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Harvard Law Record

Volume 91, No. 1

America's Oldest Law School Newspaper

September 14, 1990

Clark Moves To Bolster Public Interest Programs; EPIC Pleased, But Vows To Keep On Fighting

By Paul Tarr

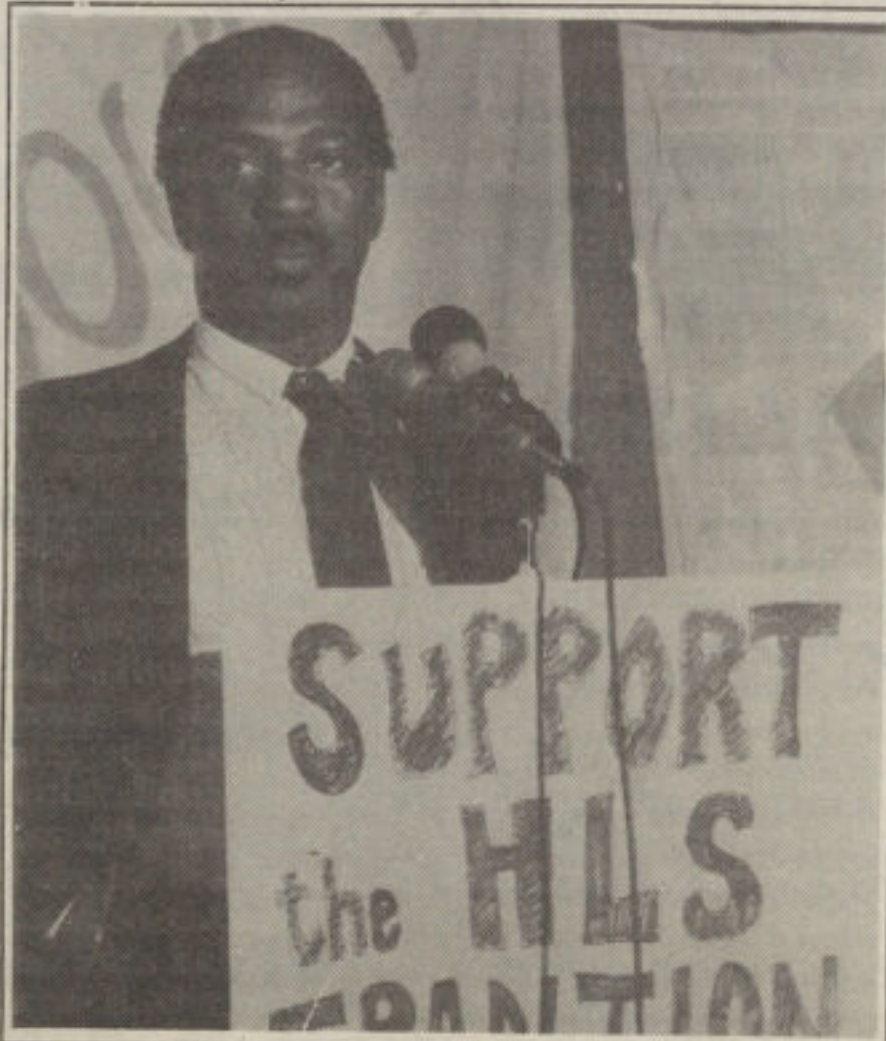
Following a year of student protest, Dean Robert Clark '72 this summer appointed a faculty public interest director and created the first independent public interest placement office in HLS history.

The decision, announced in an August 30 open letter to the student body, seemed designed to allay student concern over the availability of public interest career counseling and to put to rest a year-old campus controversy that had exploded into a national issue.

As significant as the moves are, they still fall short of a full implementation of the recommendations of the student-faculty Public Interest Advisory Committee (PIAC). PIAC, created by the dean in the wake of student protests last fall, recommended that HLS hire a second public interest career counselor as well as create a mandatory clinical course on some aspect of public interest law. The committee also endorsed a pro bono requirement as a second alternative to a required clinical course.

PIAC was created to examine ways in which HLS could encourage more graduates to take public interest jobs. Currently, nine out of ten HLS graduates take jobs in law firms while a recent study indicated 93 percent of the legal needs of the poor go unmet.

The dean has not ruled out



Professor Charles Ogletree '78 at the public interest rally on September 19, 1989, that kicked off a year of student protest against Dean Clark's elimination of the public interest placement position. Clark has since created a new Public Interest Placement Office.

implementing the remainder of the PIAC recommendations. Instead he has said he will submit them to the full faculty for discussion.

Clark's reforms have won cautious praise from a number of students and faculty members, who nevertheless vowed to keep fighting for the other recommendations.

"We must remember that students collectively shed hundreds of pounds of sweat fighting for these changes," said

Hauser, 3L, a leader of the Emergency Public Interest Coalition (EPIC), which organized the protest drive. "Every student on this campus deserves to celebrate."

Nevertheless, we now prefer to look to the future rather than dwell on the past," Hauser added. "With that in mind, we find Dean Clark's decision extremely encouraging and we look forward to having a constructive relationship with him this year in order to implement the other changes called for by the committee."

Hauser, who served on the PIAC committee, explained that counseling was only one of several areas the school needed to improve on in order to encourage more graduates to take public interest jobs. "Curricular changes and an endowment for LIPP are just as important. We cannot look at counseling in isolation, because counsel-

ing alone will not solve the public interest crisis at this law school."

Professor Derrick Bell, 1990-91: The Spirit Of Protest Continues

By Linda Popejoy

Prof. Derrick Bell officially began his unpaid leave of absence last week as about 100 students held a silent vigil in support of diversity outside the first faculty meeting.

In the meantime, Dean Robert Clark '72 said in an interview that under HLS rules Bell will automatically lose his professorship in two years unless he returns to the faculty.

Clark also said the protests last year would have no effect on the upcoming faculty decision to extend tenure to Prof. Regina Austin.

If the faculty does tenure Austin, a black woman who was a visiting professor last year, Bell's leave would effectively end and he would return to the faculty. Clark did not say when Austin, who has returned to her tenured position at Penn, would be considered.

