pound building. The 2L, dressed in suit and tie under a Grueman trench coat, was munching a Pay Day.

Hoping to cash in on the apparent allegory, Fenno inquired innocently, "On your way to an interview?"

The 2L snickered and adjusted his cravat. "In fact, I was going to get my picture taken for the yearbook." A glimmer appeared in the 2L's eyes. "Say, aren't you . . . ?"

Fenno nodded, pleased at the recognition.

"But I thought last year was your . . ."

"I decided to hang around for another year to take Miller's copyright course. I hear he plans to sue Scott Turow for publishing his civil procedure perform. . . , er, classes in One L."

"You want to take Arthur Miller? His classes are supposed to be like a crucible!"

At this moment a passing 1L interrupted the dialogue. "Can one of you tell me how to find the health center?"

"What's the matter?" asked Fenno. "Did Clark Byse call on you today?"

"No. I just ate lunch at the Hark. It didn't live up to my expectations."

"C'est dommage."

"And trying to find my way through the West Digest without the benefit of a Monge Finder didn't help my condition, either," added the 1L.

"It's alimentary," said the 2L.

"That pun was wretched!" The 1L, convulsed in pain, clutched her stomach and lurched off in the general direction of the health center.

"Didn't mean to scare her." The 2L, embarrassed but in general quite pleased with his new-found verbal abilities, went off to his yearbook picture.

Fenno continued on his respective way, wondering what else the 1L had to look forward to.

SPORTS QUIZ

1. What pitcher threw the "folly floater"?
2. In the first Superstars competition, Bob Seagren was declared the winner. Who finished second?
3. What brother-in-law pair played in the same backfield for the New York Giants in 1970?
4. What relief pitcher played for both the New York Mets and the New York Yankees in the same year?
5. What currently active baseball player has played at eight positions in one game?
6. Who was the starting opposing center the night Wilt Chamberlain scored 100 points in a game?

(Answers on Page 16)

HARVARD LAW RECORD

Kudos for Subconscious(?) Card

To the Editor:

I would like to congratulate Professor Lewis Sargentich on the *marvelous* George Carlin imitations he does in class. I don't know whether he's doing it consciously or subconsciously, but he deserves to be commended in either case!

Tom Metzloff, 2L
Cambridge, MA

Cox; Capacity Catches Commercial Constitutionalist

To the Editor:

Your issue of April 1 has just reached my desk. (Second class mail cross country is slow. Still, a month's delay is better than my failure to receive any issues of the RECORD for several months last fall, despite my requests to the Harvard Law School Association.)

Two items in the April 1 issue trouble me: the Do-er's advertisement featuring Archibald Cox on page 9, and your editorial referring to him and to me, among others, on page 10.

I am concerned about the Archie Cox ad because it encroaches upon an area I thought was wholly mine, and because I fear what it portends for the future. More than a year ago, the bulletin boards at Stanford carried a "profile" of me, anticipating yours of Cox. Heretofore, my admiration for Cox's capacity and originality has been unbounded. But with respect to Scotch, I cannot believe that his capacity approaches mine. And does his pursuit of me into the advertising realm suggest that he will next undertake to compete with me in constitutional law casebooks?

Your editorial about "academic salesmen" is at least equally disturbing. You anticipate slogans such as: "Professor Gunther here, for Schlitz." That really reaches me where I live. I want to make it clear that I detest beer, and I am allergic to wine. But my love for Dewar's Scotch is genuine and long-standing: indeed, it is the only item in the enclosed Stanford profile that has a truly substantial basis in fact. Hence your apprehension that I may turn commercial in this direction is wholly unfounded: any endorsement by me of Schlitz or any other beer is entirely unthinkable.

Gerald Gunther
Stanford, Calif.

I Do Swear!

To the Editor:

You may be interested to know I am one of the hardy oldest, in age, and perhaps of graduates and secretary of Class of H.L.S. '03; and that, at the midyear meeting of the American Bar Association, February 14-15, 1977 (see *American Bar Journal*, April 1977, p. 530), the recommended oath of lawyers before admission to practice was amended and, as adopted, reads:

"The House approved a proposal of the Committee on Ethics and Professional Responsibility to amend the recommended oath of admission to the bar to comply with the lawyer's actual duty and the test for defending a suit, as follows: 'I will not counsel or maintain any suit or proceeding (which shall appear to me to be unjust) nor any defense except such as I believe to be honestly debatable under the law of the land.' (Deletion bracketed.)"

