

Harvard Law

bulletin

| SPECIAL ISSUE | Commemorating the Bicentennial of Harvard Law School



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Ininitio

**HLS
200**

HARVARD LAW SCHOOL was a grand experiment, a new kind of professional school dedicated to training lawyers in a classroom setting.

The first year, there were six students, two professors. Today, there are more than 100 members of the faculty and nearly 2,000 students from 76 countries, including 1,700 J.D. students, engaged in every conceivable field of legal scholarship, inquiry, and advocacy.

“Harvard Law School is vast in scope and also truly excellent,” says Dean John Manning ’85. “And those are two things that are very hard to do simultaneously.”

The pages of this commemorative issue offer a sense of the school’s impact in many realms, in part by capturing moments from this year’s bicentennial celebrations. Happy 200th!

Harvard Law Bulletin
Special Issue
Fall 2017



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Number 2,
where the first
Harvard Law classes
were taught.

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Harvard Law Bulletin

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The Bulletin on parade



‘To help the members of this community do their best work and chase their highest aspirations is a great privilege’

INTERVIEW WITH A NEW DEAN

In July, John Manning '85 became the 13th dean of Harvard Law School. A scholar of public law, Manning has taught courses on administrative law, federal courts, legislation and regulation, separation of powers, and statutory interpretation. He joined the Harvard Law faculty in 2004, after a decade at Columbia Law School. Early in his career, Manning clerked for Judge Robert H. Bork on the U.S. Court of Appeals for the District of Columbia Circuit and for Justice Antonin Scalia '60 on the U.S. Supreme Court. He also worked

in the U.S. Department of Justice as an attorney-adviser in the Office of Legal Counsel and as an assistant to the solicitor general, as well as in private practice. In late September, as the school had begun to celebrate its bicentennial, Manning spoke with the *Bulletin* in the dean's office in Griswold 200 on a range of topics, including getting advice, giving it and “doing disagreement right.”

BY EMILY NEWBURGER

You started here 35 years ago as a 1L and have taught here for 13 years. Given your long relationship with the school, what's it like now to be dean?

JM: I'm so happy to have the opportunity to be dean. I personally feel an incredible debt to this law school. I'm the first in my immediate family to graduate from college. I'm the first in my family to go to law school. Harvard Law School has enabled me to lead a life of professional fulfillment that neither I nor my parents could ever have dreamed of. And this is one of the things about this law school that I think is so special: It does that for lots of people, year in and year out, generation after generation.

In this bicentennial year, it's also really astonishing to see how much this law school has contributed in so many different areas, in so many different fields, in so many different contexts. The chance to help the members of this community do their best work and chase their highest aspirations is really a great privilege.

One of the new initiatives that you've launched is a mentoring program to increase opportunities for students to receive guidance. What are your hopes for this initiative, and why is it especially important to you?

I think mentoring and advising are so important in higher education, and

in life. I'm on the University's Task Force on Inclusion and Belonging, and the literature shows that mentoring has high value added. It helps people better understand and absorb what they're learning. It helps them make important career decisions. It also just helps them navigate complex institutions. And I've learned that the value added by mentoring is not evenly distributed across the population—and that, often, people who are first-generation or come from less-advantaged backgrounds get much more value added from great advising and mentoring.

I want to make sure that our students have lots of opportunities to



to give it away.” That’s also very profound advice for a young lawyer. Another taught me, “It’s amazing how much you can get done if you don’t care who gets the credit.”

I worked in Washington quite a long time. And, during that time, I watched a lot of successful, important public servants making a lot of very hard decisions. Those were all really good learning experiences for me.

You’re beginning your tenure when the school is reflecting on its 200-year history. How is becoming dean at this moment resonating for you?

What’s extraordinary about this moment is that the bicentennial puts a really sharp focus on a couple of things about Harvard Law School that are unique. Harvard Law School is vast in scope and also truly excellent. And those are two things that are very hard to do simultaneously, and to do so for such a sustained period of time is really quite remarkable. And so you sit and you look back on our history, you see how many things started here—how many innovations, and ideas, and legal movements began at Harvard Law School. This is the place where Dean Christopher Columbus Langdell [LL.B. 1854] started the case method and the Socratic method of teaching law. The Harvard Legal Aid Bureau was the first student-run legal aid organization and the first student-run practice organization. (In a lot of ways it was the precursor

develop good, organic mentoring and advising relationships. New initiatives this year include a program that taps into our 1L reading groups by making the instructors official advisers to their students. We’ve also created a peer mentoring program. We’re now in the process of working on expanding an alumni mentoring system. Stay tuned!