PIAC member and law lecturer Gerry Singen echoed the note of student support. He asserted that the school today is moving "much more assertively and consciously on behalf of public interest concerns than any of

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"Most people liked Austin very much," Clark said. "She was a good colleague. Most were sorry she unwillingly became the focus of the controversy. However, that shouldn't have an effect on any hiring decision."

Clark added: "A woman of color will be hired. It's just a matter of when."

At the vigil, students from the Coalition for Civil Rights (CCR) seemed intent on making sure that hiring is sooner rather than later. After one professor walked by and stuck his fist in the air, CCR member John Bonifaz proclaimed: "We are back, we are serious, and we are as strong as ever."

Bell decided to take his leave in late April to support student efforts to increase diversity on the HLS faculty. He has said he will not return until the law school extends a tenured offer to a woman of color.

Currently, HLS has three blacks on its 65-person tenured faculty. The tenured faculty includes no Latinos, Asian-Americans, Native Americans, openly gay or lesbians, or differently-abled persons.

Last semester several dozen students from the CCR twice held all-night sit-ins in the Clark's outer office to protest the lack of diversity. Clark reportedly was set to have the students arrested until a group of professors intervened.

The protests and subsequent decision by Bell attracted national media attention, including a front-page story in the The New York Times and a lengthy segment on The McNeil-Lehrer News Hour.

In an interview this week with the RECORD, Bell summed up his philosophy by saying, "You haven't lived unless you've taken risks for what you believe."

"Taking risks is its own reward. Sometimes you're right, sometimes you're wrong. Sometimes it pressures change, but most of the time it does not. But the enhancement of the spirit makes it worthwhile."

This fall, Bell is teaching his popular seminar Civil Rights at the Crossroads without credit or grades to a group of about 20 students.

Bell believes that "continued student insistence," and not his symbolic protest will bring a woman of color to the tenured

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Michigan Students Ask For HLS' Support In New Boycott Of Baker And McKenzie

By George Paul

The law firm Baker & McKenzie once again finds itself embroiled in an interview controversy with a law student, and several student groups at HLS have been asked to boycott the firm when it comes on campus to interview this fall.

A coalition of student organizations from Michigan Law School is appealing for the boycott after Baker & McKenzie took the unusual step of refusing to interview at Michigan this year to protest the school's finding that a hiring partner made "inappropriate" remarks to a woman law student.

According to the student, hiring partner Arthur Rovine began questioning her about her professional interest in Japan during an on-campus interview last fall. She stated that Rovine asked her what her parents' reaction would be to her living in Japan for an extended period. He suggested that her father would be upset because of a fear that she would marry a Japanese man. He then asked whether she would

consider marrying a Japanese man. When she replied that she thought the question was irrelevant, he volunteered that she wouldn't oppose the idea.

The dean of the Michigan law school, Lee Bollinger, and three administrators had conducted a six-month investigation into the allegation. At the end they concluded the student's version of events was true.

The school, however, declined to sanction the firm saying the comments were "not of such a character as to constitute egregious misconduct. Although they were insensitive, there is no indication that they represent any improper policy or practice of the firm or the interviewer."

In a letter to Dean Lee Bollinger, Baker hiring partner Robert Dilworth wrote, "The interviewer and the firm will not and cannot accept responsibility for charges which are entirely untrue... [The] student's credibility is open to the most serious doubt. Your conclusion is wrong, and you have done a grave injustice to the interviewer and the firm."

In response, the firm said it

would "boycott" recruiting at Michigan.

A letter signed by six student leaders at Michigan said their school "is a victim of a lock-out. Rather than choosing to confront the firm's poor recruitment practices and employment policies, Baker & McKenzie has chosen to confront the law school's anti-discrimination policy."

"Their strategy is to isolate Michigan — to punish it for taking the concerns of its students seriously — while continuing to reap its yearly supply of bright young graduates from the nation's other top law schools — like yours."

"Baker & McKenzie's challenge to our Dean's findings is a challenge to the validity of all policies which take a stand against racist, sexist, homophobic, and anti-Semitic recruitment and employment practices... By taking a united stand this year, we will make Baker & McKenzie think twice next year before thumbing its nose at equal access, equal opportunity, and equal justice." Letters have been sent to the HLS Black Law Students Asso-

ciation, the HLS Asian American Law Students Association, La Alianza, the National Lawyers Guild, the Woman Law Students Association, and the Jewish Law Students Association.

Last year, Baker & McKenzie's presence at Harvard and many other law schools was protested by students after the firm admitted that one of its interviewers had made improper remarks to a black law student at University of Chicago law school.

The Chicago student was asked by a Baker & McKenzie partner, who is no longer with the firm, how she would react

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Placement Office Cautions Third Years On Their Job Opportunities

By Kristen Swartz

The normal wide range of opportunities for third year students at HLS is shrinking as large law firms feel the effects of a Wall Street slowdown.

N. June Thompson, director of Career Services, noted that law firms are tightening their belts, summer clerk programs will be smaller, and in many law firms starting salaries will not be rising. Jones, Day, Reavis & Pogue, one of the largest law firms in the nation, has already publicly announced that it will not raise its starting salaries this year.

In a memo to third year students to address their concerns over negative reports about the job market, Thompson stated that she was "attempting to walk a fine line between giving [third years] needed information and starting a panic." Thompson acknowledged that "some firms have cut back on the number of permanent openings" and some "have completely eliminated interviewing 3Ls."

A factor Thompson also attributed to the lack of openings was the unusually high number of acceptances from summer clerks. In the memo, Thompson advised the third year students to "think carefully about what your options will be for this year."

Thompson also advised those third years who did not receive an offer from their summer employer to consult with either her or Dr. Mark Byers, the Director of Student Life Counseling, because their situation poses "another set of problems."

Thompson said it was significant that twenty firms have already cancelled their third-year interviewing at HLS. Milbank, Tweed, Hadley & McCloy, a

large and prestigious New York firm is one of those firms not interviewing third years. According to Kristine Kendall, manager of law school recruitment at Milbank, Tweed, all of their permanent positions for fall of 1991 will be filled by this year's summer associates. Cutbacks are also being made in next year's summer clerk program. Sixty-one students were in the program this past summer; next year the firm plans to hire between 45 and 50 clerks, Kendall commented.