This was the culmination of my many and various efforts to have the change made in the suggested oath, over twenty years ago, including an article in *The Practical Lawyer*, Vol. 2, No. 5 (May 1956), and *A Sequel to "What Employments Must a Lawyer Accept?"*, in *The Practical Lawyer*, Vol. 9 (January 1963).

Murray Seasingood, '03
Cincinnati, Ohio

Cryptic Law

The following excerpt from a leading legal reference work is in "judicial code." Those students with an interest in riparian rights will enjoy this week's selection. Decode it. (Hint: Each letter stands for a different letter of the alphabet.)

"Ejrtr s dytrs vpzomh piy pg yjr zpiyj pg s
vsmupm jsd argy s vpmr pg frytoyid smf
gaped fpem pmr dofr yjrtrpg, niy om s yozr
pg johj esyrt oy ntrslid piy pg oyd vjsmmra yp
gape fpem yjr phjrt dapqr pg yjr vpmr, divj
esyrted str 'gappf esyrted', oy nromh ozzrsyr-
tosa yjsy yjr rdvsqomh esy esyrted jsbr zsfr
gpt yjrzdabrd s vjsmmraapt gpaape dpar
msyitsa vjsmmra, hiaaru, pt frqtrddopm."

(Solution on Page 14)

A major retrospective exhibit honoring the late Supreme Court Justice Felix Frankfurter is a Law Library feature for this fall, on the 95th anniversary of Frankfurter's birth. The exhibit, entitled "A Passionate Intensity: Felix Frankfurter, Public Servant, Teacher, Jurist, Colleague" includes an extensive display covering aspects of Frankfurter's personal life as well as his professional career. The exhibit can be seen inside the main entrance to the Reading Room, at the north center of the Reading Room, in the Treasure Room and in the basement entrance to the stack area from now until Feb. 6, 1978. It was prepared by Erika S. Chadbourn, curator of manuscripts and archives for the library.

* * * * *

"Sacco and Vanzetti: 23 August 1927 — 23 August 1977" is the title and theme of a Harvard Law Library exhibit commemorating the case of the two men executed by the State of Massachusetts 50 years ago. The exhibit, prepared by Erika S. Chadbourn, will be on view inside the main entrance to the International Legal Studies wings of Langdell Hall until Oct. 30. It includes memorabilia from the Sacco and Vanzetti era as well as current items concerning Governor Michael Dukakis' recent proclamation exonerating the two.

* * * * *

Convicted Watergate burglar E. Howard Hunt will speak at HLS on the cathartic effect of spilling one's beans to the Feds. The performance, brought to you by the Forum, will be given at 8 p.m. on Tuesday, Oct. 4, in the Ames Courtroom. Tickets are \$2 while they last.

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Harvard Profs Heard in Class. . .

(Continued from Page 2)

point themselves, can't help; but the professors can straighten you out in a minute. Yet it was frequently impossible to get to the faculty. After class there was that cattle show, fifteen or twenty people clustered about the teachers, the brownnosers and the shouters and a few people who'd resolved not to miss a single faculty word no matter when uttered, as well as a number of students who had sincere questions that had seemed too minor or personal to disturb the whole section with during class. To visit professors in their offices was even trickier. Frequently they were out, and if your problem was small, you were reluctant to make an appointment. Some teachers were actually exceedingly generous with their time. But too often, students got the clear impression that most professors would much prefer not to be disturbed in their offices. It was seven weeks before my Criminal Law prof announced the number of his faculty office in class and when he did, he said, "Don't come yet — you won't find me there."

I am sympathetic to a degree to the faculty wish to be left alone sometimes. Students, especially those as tense and eager for knowledge as we were, can devour a professor. Yet at HLS, by the middle of the fall I'd already begun to feel that the distance between faculty and students — not just in terms of the classroom, but even on a more personal level — was extreme. Part of the problem was one of personalities.