As you think back on your own life, is there a pivotal mentoring moment that stands out?

I’ve had a lot of great mentors in my life, and they’ve taught me different things. Some of them have taught me how to be a lawyer and how to think

like a lawyer. Some of them have been strong, clear writers who taught me a lot by critiquing and rewriting my drafts, sometimes more than once. And some of them have imparted important lessons about what it means to be a good lawyer. And I don’t mean that in the sense of an effective lawyer; I mean a lawyer who is good.

One of my mentors when I was in Washington said to me, “Your commitment to principle is only tested when it hurts.” And I thought, That’s very profound advice about how to think about one’s career in the law. Another said to me: “You are responsible for your own integrity. No one can take that away from you. You have

Dean John Manning '85

to clinical education.) Harvard Law School graduates played an integral role in founding the NAACP and in focusing the bar on pro bono representation and the duty of lawyers to help those in need.

Then there's the fact that more than one in six of all the Supreme Court justices in U.S. history were educated, in whole or part, at Harvard Law School. About one in eight of our

As I said to students in my orientation speech this fall, one of the things I didn't understand when I was a 1L 35 years ago, sitting in Sanders Theatre listening to my dean speak, was how central it is to a lawyer's education to learn to disagree. When our legal system is working at its best, you will almost always be faced with the best argument against your position. That's the whole idea of the adversary

of listening. I've met with my faculty colleagues. I've met with many, many members of our terrific staff. I've met with many, many students. The first year will be a chance to learn more about the law school—and about the goals and ambitions of our community.

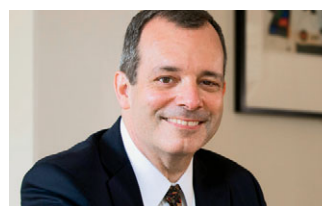
I've discussed with our community three big goals for the law school. First, I want it to continue to be a vibrant, exciting, electric environment

for people to learn, to exchange ideas, and to help shape and define the large questions of today and tomorrow. It's a moment in history when law is very important, and in which there are lots of issues that any law

school should be debating, discussing, and weighing in on. So I want to help foster and support an environment in which we are really helping to further knowledge, understanding, and debate about things that matter.

And second, I want us to think hard about what we teach, and how we teach. What I've observed about Harvard Law School is that our students are very ambitious, in the best sense. They want to go out and do big, important things—to change the world for the better. And I know that our faculty has a sense of mission that flows in part from that sense, that we send so many leaders out into the world. We want to make sure that we're teaching the subjects, and using the cutting-edge teaching methods, that will best prepare our students to be the best 21st-century lawyers and leaders they can be.

And then third, I want to help deepen our sense of community. I want all members of this community to feel that this is *their* Harvard. Programs like the mentoring initiative are part of the way we're working on that goal, to make sure that everybody feels that we're hearing them, and that we're doing all that we can to help them realize their highest aspirations.



"I want to help foster and support an environment in which we are really helping to further knowledge, understanding, and debate about things that matter."

"[Our students] want to go out and do big, important things—to change the world for the better."

attorneys general went here. Then the number of Cabinet officers, senators, representatives, governors, and important officials in state and local government who went to Harvard Law School is just staggering. And then you look around the world, and you see the same thing: heads of state, justices, judges, ministers of justice, high government officials trained at Harvard. It's exhilarating to see the impact that this school has had throughout the world.

Our graduates are also great leaders in the private and public interest bars. They are great leaders in academia. They are great innovators in business, finance and high technology. The amazing thing is that you see Harvard Law School graduates making large, terrific, game-changing differences in field after field throughout the world. Indeed, it's kind of amazing to step back and realize that Harvard Law professors or graduates are often the leading voices on both sides of an important public debate. And that's very exhilarating, too.