Hard times are also being felt by the 255-lawyer Hale & Dorr in Boston. Their hiring attorney, Katharine Bachman, said that Hale & Dorr will be decreasing its summer program by almost half—down from 51 summer clerks this past summer to the mid-twenties next year. And Hale & Dorr will not be interviewing third year students, according to Bachman. "We're facing the possibility of a national recession. While the Eighties were a wonderful decade for lawyering, the slow-down is frightening," Bachman said.

Skadden, Arps, Slate, Meagher, & Flom, a 1,100 plus-lawyer firm based in New York, with offices around the world, confirmed the national slump in hiring. While Hiring Director Irene Sullivan did not give specifics, she admitted that their program would be "smaller" this year.

For other firms, the economic downturn has affected starting salaries. Jones, Day, Reavis & Pogue will be offering the same starting salary of \$74,000 that it

did last year, according to the hiring attorney of their Cleveland headquarters, Diedra Dixon. She said that there has been "a lot of support for their move" and expected that many other firms would be following suit.

Most major firms in Chicago have

already announced salaries which are the same as last year. Hiring Attorney John Oest of Lord, Bissell & Brook said. In Boston, Samuel Hoar of Goodwin, Procter & Hoar did not expect to see a great deal of movement in salaries this year. Thompson anticipates that New

York salaries will stay at \$83,000 this year after a \$5,000 jump last year.

The result is that third year students who will be interviewing "are going to have to be more careful," Thompson said. "We've got to caution people that every option is no longer open."

Watkins Found Guilty; Sentenced To 5 Years

By George Paul

Over the summer, former HLS student Kevin Watkins was sentenced to five years in the Concord State Prison for raping a Harvard undergraduate student in 1988.

Judge Paul Chernoff stayed the sentence so that Watkins' attorney, Willie Davis, could appeal. If the verdict is upheld, Watkins will be eligible for parole in six months.

In May, a jury found Watkins guilty of raping a Harvard sophomore from Washington, D.C. on Dec. 11, 1988, in his apartment. After ending her relationship with Watkins, the victim, had gone to Watkins' apartment to retrieve a videotape showing her and Watkins engaged in various sexual acts. The tape also showed the woman and a student from the Harvard Divinity School posing nude.

The tape was made under the auspices of the Society for Black Professional Entrepreneurs at the law school, an organization Watkins headed. According to evidence presented at the trial, the woman and the Divinity School man, were persuaded by Watkins to make the nude videotape for identification to prevent outsiders from infiltrating the group.

The victim testified that her relation-

ship with Watkins soured when she discovered he had another girlfriend and that she decided to leave the organization. She telephoned Watkins and asked him to return the tape. Watkins agreed to give her the tape if she had sex with him. At that point she began to cry, Watkins said he was "only kidding" and that she could have the tape back for \$10 to cover his costs. She testified that when she went to his apartment to get the tape, he forced her to have sex with him.

Watkins had been charged on two counts of rape and assault with a dangerous weapon. He was found guilty of one count of rape.

Davis asked the judge to set aside the verdict, saying that the jury's verdict was inconsistent because it did not specify on which of the two rapes Watkins was convicted. Assistant District Attorney George Fisher argued that the Supreme Judicial Court had in the past upheld verdicts in which a jury found guilt on only one rape charge even though the evidence showed that a victim was raped often.

In his final plea to the jury, Davis stated, "Whatever the future the black race has in this country rest in the hands of men like Kevin. If a girlfriend can come in here and say 'He raped me,' and destroy a young man's life, then I will not sit idly by and let it happen."



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Harvard Law Record

Volume 91, No. 1

Patrick Miles, Jr.
Editor-In-Chief

Clark Moves Forward

Dean Robert Clark '72 is to be commended for the changes he has recently made to the Office of Career Counseling. Following the advice of his student-faculty Public Interest Advisory Committee (PIAC), Clark has appointed Christopher Edley '78 to the position of Faculty Director of Public Interest Programs. In addition, Dean Clark followed the PIAC's recommendation to create an independent office of public interest career counseling, and to staff the office with an attorney and an administrative assistant.

In undertaking these moves, Dean Clark has shown courage because many will perceive his action as backing down from his initial decision to eliminate the position of director of public interest counseling, then held by Ron Fox '63. In other words, Dean Clark risked "losing face" to his critics. It seems that no one is claiming victory over Dean Clark, nor should anyone. Dean Clark has finally clearly shown that he is flexible, and willing to listen and learn. The advocates of public interest career alternatives assert, however, that there is still much more that HLS can do to increase career alternatives and to educate the students as to the need to improve the quality and quantity of legal services for the poor and disadvantaged members of our society.

Last year, Dean Clark gave many the impression that he was not internalizing student concerns. Intentionally or not, Dean Clark sent the message to his critics that he did not want to listen to them. First, he eliminated the public interest counselor position without consulting students. Second, the unfortunate message of "Imperial Deafness" was visually supported by various pictures in the media of Dean Clark covering his ears and hiding his face as students protested in front of him.

The message sent this year by Dean Clark, one of change and improvement, was more positive. Dean Clark has signaled that the protests and persistence of many students was not in vain. Constructive protests have proven to be effective in other areas — when accompanied by the willingness of the principals to discuss and negotiate the conflict. Perhaps the protest and sacrifice of Derrick Bell will prove to not be in vain either.

—P.M.

A Record Welcome

As we begin a new year at HLS, the Harvard Law Record would like to welcome and acquaint the Class of 1993, and others, to the RECORD.

The RECORD is the student-run newspaper of Harvard Law School; it is also "America's oldest law school newspaper." The RECORD is published on Fridays, sometimes bi-weekly, sometimes weekly, depending on the schedule and the academic calendar. The aim of the RECORD is to provide not only a place where one can learn about events that affect the HLS community, but also to provide a forum for students, faculty, administration, and alumni to express their views on any issue.

The goal of the RECORD is not to further any particular political agenda or philosophy. We shall always strive to give the facts of a story, without bias or slant, to you, in a clear manner. Because of our publication schedule and deadlines, the news we present to you may not be as current as we would like, thus we try to give a different angle and perspective to a story about which you may already know something.

During the course of any given year, the RECORD will report news that student organizations, or the administration, or the faculty would rather not be reported, at least in a way that is not favorable to their particular interest. The RECORD will not shy away from controversial issues, but in the spirit of the First Amendment, the RECORD will pursue them so that the community may reflect and find its truth.