"I'm not sure you'd enjoy getting to know some of my colleagues in a smaller setting," Heinrich told us that night at his house when we discussed the law school council's small class proposal. "Many of them wouldn't come out well," he put it, trying to be delicate about the fact that there are some stuffy and arrogant people who teach at Harvard Law School. Many on the HLS faculty are accustomed to thinking of themselves as the best

of the best, the finest minds for miles, and there are a number who appear reluctant to waste too much of their brilliance on students.

And beyond that, the sheer numbers often spell great distance and formality in relations. At HLS, it is rare to be called anything but "Mr." or "Ms." by a professor and even rarer to address faculty members by their first names. Seldom do students and teachers pass more than a nod or a smile when they see each other out of the classroom. You are business acquaintances rather than friends, persons bound only by the slenderest connection:



"... with the biggest law school library in the world only a hundred yards away ... the professors ... build another ..."

the fact that they know and you don't.

A few of the students in my section, more or less assaulted the faculty into closer contacts. One simply presented himself at a professor's house and invited himself in. Another employed one of our teachers to work on a specialized legal problem. But less exceptional means of making contact are few. I can count on the fingers of one hand the number of professors I saw in the student dining hall during the year. The rest stuck to the

faculty eating place. And not many of the teachers seemed to walk through the underground tunnels that connect all the law school buildings and through which, during the winter, the students usually travel. Most faculty members seemed to prefer slush, snow and cold to dealing with 1Ls, 2Ls, and 3Ls.

I remember how amused Peter Geocarlis was the day I stopped him to ask why I never saw a professor in the library.

"Because," he said, smiling, "they have their own." It had never occurred to me that with the

biggest law school library in the world only a hundred yards away, the professors would build another on the fifth floor of the faculty office building, one from which students are normally excluded.

The fact that professors were so remote naturally tended to increase the kind of awe in which we held them. As it was, the faculty to us were figures of great power. They could intimidate. They could clarify. They could ruin our weekends and evenings with assignments. They could fill our heads with the ideas with which we struggled night and day. Most important, they were world-renowned masters in the game of law — the learning of which now had our full attention. In many ways they were the people we most wanted to be, and at moments

(Continued on Page 13)

But Hardly Ever Seen Outside It

(Continued from Page 12)

we seemed to regard them as if they were half mythological. When we were not engrossed in actual discussion of the law, we seemed to spend all our time talking about professors, exchanging rumors — about the famous cases Professor Mann had prosecuted or the Washington figures who'd had this or that to say about Perini. About Morris, our talk was especially reverential, because he had so recently been through the law school himself and had left such

tern of response, a return to teen-aged rages. It was the source, I think, of some of the vehemence of our criticisms.

But there were also times when that feeling of having retreated was more passive and more quietly painful. Our absorption with the faculty frequently reminded me of children's concern with their parents. By late October I had to confess that the hot feeling which came over me when I raised my hand in class was very much a child's wish for commendation, and recognizing that bothered me a great deal. I thought I'd grown be-

how grimly confused all my feelings about teachers were becoming. Tom was a young law professor from another school who was visiting at Harvard for the year. My wife, Annette, and I had met Tom and his wife a couple of years before at the home of a mutual friend in California; and when we'd found ourselves here together, we'd all gotten to know each other much better. Tom was open and generous with me and our friendship was conducted not as law professor and student, but on the personal plane on which we'd first met. On occasion the four of us would get together; now and then I'd see Tom alone for lunch. When we spent time together, we were usually away from the law school.

"Now I was in the seats, unheeded—in an assigned seat, in fact—with many details of my life suddenly controlled by other people. I began to sense that I'd been turned into a child again . . ."