You've become dean at a time when divisions among Americans are strong. What's the importance of law, and law schools, in this environment?

process. And what that means is that in order to be an excellent lawyer, you have to take seriously the arguments against your position.

And so what I tell my students, and what I hope they internalize, is that they're going to be better lawyers if they listen generously to those who have a different position from theirs, if they take seriously the counterarguments. And that I think is something that Harvard Law School has done and must do extremely well. Because we're so large and so diverse, our students are exposed to all kinds of different methodologies and approaches and perspectives and lived experiences—in the classroom and in their interactions with teachers and peers outside the classroom.

And what that means is that here at Harvard Law School, we have an opportunity to do disagreement right—to be respectful of one another, to take opposing arguments seriously, and to demonstrate that our differences can be a source of strength and learning.

What do you look forward to in your first year, and what are some of your goals for the school?

I like to learn, and I've spent my first three months on the job doing a lot

A Memorial to the Enslaved People Who Enabled the Founding of Harvard Law School



HLS
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On a clear, windy afternoon in early September at the opening of its bicentennial observance, Harvard Law School unveiled a memorial on campus. The plaque, affixed to a large stone, reads:

In honor of the enslaved whose labor created wealth that made possible the founding of Harvard Law School

May we pursue the highest ideals of law and justice in their memory

Harvard Law School was founded in 1817, with a bequest from Isaac Royall Jr. Royall's wealth was derived from the labor of enslaved people on a sugar plantation he owned on the island of Antigua and on farms he owned in Massachusetts.

"We have placed this memorial here, in the campus cross-

roads, at the center of the school, where everyone travels, where it cannot be missed," said HLS Dean John Manning '85. Speaking to a gathering of more than 300 students, faculty and staff, he said: "Our school was founded with wealth generated through the profoundly immoral institution of slavery. We should not hide that fact nor hide from it. We can and should be proud of many things this school has contributed to the world. But to be true to our complicated history, we must also shine a light on what we are not proud of."

Harvard University President Drew Faust and HLS Professors Annette Gordon-Reed '84 and Janet Halley also spoke at the unveiling, which followed a lecture focused on the complicated

early history of the school.

"How fitting that you should begin your bicentennial," said Faust, "with this ceremony reminding us that the path toward justice is neither smooth nor straight."

The inscription was drafted by Gordon-Reed, a Pulitzer Prize-winning historian and biographer of Thomas Jefferson. She observed that memorials usually name people. In this instance, she said, we will never know all of the names of all the Africans enslaved in Antigua and in the United States whose labor created wealth that helped start the law school.

The words on the plaque, she said, "are designed to invoke all of their spirits and bring them into our minds and our memories

with the hope that it will spur us to try to bring to the world what was not given to them: the law's protection and regard, and justice."

Halley, holder of the Royall Professorship of Law, who has spoken frequently about the Royall legacy, read aloud the names of enslaved men, women, and children of the Royall household from records that have survived, "so that we can all share together the shock of the sheer number," she said, "and a brief shared experience of their loss."

"These names are the tattered, ruined remains, the accidents of recording and the encrustation of a system that sought to convert human beings into property," she said. "But they're our tattered remains."



THIS ROOM WAS ESTABLISHED IN 1939
In Memory of · ELIHU ROOT · 1845 ~ 1937
“Make us effective and useful for the advancement of the cause of
Peace and Justice and Liberty in the World”



The

Root

AN ESSAY BY LINCOLN CAPLAN '76

A special room that was meant to offer a respite from the rigors of the Harvard Law School curriculum became a portal to exploring some of the most important issues in American law.

Room

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HARVARD LAW BULLETIN
Fall 2017

Photograph by Bob O'Connor

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he portrait of Elihu Root in the Harvard Law School Library depicts him as he looked in 1903, when he was 58 and secretary of war under President Theodore Roosevelt. Root wears a thick tie and full vest and morning coat. He is standing, with rimless glasses in his right hand and his left hand in a pants pocket. With graying brown hair parted in the middle, somber brown eyes, and a thick moustache, he is the embodiment of the lawyer-statesman—the idealized lawyer who is a skilled legal technician but, more to the point, a person of practical wisdom and exemplary character. The portrait hangs at the library’s south end, outside a room named for him.