If you have a background or interest in journalism, I would strongly encourage you to join the RECORD staff. As always, we need reporters, photographers, typists, and other personnel to bolster the staff and quality of the RECORD. In any circumstance, I encourage everyone to participate in the dialogue and debate that the RECORD hopefully will produce.

—P.M.

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The RECORD welcomes letters to the editor on any subject from students, alumni and interested members of the law community. Letters are printed as space provides and are edited for space and clarity. All letters should include the name(s) and phone number(s) of the author(s). All letters submitted become the property of the RECORD.

Intolerance Of Alternative Views An Unfortunate HLS Epidemic

To the new first years: Welcome to Harvard Law School. By now we've greeted you with open arms, warm smiles, endless advice, and a box lunch on the lawn—giving you just enough time to catch your breath before we launch into our first heated public battle over something or other.

Robert K. Niewyk
Columnist

This school's student body holds many pleasant surprises for those who encounter it for the first time, especially the friendliness of students on a personal level. However, I was shocked when I arrived last year to discover the unfriendliness people feel towards any viewpoint on a campus issue that doesn't conform with their own. Heated public debate is an honorable and necessary tradition in academic communities and democratic societies. But there is a world of difference between healthy debate and the vilification of the opposition, cheap-shot politics, and cynical media manipulation that appears to be the norm at HLS.

The basic attitude is this: If someone disagrees with you, it is clearly because she either (a) is lying, (b) is selfish, (c) has a hidden motive, or, most of all, (d) hasn't achieved the deep level of knowledge and understanding that would enable her to see your far more enlightened point of view. I overstate, but still, no one ever seems to admit—at least in public—that an opposing viewpoint might stem from a genuine, well-informed, good-faith disagreement. The result is that on any given campus

issue, we divide up into armed camps which are heavily defended against anything so subversive as different ideas. People on both sides are too busy berating each other to listen to what the "other side" has to say.

We've already seen what I consider to be an example of this process: The signs all over campus "translating" Dean Clark's "commitment to excellence" as saying that "there is not a single woman of color qualified to be tenured at HLS." This translation stems from the school's failure to immediately tenure a woman of color upon the suggestion of a coalition of students that the school do so, ignoring the fact that a solid majority of the incoming visiting professors are women and minorities.

Wouldn't it be more reasonable to translate the school's actions and words as saying that there is no woman of color who (a) is among the very best in her field (even if "very best" takes into account gender and race); (b) specializes in an area in which the school needs to add faculty; (c) has already been a visiting or tenure-track professor here who qualifies for tenure consideration; (d) is interested in being tenured at HLS; and (e) is available to fill one of the extremely limited tenured positions that are open in any given year? A debate can be waged over how much gender and race should factor into whether someone is the most qualified person, or whether the school should bypass the normal tenure procedures or create a new tenured position in this case. But a simple statement that the Dean thinks there isn't a single woman of color "qualified" to be tenured

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Fenno

Fenno is amazed when he opens his registration packet. Yes! HLS has done it again! They've come out with yet another New! and Improved! Term Bill. You've seen it, \$7,250 due yesterday or else Fenno can't register for his favorite classes, like Thinking About Thinking About Cracking My Horn Book Now That The Exam Is Only Hours Away.

But Fenno isn't peeved. Fenno knows that the bulk of the increased revenues HLS squeezes from the over-fed guts of recently returned summer associates goes to the improvements made over the summer on campus. The first improvement to the campus being the glass wall Dean Bob had constructed outside his office, so that he could keep out undesirables, yet at the same time keep an eye on what they're doing. If leaders in East Berlin had had as much foresight as Dean C the Big Wall would still be standing.

The second brilliant improvement to campus life are the freshly installed condom dispensers in the Hark laboratories. "Keep hope alive!" Fenno cheers.

Yes, Fenno is certain that each and every HLS student will have good reason to use the product at least once every day. But after a few seconds of thoughtless reflection, Fenno is not so optimistic. He begins the new year in a gloomy mood, knowing that countless condoms will lay to waste, sitting unused and sterile in the cold, dry, and uninviting air of the Hark public cesspools. Surely the dispensers are a cruel joke from an inhumane bureaucrat.

Fenno's cause is not helped when his surest of HLS "active events" (other than Inn Parties), the DSAC Happy Hour, is cancelled, now Fenno must find another place to practice his brand of the safest of safe sex.

But alas, Fenno has embarked on a mission, a mission to which every HLS student will bear testimony: not a single precious prophylactic shall remain in the dispensers on the last day of classes. Fenno then begins plans for "Fenno Fest," a day of active events, including a water balloon fight.

"What an ice breaker!" Fenno shouts with pride. FENNO

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A Guide To Restaurants And Bars In Cambridge, Boston

By Stephen Kastenberg

Never let it be said that the RECORD ever hesitated to tell you where to go. Here are some of our recommendations for local eateries and drinking establishments.

DRINKING

Nick's Beef and Beer, a/k/a Nick's, is a law school tradition located a few blocks towards Porter Square. Where else are pitchers under \$3 and most things on the menu less than \$5? Your best bets are the baked half chicken and the double burger special (An old HLS trick is to order "tops" so that you will have two burgers for the price of one.); for non-greasy food, get the chicken shish-ka-bob. Other than law students, Nick's attracts a refreshing, working-class clientele. The waitresses are known for their warm, Southern-like hospitality.

In the Square, there's the **Hong Kong** for scorpion bowls (a definite bonding experience), and the **Dock Street** bar is

a packed meat market. **Grendal's Lair** is the best bet for sitting down with friends to talk over drinks. For those in search of a true pub, and the Harvard Hockey undergrad crowd, the **Boathouse** can't be beat—Guinness is on tap.

In Boston, Newbury Street has lots of nightspots and Beacon Street has the **Bull & Finch**, the inspiration for Cheers. Downtown, check out the **Black Rose**—pretty cool.

EATING

We've already discussed **Nick's**. Check out some of these places also.