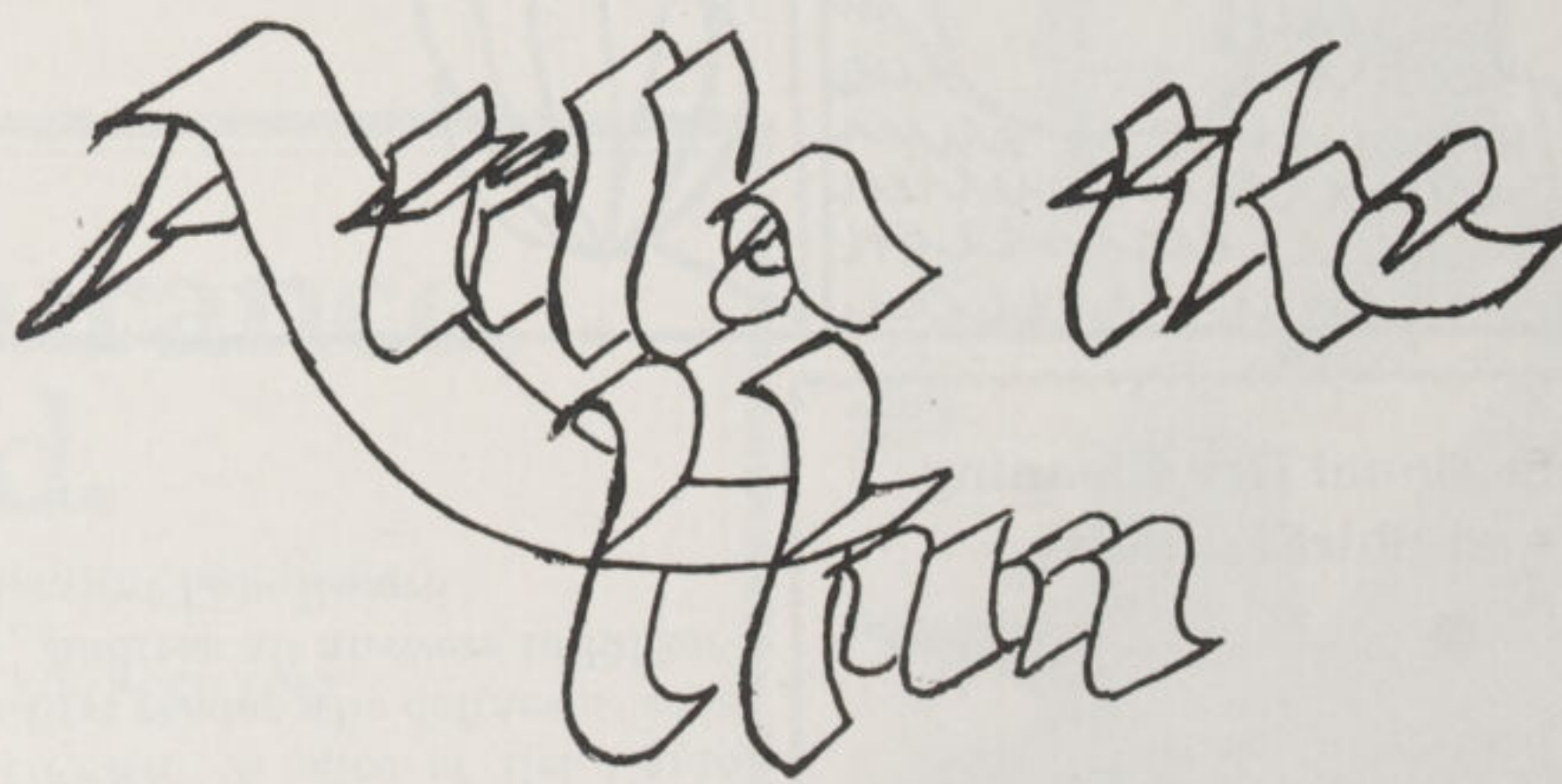
an astonishing record. The most amazing tale of his prowess was a story, perhaps apocryphal, that in a single four-hour exam period he had written not only the test in the course, but also a term paper which he'd forgotten to do in the crush of *Law Review* duties. On both, he'd received the highest grade in the class.

For me, dealings with the faculty were complicated by the fact that only the year before I had been a teacher myself, up there in the front of the classroom, listened to, obeyed. Now I was in the seats, unheeded — in an assigned seat, in fact — with many details of my life suddenly controlled by other people. I began to sense that I'd been turned into a child again, an adolescent. With its murky corridors tiled in linoleum and lined with the lockers used by students who live off campus, the law school has much of the look and smell of a high school, and there were an increasing number of moments when I really felt like a teenager, angry and adolescently rebellious. That was not a unique reaction. In many of the Harvard Law Guild members in my section, I saw a similar pat-

yond emotions of that kind. Now I learned that my childishness had disappeared only because there'd been a period when I had not been treated like a child. Thus there were episodes, for example, when I blundered in class when I would feel not only the horrible shame of the child in disappointing grown-ups but also a grown-up's shame in having lost all that ground as a human being.