“About half the practice of a decent lawyer consists in telling would-be clients that they are damned fools and should stop.”
—ELIHU ROOT





Even a frequent visitor to the Root Room should be forgiven for thinking he was another distinguished graduate of the law school recognized for his accomplishments. The library assumes his eminence, without explaining who he was. He was from an old American family. “My maternal grandfather, with whom I passed much time as a child,” Root wrote in a letter to a historian, “was the son of the man who commanded the Americans in the fight at Concord bridge on the nineteenth of April in 1775.” He was certainly accomplished.

In 1913, when he was a United States senator from New York, he was awarded the Nobel Peace Prize,

A gift in honor of Elihu Root was used to establish an elegant reading room in his name. Books in its collection told vivid stories about lawyers and the law.

for advocating that major conflicts between countries be settled by arbitration instead of war. After his chapter at the War Department and before being elected to the Senate, he was Roosevelt’s secretary of state. In that job, he negotiated bilateral treaties with 24 countries, which each committed to using arbitration to resolve disputes. That led to the creation of a world court, officially the Permanent Court of International Justice, which existed until 1946. Root was a kind of godfather to the group of men responsible for the Kellogg-Briand Pact (1928), which failed to end all wars, as it was supposed to, but, by changing the rules of war, all but ended wars

of conquest—the lion’s share of wars until then.

The Root quotation on the wall of the room begins, “He is a poor-spirited fellow who conceives that he has no duty but to his clients and sets before himself no object but personal success.” Lawyers more often quote another piece of wisdom from Root found in his authorized biography: “About half the practice of a decent lawyer consists in telling would-be clients that they are damned fools and should stop.”

Still, Root didn’t attend Harvard College or Harvard Law School. He graduated from New York University School of Law, in 1867. The opening of the room in 1939 was the result

of a gift to Harvard from Henry L. Stimson, who attended Harvard Law School for two years before becoming Root's protégé and then partner at his law firm in New York City. (In those days, membership in the New York Bar did not require a law degree and six out of every 10 candidates who took the bar exam had never been to college, let alone law school.)

Stimson, like Root, was prominent in government as well as law practice. He was secretary of state for President Herbert Hoover and secretary of war for President William H. Taft and then, a generation later, for President Franklin D. Roosevelt. The year he turned 50, he enlisted during the First World War. He served as an artillery officer in France and left the Army as a colonel in the 31st Field Artillery. Stimson had intended that the gift help endow a professorship in his mentor's name, but, a dozen years later, after Harvard was unable to raise sufficient additional money, he said he "must leave the use of the fund to the authorities of the university." Harvard used it for the "equipment and decoration" of an informal reading room in Langdell.

The Root Room was meant to have the feel of a living room—but a stately one, decorated in a neo-classical style. Large and open, with a high ceiling, it was painted an airy blue and white, with ornamental columns emphasizing its height. Paintings and sculptures of distinguished figures from American and British law defined the walls and corners. On the wall opposite the entrance, there was a fireplace with a reproduction of the mantel that, until 1857, stood behind the speaker's desk in the House of Representatives, in Washington, D.C. Looking back from the fireplace, you could see a gilded clock above the entrance



Students in the Root Room got caught up on news or sleep, or in reading that "transported them across time and space."

with Roman numerals marking the hours.

While the room offered newspapers and magazines, primarily it provided students with books—some novels but mostly nonfiction—about the intersection of law and life rather than the law. The furniture included easy chairs where students sprawled, slept, and otherwise made themselves at home, sometimes getting lost in their reading, which transported them across time and space.

“The Trial of Dr. Adams,” Sybille Bedford’s true-crime account, had that power. It’s about an epic 1957 murder trial at London’s Old Bailey of a 58-year-old English country doctor named John Bodkin Adams. Astonishingly, he was acquitted of poisoning an elderly female patient with large quantities of heroin and morphine, though he had irrefutably prescribed them. He was later stripped of his medical license, but he lived into his mid-80s and died a wealthy man, having been the beneficiary of the willings of 132 patients, out of 163 who died in suspicious circumstances.