For Chinese, go to Chinatown—great food at the right price. By the way, Chinatown is a lovely scenic part of town. Bring your camera (and an Uzi). If you cannot get to Chinatown, **Chef Chow** and **Sezechuan Garden**, in the Square, are the best local Chinese for the money. Slightly more upscale is **Singhaha**, an awesome Thai restaurant below street level on the Central Square side of Mass. Ave. (Go right next door for dim sum on the weekends). **Change Sho** is located a bit past Nick's;

it's more expensive but some say it is worth it.

As far as pizza, the staple of life, Boston is really the wrong place to be. In Cambridge, **Bertucci's** is the classic, but watch out for the long lines. Try the garlic bread with cheese and the eggplant pizza. **Pizzeria Uno** is good for Chicago-style deep dish pizza (also in Porter Square), and **Pinocchio's** has a loyal following.

The **Border Cafe** serves up you typical yuppie Tex-Mex (and unsuccessfully attempts to cook Cajun); it's good and definitely popular. The bar is popular, but expensive. **Chili's** is a Tex-Mex franchise, but the baby back ribs are a winner. Arguably the best Mexican in Beantown is just up Mass. Ave. at the **Forest Cafe**. Be prepared to shell out some bucks.

It's hard to go wrong in the Square for ice cream. **Emack and Bolio's** is great. **STEVE'S** is good, and **HERREL'S** (begun by the founder of Steve's after he sold the latter to a large corporation) is also excellent, and has good homemade, non-dairy ice cream. There's even a **Baskin Robbins** for the boring,

unadventurous traditionalist. A ten minute drive up Mass. Ave., in Arlington, is **Ben & Jerry's** for you Vermontors. For health nuts, **Temptation's** yogurt is hard to beat.

For salad bars, there are several good places in the Square: **Souper Salad**, **Stockpot**, and **33 Dunster Street**.

For fast food, Porter Square has **Kentucky Fried Chicken**, **Dunkin' Donuts**, and **McDonald's**.

For a quick bite, try **Montrose Spa**. **Three Aces** is the most convenient and this year they've expanded their menu. In the Square, **Elsie's** is famous and good, and **The Garage** food mall has several places.

A restaurant with a good menu, good ambiance, and lots of potential, but terrible service, **Rosie's** on Mass. Ave., on the way to Porter Square, is a big disappointment.

Out of Harvard Square, just get off the T in Central Square and look around for an Indian Restaurant; the **Empress** is particularly good. **Passage To India** on Mass. Ave. in Porter Square isn't too bad either.

Inman Square, a walk or bus ride down Cambridge Street has several places to eat, including a good deli **S & S** and **Jake and Earl's** for barbecue (expensive).

For all-nighters, **The Tasty**, in the heart of Harvard Square is an undergrad tradition, but, if you have a car, the **IHOP** towards Newton is the better bet (its still full at 3:30 a.m.).

For Italian try the North End. The calzones and cannolis are pretty good.

When the parents are visiting or when you're celebrating, try one of these more expensive places. Many of these require jacket and tie; all are excellent. **Davio's** (Northern Italian), **Michelas** (Nouvelle, but not skimpy), **Grille 33** (incredible steaks), **Hampshire House** (Continental, right above the Cheer's bar), **Legal Seafoods** (we think the Kendall Square location is the best), and **Union Oyster House** (great seafood with a real Boston feel). Within walking distance and slightly more casual is **The Peacock** (You may see professors there; the Phil's fish appetizer is named after Phil Areeda '88 and is excellent, but you may have to call ahead for it).

Cheers and Bon appetit!

Agenda Neutral

By Clark

HOW THE GULF CRISIS AFFECTS YOU	BUT FIRST, A BRIEF RESUME OF EVENTS FOR THOSE WHO SPENT THE SUMMER ON VENUS (OR WORKING FOR WACHTELL LIPTON)	A FEW WEEKS AGO, SADDAM HUSSEIN ATE KUWAIT FOR BREAKFAST  UM, WE ARE PROTECTING KUWAIT FROM... UM... ISRAELI AGGRESSION!	PRESIDENT BUSH SPRANG INTO INACTION  I'M NOT RULING ANYTHING IN, I'M NOT RULING ANYTHING OUT.	BUT HOW WILL THIS AFFECT YOU?
OCT. 1, 1990 - CITING THE RISING COST OF PETROLEUM, HLS TRIPLES TUITION  BLAH, BLAH, RISING COSTS OF EDUCATION, BLAH, BLAH, QUALITY, BLAH, BLAH, NOTHING WE CAN DO...	NOV. 1, 1990 - FEAR OF WAR INCREASES. 2L's AND 3L's WHO REGISTERED FOR THE DRAFT INTERVIEW HEAVILY IN TORONTO AND MONTREAL  OH! I'VE ALWAYS LOVED CANADA - I'VE DRUNK YOUR BEER FOR YEARS!	DEC. 1, 1990 - WAR BREAKS OUT. BERKLEY STUDENTS PROTEST U.S. AGGRESSION. HLS STUDENTS PROTEST LACK OF FACULTY DIVERSITY  NO MORE WAR NO MORE WHITE MALES	JAN. 1, 1991 - A IL STUDYING FOR EXAMS GLIMPSES "NEWSWEEK" AND LEARNS OF THE WAR. SHE IS OUTRAGED. THEN SHE GOES BACK TO HER NOTES ON PROMISSORY ESTOPPEL.  WAR WITH IRAQ! I WONDER HOW THAT COULD BE MADE INTO AN EXAM QUESTION?	

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Harvard's Hypocrisy Apparent In Reaction To Bell's Decision

By Mike Barnicle

This article appeared in the Tuesday, May 8, 1990 issue of the Boston Globe. Mike Barnicle is a Globe columnist.

A few days ago, one of the preposterous hypocrites on the faculty of the Harvard Law School had something to say about the case of professor Derrick Bell, who is threatening to take a leave of absence unless phony-baloney university administrators hire more minorities as teachers. Right now, the staff at this top school, which is loaded with top people who provide top advice and top moral guidance to the rabble as well as teach top leaders of tomorrow, closely resembles the look of the annual dinner dance at American Legion Post 316, Clarksburg, Miss.

"Many people feel what Derrick Bell is doing is dangerous," top professor Clark Byse said. "If a person is just an affirmative action appointment, chosen because they happen to be black or female and may not be fully qualified, in the end they won't get the respect of their students. To me, it's more important to maintain Harvard's standards of excellence than to improve the diversity of the faculty."