An incident with a friend, Tom Blaustein, is illustrative of

One day, I ran into Tom in the law school gym. I was with a friend and we had just left class. I guess the setting overcame me. Somehow when I saw Tom, the first thing that went through my head was that he was a law school teacher. Normally, I would never have thought of calling him by anything than his first name, but when he said, warmly, "Hi, Scott," I couldn't quite keep the words "Hello, Professor" from coming out of my mouth.



*is coming!
see next week's Record*

New Faculty Members



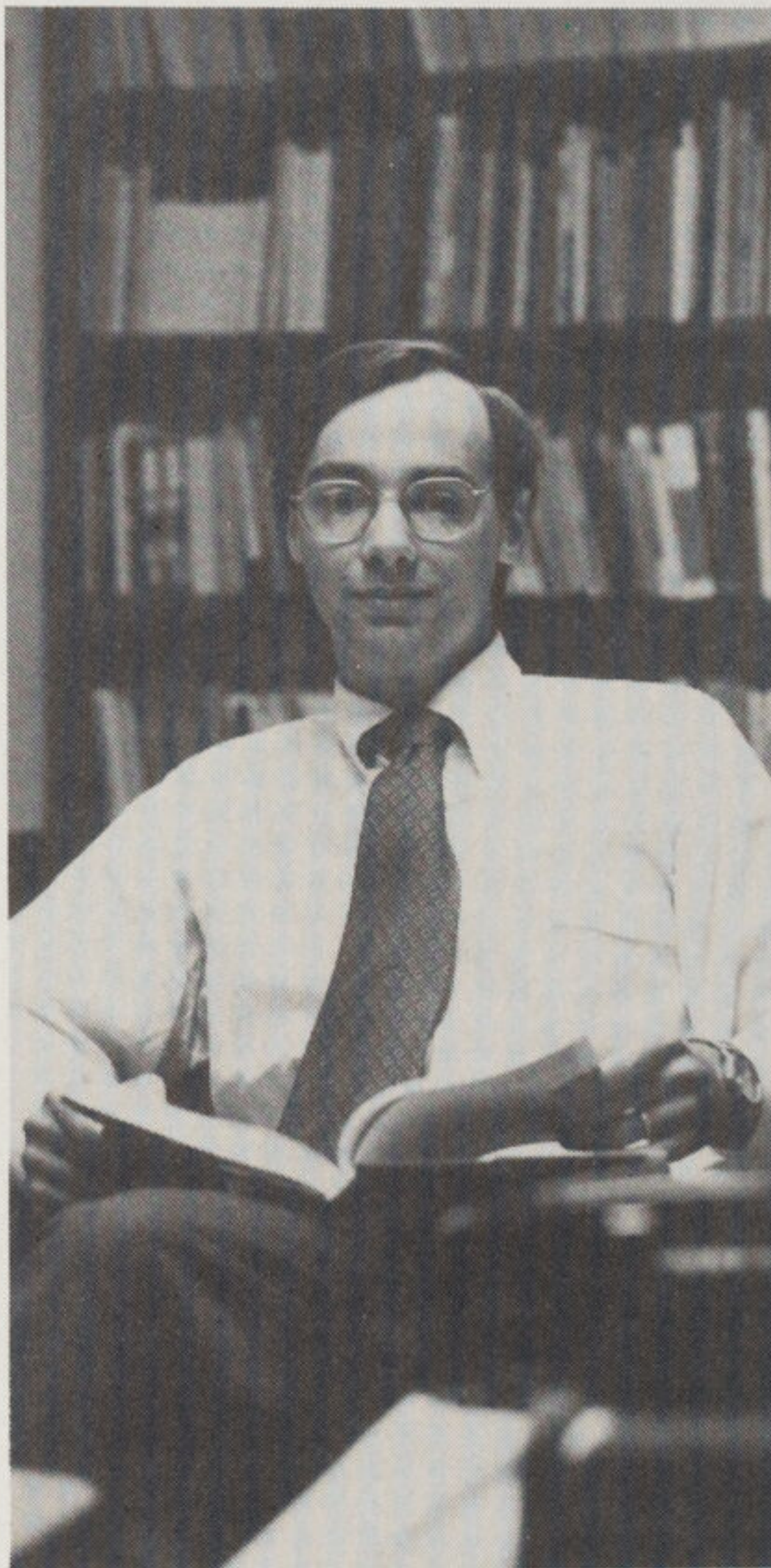
Above:

Elizabeth Bartholet. Appointed Assistant Professor of Law. LL.B. from Harvard, member of *Harvard Law Review*. Began career as clerk to Judge Henry Edgerton, U.S. Court of Appeals, D.C. Circuit. Staff attorney for Legal Aid Agency of the District of Columbia and NAACP Legal Defense and Education Fund. Director and later President of the Legal Action Center of New York City.

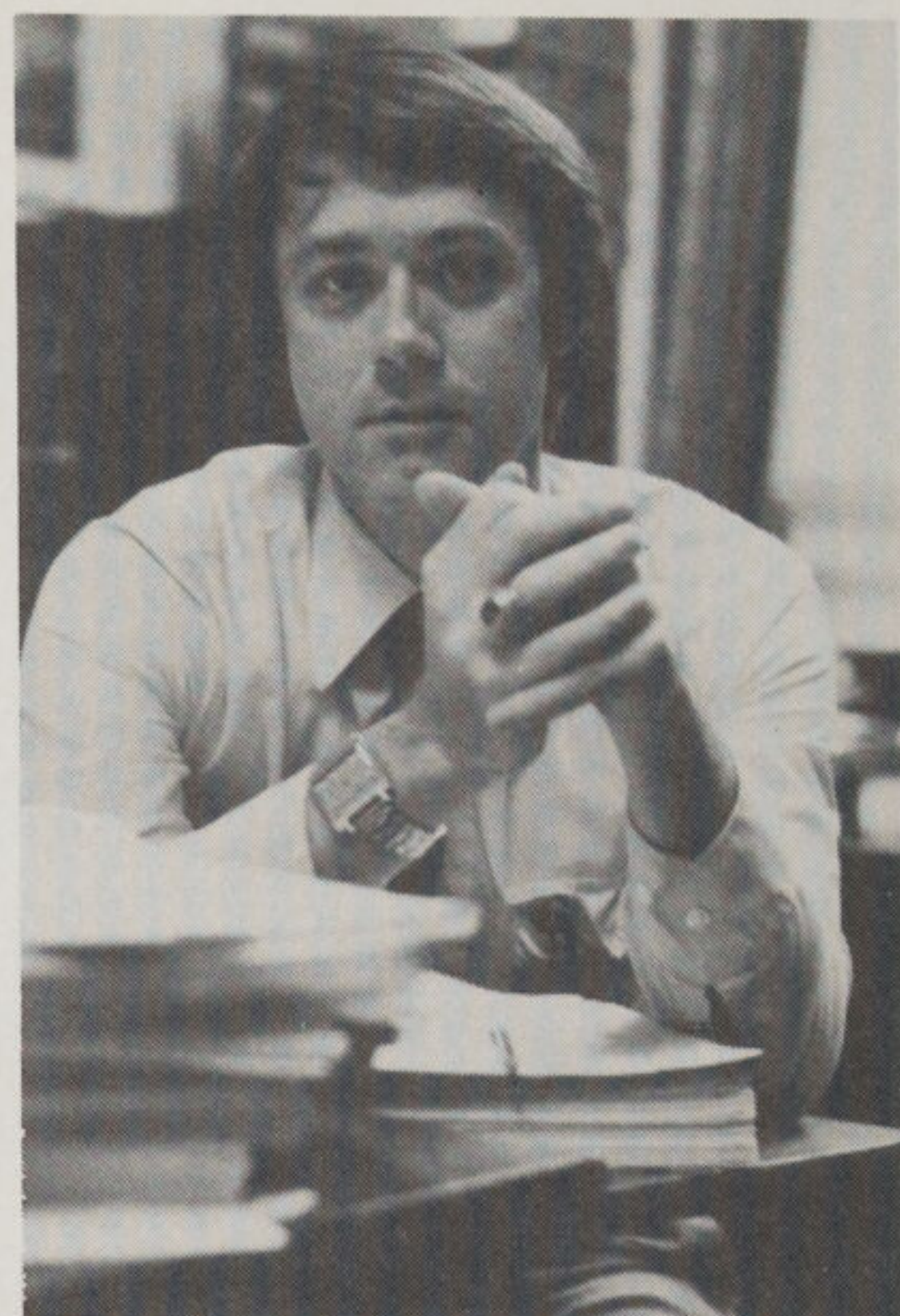
TL

Below:

Mitchell Polinsky. Appointed Assistant Professor of Economics and Law. Ph.D. from M.I.T. and Master of Studies in Law from Yale. Consultant with the Urban Institute, the New York State Temporary Commission on the Powers of Local Government, and the National Academy of Economics.



TL



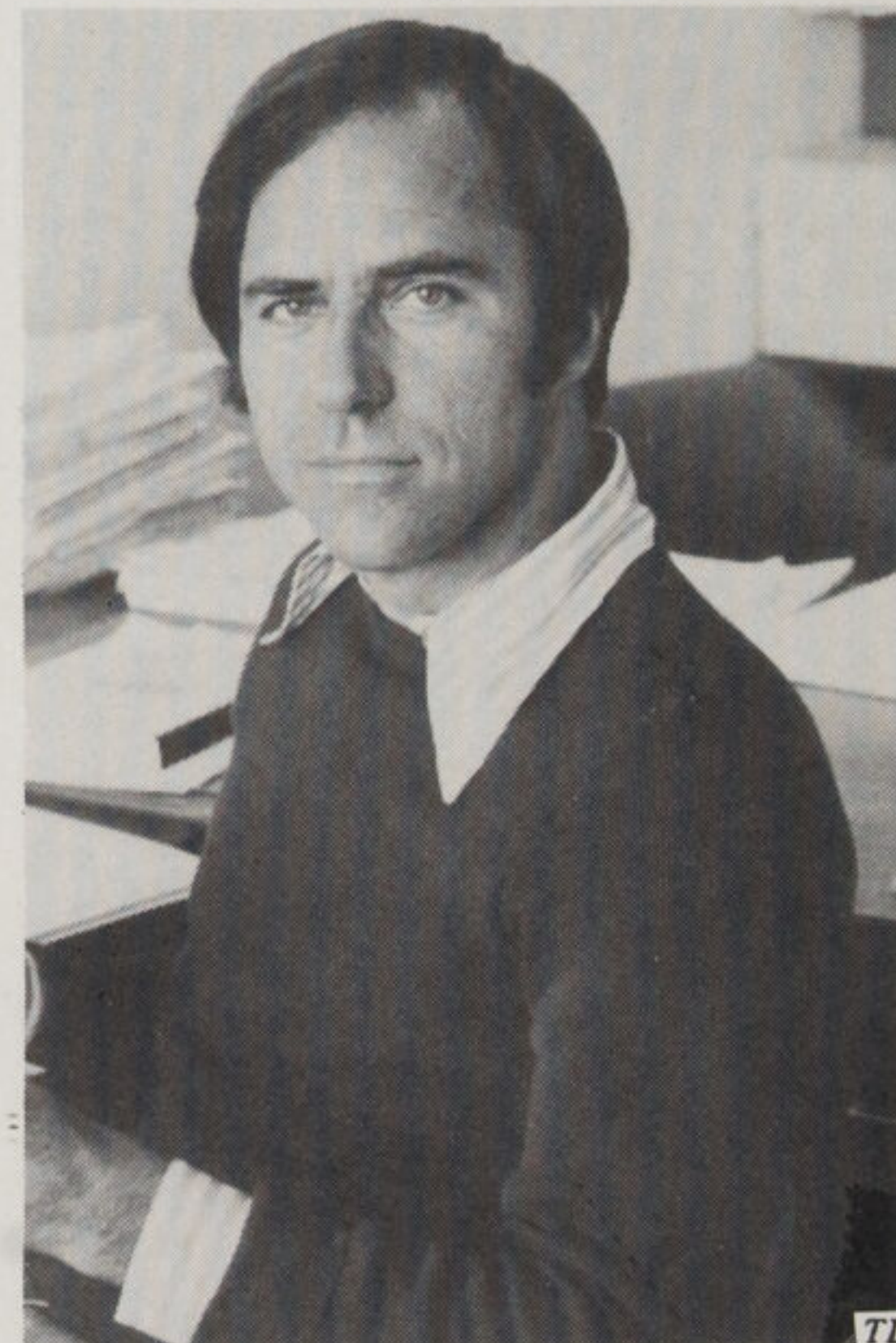
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Above:

Frederick C. Moss. Appointed Lecturer on Law. J.D. from Villanova Law School, member of law review. Served as officer in Army Transportation Corps for two years. Assistant U.S. Attorney before coming to Harvard as teaching fellow.

Below:

William Bennett Turner. Appointed Lecturer on Law and Research Fellow in Criminal Justice. LL.B. from Harvard, Fulbright Scholar. Associate in law firm. Worked on civil rights legislation for NAACP and served as director of its western office. Came to Harvard as teaching fellow.



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Third Year Begins For SFF

By Bob Williams

"The aim of Student Funded Fellowships is to give students a chance to work in the public law sector who couldn't afford to take the jobs otherwise," says Susan C. Orlansky, 2L, director of Student Funded Fellowships (SFF), now in its third year of operation at the Law School.

Established in 1976 for the purpose of creating "a fund to which a student who might otherwise have to forego exploring a legal career in the public interest field, could turn for last resort financial assistance," SFF last summer helped 16 1Ls and 2Ls in various programs throughout the country — from a legal services office in San Francisco to the Boston ACLU Women's Project. Grants ranged from \$250 to \$1250.

To qualify for a fellowship, a student in either the first or second year must meet three minimum requirements: he or she must have a job offer from a bona fide public interest or legal service organization, the job must utilize his or her legal skills, and income from all sources must not exceed \$125 a week.

According to Orlansky, if a student meets these three requirements, he or she may then apply for a fellowship grant, which will award money to raise the student's summer income from all sources to \$125 a week.

After the application is received, SFF reviews each grant request, and then selects for interviews those students whose projects are eligible for an award. Orlansky says there are many standards used in determining which students receive awards. The standards are designed to encourage exploration of the broadest possible range of public interest careers.

Yardsticks used by the Financial Aid office are not factors in the award process, explained Orlansky. "For instance, many students are borrowing money from their parents, but still could not afford to take a job for the summer in the public sector because of the low pay. We consider those students eligible for fellowships. Our priority is those students who couldn't afford to take these jobs under normal circumstances."

Last year, of 50 applicants, 25 were chosen for interviews. Because of limited funds, only 16 students were given grants. In the first year of the program, 1976, 12 students were selected from 45 applications requesting grants of over \$30,000. The total amount of money raised that year was \$10,000. Last year SFF raised \$17,000, mostly from donations by some 600 students.

Students are asked in the spring to make contributions from their summer salaries.

Although SFF accepts pledges for any amount, it asks for a contribution of at least \$25 from each law student, which represents only one per cent of a summer salary of \$250 a week over ten weeks. SFF notes that Yale asks its students for a three per cent contribution. Students also do not have to pay their pledges until July 1. Last year, over 80 per cent of those who pledged eventually paid.

Applications for fellowships, along with more information on the program, can be picked up in the BSA office in Langdell.

Affirmative Action

(Continued from Page 4)

The rebuttal period, as well as the question-and-answer session, often centered on Dershowitz's minority opinion opposing racial quotas.

Dershowitz, said Ely, "didn't do the reading." Quoting from his own work, Ely noted that he spoke to the "deadly combination" of quotas and geographic distribution as a way of excluding Jews.

The best ruling he said, "would be one in which the geographical distribution system is struck down."

"I think," Dershowitz defended, "that it is immoral for a university to give more weight to being black than to other disadvantages."

The majority of the half-dozen comments made by audience members was in favor of minority quota systems.

Sports Answers

1. Steve Hamilton of the New York Yankees.
2. Jean-Claude Killy.
3. Tucker Fredrickson and Bobby Duhon.
4. Hal Reniff.
5. Cesar Tovar.
6. Darrel Imhoff.

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