Bedford wrote this about the trial’s opening, when the clerk of the court addressed the defendant and the defendant addressed the judge:

“Do you plead Guilty or Not Guilty?”

There is the kind of pause that comes before a clock strikes, a nearly audible gathering of momentum, then, looking at the Judge who has not moved his eyes:

“I am not guilty, my Lord.”

It did not come out loudly but it was heard, and it came out with a certain firmness and a certain dignity, and also possibly with a certain stubbornness, and it was said in a private, faintly non-conformist voice. It was also said in the greatest number of words anyone could manage to put into a plea of Not Guilty.

Much of the Root collection was biography, with many books about icons of American law, like John Marshall, Daniel Webster, and Abraham Lincoln, and others about obscure figures, like Charles Henry Fernald, a county judge in Santa Bar-



John W. Davis argued *Brown v. Board of Education* against Thurgood Marshall.

bara, California, and George Shiras, a Supreme Court justice from 1892 to 1903. Some of it was macabre (e.g., “The Reluctant Hangman: The Story of James Berry, Executioner – 1884-1892” by Justin Atholl and “Wills of the U.S. Presidents” by Herbert R. Collins and David B. Weaver). Some of it was esoteric (“Forbrydertyper hos Shakespeare” by August Goll—

“Criminal types in Shakespeare,” an authorized translation from Danish). HLS librarians regarded the books as entertainment and, compared with legal textbooks, they were. But many in the collection seriously addressed subjects that the law school’s curriculum barely considered. The books were Harvard Law School’s version of what Harvard Business School gathered in its Power and Morality Collection. The law school’s goal was to teach students to think like lawyers, not how to practice law or even what lawyers did in practice. The Root Room provided books about both for a form of independent study in a counter-curriculum.

A biography of Davis, which was part of the Root Room collection, raised one of the most difficult ideas in American justice: “the principle of non-accountability.”

Brown v. Board of Education is often called the most important Supreme Court ruling in the 20th century. It was not yet two decades old when I arrived as a 1L in 1973 and became a Root Room regular. Many people know that Thurgood Marshall was the lawyer who argued in favor of what the Court unanimously decided in 1954—that segregated public schools violated the equal protection clause of the 14th Amendment to the United States Constitution. Because of what Marshall stood for as a champion of equal rights, President Lyndon B. Johnson picked him to be solicitor general—the first African-American to serve in that role—and, then, to sit for 24 years on the Supreme Court.

Yet even in the legal world, relatively few know that the lawyer who argued in favor of the status quo in that case, and, therefore, for letting states maintain separate public schools for black students, was John W. Davis. In 1953, Davis’ daughter was seated next to Marshall’s wife in the visitors’ gallery of the Court when it heard oral argument in the *Brown* case. The daughter congratulated the wife after Marshall finished his argument. Mrs. Marshall replied about Davis, “My husband admires him so much.” Marshall himself later said, “He was a great advocate, the greatest.”

How could the lawyer who led the country’s most important legal campaign for racial justice venerate his adversary bent on thwarting it?

In 1973, the Root Room acquired a book that answered the question. “Lawyer’s Lawyer: The Life of John W. Davis” by William H. Harbaugh, who was a professor of history at the University of Virginia, was, in the words of *The New York Times Book Review*, “a monument of scholarship and readability.” It was my introduction to the counter-curriculum.

Davis argued more cases (140) before the Supreme Court in the 20th century than any other lawyer, until he was surpassed by a deputy solicitor general who worked for almost 35 years in the SG's office. In the 1930s, Marshall said, he often skipped classes at Howard University School of Law, in Washington, D.C., to hear Davis argue before the Court.

Davis was the ultimate craftsman, the book explained, a genius at arguing in appellate courts, especially America's highest. Other famous lawyers were in awe of what Harbaugh called "his capacity for total absorption," his ability in a case "to master the record within a few hours." (A lawyer who worked with him said, "He could recite you a page of Dickens without even thinking about it.") Then, in "euphonious language" and an "authoritative baritone voice," he had the facility "to simplify complex matters with a few pithy Anglo-Saxon phrases devoid of adjective and drained of all emotion."