And the grand kleeagle of the law school, dean Robert Clark, agrees: "I think it's clear the law school faculty should make appointments based on the merits of each case, not because of protests."

That's great. Make sure that a healthy percentage of theater ushers, firefighters, cops and sanitation workers are people of color but, God forbid, keep them out of the faculty lounge.

The double standard remains alive and well in America. And, nowhere is it as fat, prosperous and healthy as across the river in Cambridge, where they love to point fingers and lecture the rest of the country about what is morally right.

When Bill Bulger, the state Senate



Professor Derrick Bell announcing his decision to take a leave of absence.

Photo by Patrick Miles

president, tries to get old Joe Mackenrodt into public housing, and uses more or less the same language Byse employed, he is a narrow-minded bigot. Bulger comes off in the public prints as racist, while these total hypocrites at Harvard are portrayed as thoughtful men caught in an agonizing dilemma.

Joe Mac has been calling for several months, and each time I have spoken to him, I have tried to tell him the absolute truth: His case is hopeless because he is in the hands of a herd of cumbersome bureaucrats at the Boston Housing Authority who are forced by law to look at quotas and racial complexion rather than into the eyes and hearts of actual

human beings in need.

Joe Mac, otherwise known as Mr. Happiness is 70; his wife is 79. The two of them have lived in South Boston forever. Now they are out of their apartment at 616 Dorchester Ave. because the landlord wants to rent it to a relative. That's the way it goes.

Joe Mac and his wife looked for room in the only place people like them can look: Public housing. He was put on a list and when his number came up, he was told they could move to either Mission Hill or Franklin Field. They might as well have said: "Joe, we know you and Catherine are out on your ear, so we have made arrangements for you to live forever in Rio de Janeiro. Good

luck to you and the Mrs."

The guys's whole world is about seven blocks wide. To him, Hyde Park is a foreign country. His idea of traveling is a walk to the corner store. He wants to stay in his neighborhood. He doesn't exactly have a lot of close friends in Roxbury or Dorchester and, at 70 doesn't have of time left to find new ones. He just wants to stay put.

Naturally, he can't, because he is caught on the wrong side of a racial agenda and quotas cooked up by bureaucrats intent on eliminating discrimination. And that's an admirable task, but it always seems those at the bottom are made to pay the price for years of intentional and miserable segregation of our society. People who can least afford it get pushed around by government, while phonies at places like Harvard are greeted with lots of understanding instead of a good, strong court order.

Of course, Harvard is a private institution. But, then again, Joe Mac is a private citizen. He's simply poor, no connected, has no clout; just a few friends and neighbors, and most of them are on the outside looking in, too.

And the people in this country who most often have their noses pressed against the window, ogling the goodie the rest of us take for granted, are there not so much because of their color but because of their income. The social history of the United States is one of pitting the poor—black and white—against each other, forcing them to fight for the same menial jobs while their kids are bused to the same lousy schools in order to get similar, less-than-desirable public educations that will insure their bitter futures. All to please the numbers crunchers.

"All I want is an apartment in Southie," Joe Mac said yesterday. "I got nothing against nobody. I lived here all my life I just want to die here. Does that make me a bigot?"

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The Challenge Of Diversification: Changing Social/Legal Precedent

Editor's Note: The following column appeared in the *Los Angeles Times* on Sunday, May 13, 1990 in the Opinion section of that newspaper. The Column was written by HLS student David Troutt.

By David Dante Troutt

Inside the gray corridors of Harvard Law School, where 18th-Century oil paintings of robed barristers cast cold stares from beneath big wigs, there is divergence on the issue of diversity. Outside the classrooms, hundreds of students have marched and rallied in recent weeks to demand the tenure appointment of a woman of color to the faculty. It is a struggle waiting to happen on many campuses—a struggle to change the face of legal authority.

The singular demand for "diversity" hardly reflects the numbers behind it: 173 years without a Latino, woman of color, American Indian, Asian, disabled or openly homosexual tenured professor. Of the 60 current tenured faculty, 53 are white men, three are African-American men, and five are white women.

For Dean Robert C. Clark, untold faculty and many conservative students, it is a struggle to preserve the power of the Harvard name, as though it were the H-bomb of elitism to be dropped upon frightened listeners in professional conversation. The idea of, say, a black woman in charge of a class full of the "best and brightest" is anathema to people, mainly men, more accustomed to watching them cook and clean than assign and grade. Discrete and insular minorities were less threatening when they were quiet and unknown.

An outsider might wonder why so much is made of a single appointment in such a large institution. In the fear that an inch may become a mile so realistic?

Perhaps it is. After all, diversity would call into question many of the assumptions about interpretation of the law. It might challenge professors not fond of



Professor Derrick Bell

confrontation to defend their expertise in classrooms, law reviews and faculty meetings. It might challenge the dishonesty of "it is"—for which law faculty are known—with the "I think"—by which many minority and feminist scholars assert their views. Perhaps "Truth" itself would disappear. As more integrated approaches rivaled tradition for intellectual primacy and discourse, the old school might lose hegemony. The H-bomb might explode, leaving equality to reign amid the ruins.

Yet for minorities and others outside the norm whose presence and competence was only recently recognized here, diversity might defuse the H-bomb that burns within us.

Any student can tackle questions or deliver doctrine on demand. But law is ultimately about living people, and to sit inside a law-school class and hear the stories of our parents reduced to irreducible principles of abstraction,

the facts removed from the flesh in our casebooks, the race and class edited out of opinions is to taunt implosion. As mild-mannered missionaries of difference, we await "race week" in contracts, "women's day" in constitutional law and "Indian moment" in property to offer the victims's expertise. We are good, but we are tired of being visiting lecturers for the education of white students. Like all students, we come for the rigorous study of ourselves.

Yet the promise of true diversity is that groups who don't know each other will come to terms through exposure and debate. This is rare in the bastion of privilege and rarer still among U.S. suburbs and boardrooms. But it is critical to an education for leadership. You cannot exalt diversity only in exotic vacations, the globalization of markets, new opportunities in Eastern Europe and popular intolerance of apartheid. You must live it at home.