That helped make Davis "the greatest Solicitor General in history," Harbaugh wrote, when he held the job for five years under President Woodrow Wilson, though other contenders for the title came after him. He was a successful American ambassador to Great Britain after he resigned as solicitor general and ran for president as a conservative Democrat, losing to the Republican Calvin Coolidge in 1924, but it was as a lawyer that he defined himself for history. Among elite lawyers, he was one of the most admired in the profession, with his name put at the front of the name of the Manhattan law firm he joined in 1921, when he was 48. Two generations after his death, the firm of Davis, Polk & Wardwell remains among the most respected corporate law firms in the world.

Richard Kluger wrote the *Times* review that lauded Harbaugh's book, but he judged Davis as Harbaugh did not. Kluger asserted: "That he is scarcely remembered outside of his profession (though still idolized



Henry L. Stimson, then secretary of war, with Gen. George C. Marshall in 1942

within it as the model of the appellate lawyer) is not merely comment on our short memory of public figures who decline to turn cartwheels in quest of our acclaim. It is, as well, testament that the values for which John Davis stood unbending throughout his 81 years—the sanctity of property, the immutability of laws, the obligation of the individual to sink or swim on his own—have been challenged by other principles in our ongoing national ferment over the definition of a just society."

Stimson's gift established the Root Room, where students could explore broadly.

In 1975, in "Simple Justice," his landmark history of the *Brown* case, Kluger repeated that thought and much of that language in his account of Davis' background as a Southerner. But he added to that paragraph about the meaning of a just society: "Part of that ultimate definition, it became clear in the aftermath of the Second World War, would hinge on settling the status of black Americans. John Davis' role in that settlement was determined by one of the few shortcomings in his otherwise sterling character: all his life he was a gentleman racist." As Harbaugh put it,

"his heart was really with the white social order."

Was it fair of Kluger to condemn Davis as a racist, and not let his appraisal of the man rest on the quality of his advocacy? As Harbaugh explained, and Kluger quoted, Davis adhered "absolutely to the principle that the lawyer's duty was to represent his client's interest to the limit of the law, not to moralize on the social and economic implications of the client's lawful actions." In admiring Davis, Thurgood Marshall accepted that tenet, which the legal scholar Murray Schwartz called the "principle of non-accountability" at the heart of the American adversary system.

The system depends on lawyers vigorously representing each of the opposing parties in a dispute. They can do that, the theory goes, only if they are not held responsible for what society in general, and a judge and jury in particular, find repugnant in the actions of clients the lawyers are representing. That is among the most difficult ideas in American justice. It was debated in the 1970s when the American Civil Liberties Union, then headed by Harvard Law School graduate Norman Dorsen, defended the right of the National

Socialist (Nazi) Party of America to march in uniforms with swastikas on armbands through Skokie, Illinois, then a village of 70,000 people with 5,000 Holocaust survivors.

It is being debated again today, within the ACLU, too. Some staff members have questioned whether the principle of non-accountability still applies when what's at stake is hate speech in this era of polarized politics and extremism swollen around the globe by social media. They have protested the organization's defense of Milo Yiannopoulos, the "alt-right" provocateur who, the ACLU recognizes, "has fostered both anti-Muslim bias and disdain for women in one breath, characterizing abortion as 'so clearly bad for women's health that it falls second only to Islam.'"

A frolic and detour in the Root Room led to that fundamental issue. Similar excursions led to others as important.

In 1990, after a half century, the library moved most of the books out of the Root Room and re-made it into a center of scholarship where researchers can work with materials brought in from the school's Historical & Special Collections—as the library describes, “nearly three thousand linear feet of manuscripts, over three hundred thousand rare books, and more than seventy thousand visual images.” The décor is the same, but the furniture has been thinned out. The room feels even airier and looks beautiful. It's still the Root Room, but it's really RR 2.0. “The Library remains the largest academic law library in the world, and continues to reinvent itself to meet the needs of the law school,” the school's website says.

The library had contemplated the change for several years, but, as a librarian told me, it was “the asbestos contamination in the Treasure



“The law school's goal was to teach students to think like lawyers, not how to practice law or even what lawyers did in practice. The Root Room provided books about both.”