The law is but one element in life—though it tries to be its regulator—and life is becoming more diverse all the time. The major cities for legal practice—New York, Chicago and Los Angeles—are home to more Latino school districts, lesbian-owned businesses, Asian service workers, homeless families and black developers than ever before. That presence parallels the numerical inclusion of minorities in training grounds such as Harvard.

As a result, this struggle for diversity involves the demand for substantial inclusion and a radical restructuring of legal perception, argument and analysis. It is a struggle for the power to legitimate. That perhaps is why conservative faculty here, as everywhere, raise questions about the competence of African-Americans to teach or, for that matter, to own businesses and lead school districts. It is not enough that the black female professor under scrutiny in the current debate is a well-published authority on insurance law, tenured at Penn Law School and sought by Michigan Law school. At Harvard, because she is also an unapologetic role model, she is the first step on a "slippery slope."

A majority of students here at Harvard do not care to drop themselves upon the world like bomb threats. While black women have been most vocal, the 700 students who have consistently attended rallies and sit-ins this spring constitute a multiracial group of men and women intent on adequate preparation. The passage of a student referendum supporting a pro-bono requirement and the frequent winter protest over cutbacks in public-service programs signal a curiosity and a desire to expand the range of legal advocacy. The recent announcement by a beloved black professor, Derrick Bell, that he will not return until demands are met, threatens the existence of a role model for students hungry for open doors, feedback and human insight. Despite its acrimony, the diversity struggle has produced a rare experience at Harvard Law School community.

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**Silencing Of
Viewpoints At HLS**

Continued from page 4

at HLS is nothing more than a smear job.

The above example criticizes the actions of the liberal side of a debate. And I will admit that I tend to think these sins are publicly committed more often by the liberal activists on campus, if only because the number of activists who are liberal far outweighs the number who are conservative. But it is also true that when the Federalist Society speaks of its commitment to "open and reasoned debate," only a portion of its members believe it, and even they are often fooling themselves.

The best way to avoid the intolerant mindset is to sit down and talk with—not at—someone who disagrees with you. It can't be done effectively in a group of more than three or four, and it seems to work best late at night over a couple of beers. The goal is not to win debating points; it's to listen to what someone has to say, consider it seriously, and respond as best you can. Of course, it's very unlikely that either of you will change your minds. You'll go out the next day and fight for your position once again. But at least you might be more charitable to the other side, because you'll see where they're coming from. If everyone does so, then hopefully, through all of the debate and rhetoric of the next nine months, we can all remember: Whoever is speaking, and whatever they're saying, maybe they've got a point.

Robert Niewyck, 2L, is a RECORD columnist and a member of the Harvard Law Review.

**Interview Conflict
Embroiders Baker
And McKenzie**

Continued from page 1

to being called a "black bitch" or "nigger." She was also made to suffer several other indignities.

The HLS protest, organized by BLSA, was held outside the placement office last October. Many students were angry that the HLS placement office allowed the firm to interview on campus and did not heed a Law School Council recommendation to ban the firm for a year.

Attempts at deadline to reach student leaders at HLS to gauge their response to the Michigan letter proved unfruitful.



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Clark Names Edley Faculty Director Of Public Interest

Continued from page 1

us believed possible a year ago. I believe Bob Clark deserves great credit for having made these decisions."

Nevertheless, Singen added that "the work isn't done." Mindful of the Committee's original mandate to explore "the entire public interest mission and support system," he shares the view that the curriculum debate is the critical next step in the process.

Clark decided in the last week of August to create the post of Faculty Director of Public Interest Programs as well as an office of public interest career counseling that will be staffed by an attorney and an administrative assistant.

For the first time HLS will have an independent public interest placement office that will not be a part of the regular placement office that handles law firm interviewing.

The faculty public interest director will be Prof. Christopher Edley '78. Edley, who chaired the PIAC committee, served as issues director for the 1988 presidential campaign of Michael Dukakis '60.

Clark denies that his striking change of direction indicates any change of heart. He told the RECORD recently, "I do still feel that there is very little evidence that having an elaborate counseling office will impact on the number of people who take public interest jobs."

Nevertheless, Clark credits the Advisory Committee report with helping him to better appreciate "how important the advisory function was for those interested in exploring that route."

The brouhaha began on August 6, 1989 when Clark — only three weeks into his tenure as dean — eliminated the

public interest career counseling office, then headed by Ron Fox '63. The office was established in the late 1970s as the first of its kind in the country, and had since been emulated by 15 other law schools.

Clark's move triggered a massive response by students and faculty already on edge by the surprise appointment of Clark, an expert in corporate law.



Professor Chris Edley '78.

Students only became more angry when Clark was quoted as saying the office existed for "guilt-alleviating" purposes.

Less than two weeks into the school year 1,055 students had signed a petition asking Clark to restore the position, and a rally on Sept. 19 attracted about 400 people. Seven faculty members spoke at the rally in support of the student protest.

Despite the pressure, Clark held firm by claiming it was not necessary to have a fulltime counseling position when only "six to eight" graduates were taking jobs in public interest

law. He stressed that support for public interest should focus almost exclusively on economic incentives. Students from the Emergency Coalition for Public Interest Placement (ECPPI) countered that the low numbers justified more counseling rather than less, although students agreed more incentives were needed to take public interest jobs.

Later that fall, Clark fanned the fire within some students by saying in an interview with the Harvard Crimson that the law school might be providing too many litigation services to the poor. More than 800 students sent protest letters to Clark, who denied making the statement. In several combative public statements, Clark questioned the value of counseling, and characterized his student critics as unrealistic "firm bashers." Student activists in turn impugned his commitment to public interest law generally and called into question his willingness to resolve the increasingly divisive issue. Negotiations with EPIC leaders broke down after two sessions.

Public interest became a consuming issue for the duration of Clark's first year as Dean. It attracted the attention of The New York Times and wire services carried the story to newspapers around the country. Dozens of alumni from around the country wrote letters encouraging Clark to restore the public interest office.

Clark's package of changes also includes an increase in the Low Income Protection Plan (LIPP) budget from \$100,000 to \$725,000. LIPP forgives the loans of students who take public interest jobs.

Clark also established the Morris Wasserstein Public In-

terest Fellowship. Founded by financier Bruce Wasserstein '70 in honor of his father, the fellowship will sponsor visits to the school by lawyers from "a diverse range of public interest fields." Two fellows per term will participate in information programs, speaking and counseling.