Room, in the spring of 1990, that ultimately accelerated the relocation plan.” The Caspersen Room, as it’s now called, is at the north end of the library and serves as a space for exhibitions, such as the 2005 “Retrospective Honoring Charles Hamilton Houston on the Grand Opening of the Charles Hamilton Houston Institute for Race and Justice” at the law school. An HLS graduate, Houston was dean of Howard Law School and litigation director of the NAACP, the great lawyer who was the main architect of the strategy that Thurgood Marshall and others carried out.

Around the time of the change, the legal profession emerged as a subject of first-rate scholarship among law professors including HLS’s David Wilkins ’80, who is now director of the school’s Center on the Legal Profession and vice dean for global initiatives on the legal profession. What the law school of earlier decades left to the old Root Room to teach about the life of the law is now part of the school’s curriculum. That’s so in courses like *Challenges of a General Counsel*, which Wilkins co-teaches with Ben Heineman, the former senior vice president and general counsel of GE, and *Cross Border M&A: Drafting, Negotiation & the Auction Process*, which Mitchell Presser, the head of the U.S. M&A practice of the global law firm of Freshfields Bruckhaus Deringer, teaches, and in the many legal clinics, student practice organizations, and externships that have transformed what students learn and how.

Law professors got interested in the legal profession because, as major law firms began to morph into economic powerhouses, many leading American lawyers were concerned that the elite segment of the profession was abandoning “principle for profit, professionalism for commercialism,” as a report of the American Bar Association put it. Davis, Root and Stimson had all been accused of doing the same thing. As Louis D. Brandeis LL.B.



In 1990, the Root Room was remade into a hub for scholarship, where researchers can consult materials from the school’s archives.

1887 described the problem around the time Root was in the Roosevelt administration, elite lawyers had let themselves “become adjuncts of great corporations” and had “neglected the obligation to use their powers for the protection of the people.” A generation ago, Wilkins and others began a challenging quest that continues today: to persuade elite lawyers to give the ethical dimensions of lawyering much more attention.

I graduated from HLS without really understanding what the word “professional” meant in defining the legal profession and how that affected the behavior of lawyers in the most influential corporate law firms. For that matter, I didn’t know what the solicitor general actually did in the U.S. Justice Department or understand many other aspects of law and the legal culture that struck me as significant because of what I read in the Root Room.

“Simple Justice” was one of the last books I read in the room before graduating in 1976—especially memorable, it later dawned on me, because the book’s revelations about what happened at a profound intersection of life and law in the United States fortified my interest in a career as a journalist and an author of books about legal affairs. In “Skadden: Power, Money, and the Rise of a

Legal Empire,” “The Tenth Justice: The Solicitor General and the Rule of Law,” and other books, I have written about answers I have found and stories that helped explain the answers.

I focused on the Skadden firm, rather than Davis Polk or another of the old New York-based firms, because it symbolized the transformation of the large law firm after World War II. It opened on April Fools’ Day in 1948, a tiny operation with no clients; three partners who had been passed over for partnership at well-established firms; and one associate, Joe Flom, from HLS’s two-year, postwar Class of 1948. Thanks to its willingness to serve as special counsel for special purposes—matters too dicey for some other firms to take on—it grew to 75 lawyers in 1975. By 1990, on the basis of its lucrative practice in counseling companies involved in fighting off or doing corporate takeovers, it was a mega-firm with 1,000 lawyers. Flom exhorted his colleagues, “We’ve got to show the bastards that you don’t have to be born into it.”

At a celebration of Skadden’s 40th anniversary in 1988, when it was making more money than any law firm ever had and was the colossus of the legal profession, Flom issued a warning. He instructed: “We must remember that the history of major institutions is that they are not permanent. The only permanence comes from what you make of it, or what the institution makes of itself. If it becomes a dinosaur, it will disappear.” It was his version of the lesson that the law school demonstrated it understood when it overhauled its curriculum, and that the library showed it grasped when it remade the Root Room.

Lincoln Caplan ’76 is a visiting lecturer at Yale Law School. A former staff writer at The New Yorker and editorial writer about the Supreme Court for The New York Times, he is the author of six books about legal affairs. His journalism is linked to at lincolncaplan.com.