As Director of Public Interest Programs, Edley will act as something of a point man for public interest concerns on the faculty by helping to execute policy, keep students fully informed of newly available opportunities, and press the issues that he feels warrant attention. He will be coordinating the Kaufman and Wasserstein fellowships and working with the financial aid office to oversee fellowship funding.

In addition, Edley will work with other faculty members to identify elements in the current courses that have a bearing on public interest law and, possibly, to enlist the cooperation of faculty members in highlighting and expanding these elements.

A sobering part of his job will involve documenting the costs and benefits of the school's public interest support system, the rate of service usage of particular programs, and the impact of these programs on student behavior. "We don't have money to throw away," he cautioned.

Under the new arrangement, public interest counseling services have been separated out from career services, allowing the career counseling office to operate independently for the first time.

The new public interest placement advisor, Stacy DeBroff, contends that the independent status of the office will add to its prestige, and by

extension, to the prestige of public interest alternatives. "It will give [the office] a sense of formalization and institutional recognition that it has never had before," she said.

DeBroff has recently finished editing a public interest job search directory, which contains an extensive survey of available programs, resources, and fellowships. She hopes that the directory, which she describes as the most comprehensive of its kind, will help to reestablish Harvard's leadership position in public interest law.

She said she receives frequent phone calls from deans, faculty members, and career counselors from other law schools who seek the kind of counseling and placement information outlined in the directory.

Reflecting on her arrival at the law school, DeBroff said she feels that the Dean "honestly underestimated the genuine concern that students had about this issue." She credits Clark with providing the space, financial and administrative support to make the new office viable. "He's come a long way," she added. "He truly wants to see this work."

Singen hopes the law school community will vindicate the administration's efforts by making full use of the newly available facilities. He remains optimistic: "Word of mouth has it that the student bodies in the last year or two have been showing a greater interest" in public interest, and he expects to see a commensurate increase in the need for counseling and fellowships.

Reaction To Bell's Leave Of Absence Varies

Continued from page 1

faculty at HLS. In fact, he said he never intended to influence or pressure those responsible for hiring. Rather, he said his actions are "in substantial part in solidarity with the students."

Clark, who approved a one-year leave for Bell, maintains his position that Bell's leave is an "inappropriate and non-constructive" means of expressing his views, and claimed in a recent interview that he received voluminous letters over the summer from alumni and other outsiders which were four to one against Bell's form of protest.

Two incoming first year women wrote Clark and took him to task for failure to hire woman of color, said Bell. Clark said he received many student letters and that they were running 50/50 over Bell's decision to take the leave.

According to Bell, "progress in the racial area has always required action deemed by many as inappropriate," citing the abolitionists and Dr. Martin Luther King, Jr. "I'm not a King, but I must expect that people will deem anything that goes outside traditional lines as inappropriate and counterproductive," he added.

Bell also said that he has received a great deal of support from many on the HLS faculty and "a goodly amount of forbearance from those who dis-

agree with me." Dean Clark is among the forbearers, Bell said.

Bell said he is "very hopeful about the hiring situation," and believes there will be some consideration of Prof. Austin this year.

Students protested the school policy that requires visiting professors to leave HLS before they will be considered for tenure, but Clark again gave no indication he is willing to compromise on his position.

Clark said the issue of faculty diversity was "an area of special interest" of the appointments committee, and he was sure the committee would discuss the issue in their first meeting of the semester, scheduled for yesterday. The committee will continue its "special search effort" for a more diverse group of professors.

Bell's main focus now is on offering his civil rights seminar, which requires students to prepare each week a one to two page written "reflection" on the reading, or their personal experiences and insights. An edited set of these reflections from last year's seminar was printed recently in Bell, Higgins and Suh, *Racial Reflections: Dialogues in the Direction of Liberation*, 37 UCLAL Rev. 301 (1990).

Bell explained that teaching the course while on leave "enables me to prove that I do love teaching enough to do it for

free, and I can teach without the disruption of grades." The lack of grades "is the next logical step in my effort to emulate the characteristics of other student activities," which provide no credit or pay, but result in a great deal of satisfaction in a non-hierarchical setting, Bell said. Clark expressed skepticism about the value of a class without credit or grades.

Clark and Dean of Students Sarah Wald are planning a number of meetings with students this fall, which Clark hopes will "improve understanding" between the students and the administration.

"I want to understand better the important elements of the students' concerns, and I hope to convey to them a better sense of what the faculty has been doing and is going to do" in the area of faculty hiring, Clark said.

"I'm in favor of free expression on campus," Clark added. "[CCR] was a very responsible group. They were clearly intent on making their presence and concerns known, but not in a defeating or disruptive way." Linda Singer, 3L, said the faculty and administration's willingness to listen was encouraging, but "I don't think they're hearing any more than they did before," she said.

When asked what his vision of a diverse faculty would be, Bell said he would welcome

"more people who have practiced, more minorities, and more people who understand working class problems and perspectives." He also said "it would be marvelous to have a faculty that is sufficiently cognizant and willing to acknowledge that not everybody with traditional credentials becomes great teachers and scholars, and that some who don't have great credentials become great teachers and scholars."

Bell graduated from law school at the University of Pittsburgh. He is now acknowledged as one of the leading constitutional scholars in the country.

Bell said that those who reflexively react to efforts to improve the diversity of the faculty with concerns about quality are "people who are looking for black people with white credentials. I'm not sure I understand the kind of self-delusion required to make an assumption like that."

Of the top five black teachers and legal scholars in the country, none had the top traditional credentials, Bell said, referring to the diversity-quality tradeoff as "an embarrassing myth."

"Some people of color are not interested in teaching but many more are and are not given serious consideration for not meeting traditional criteria," he added.

Harvard Law Record (ISSN 0017-8101) is published bi-weekly during the school year. Harvard Law School Record Corporation, 23 Everett St., Cambridge, Mass. 02138-9984. Telephone (617) 495-4418. Subscription price: \$20.00 year mailed; \$30.00 year mailed outside U.S. Individual copies: 50 cents at the Law School, \$1.00 mailed. Second-class postage paid at Boston, Mass. and additional mailing offices.

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