HLS's Got Talent!

Juliana Han '08, a former corporate lawyer, now a Juilliard-trained performer



Up on their feet, dancing to the beat on Jarvis Field

Scott Turow '78 on his book "One L," 40 years after it was first published



Festival lights

Satire and song from Ben Schatz '85 (far right) and the other members of the Kinsey Sicks



Actor and wrestler David Otunga '06 on life in the ring—and beyond



For 200 years, Harvard Law School graduates have gone on to illustrious careers in law, government, business and other law-related endeavors. A significant number of HLS alums have also carved out a niche in the arts—as writers, actors, musicians, singers, artists, directors, producers, agents and more.

In September, as part of its bicentennial program, Harvard Law School celebrated the arts with a two-day festival featuring the work of alumni, staff, faculty and students. From musical performances, to spoken word poetry, to film screenings and book talks, to the satire of the Dragapella Beautyshop Quartet, HLS talent took center stage.

How Have

The Harvard Law Review offers a bird's-eye view / BY LANA BIRBRAIR '15

On April 15, 1887, with the support of alumnus Louis Brandeis LL.B. 1877, the Harvard Law Review published its very first issue. Today it is one of the oldest and most influential student-operated law journals in the country. Over the years, the journal has sought to evolve in step with the field as a whole. It has brought in new voices and approached the law with fresh perspectives that have both formed the backbone of mainstream legal academia and challenged the status quo.

In honor of Harvard Law School's bicentennial, in October the Law Review published a collection of six articles exploring Harvard's contribution to the development of the law, and how that history will shape the future of the law in theory and practice. The Bulletin spoke with the Law Review's 131st president, ImeIme Umana '18, about how scholarship—and the Law Review itself—have changed through the centuries.

Harvard

Scholars

Shaped

the Law?



How did it come about that the Law Review decided to publish a special issue looking back on Harvard's influence on the development of law?

About two volumes ago, the editors saw the 200-year anniversary of the law school on the horizon and were wondering what, if anything, the Law Review might do to commemorate that. People were excited about a special issue that goes into

ImeIme Umama '18, the Harvard Law Review's 131st president

various legal fields and how HLS has influenced them over the years. Then Dean Minow and Professors Manning and Lazarus helped us think critically about how we might bring something like this together.

Working on the issue has been very enjoyable. It's very different from what we typically publish, so it's nice to engage with these pieces. They are well-written, critical, short pieces that I've learned a lot from.

How has legal scholarship changed since the Law Review began publishing more than a century ago?

Scholarship certainly has changed over time, and these pieces, whether or not they acknowledge it to a great extent, are consistent with the changing nature of the legal field in that they bring more voices to the table and more diverse perspectives. If you look back at our older scholarship, you'll tend to see more traditional,

doctrinal, technical pieces. Now, they're more aspirational, more critical, and have more social commentary in them. It's a distinction between writing on what the law is and writing on what the law should be, and asking why things are the way they are.

Legal scholarship is unusual among academic fields in that its selection for publication is generally student-driven, rather than chosen and reviewed by professionals in the field. What do you think has been the impact of that kind of selection and editorial process?

Students are at best generalists in terms of their expertise. On the Law Review, we spend a lot of time engaging with a piece, learning as much as we can about it, and bringing what we know about it from our coursework and our own research. But it's not lost on us that we are not professors, and we don't know the contours of the field as well as we might like to—although that can also allow us to have a more removed perspective. We might be open to less traditional pieces, and be less constrained in terms of reproducing what people are familiar with.

What kind of scholarship do you find especially meaningful?

I'm really passionate about the state of the criminal legal system and civil rights. The cherry on top within those topics is scholarship that proposes new ways of thinking or challenges the status quo.

One of my favorite articles is [Assistant] Professor Andrew Crespo's "Systemic Facts" [published in the June 2016 Harvard Law Review], because it does just that. The thesis is that courts are institutionally positioned to bring about systemic change, and that they can use their position to collect facts that they are institutionally privy to. It calls on them to do that such that we might learn more about how the legal system is structured.



The first issue of the Harvard Law Review, published in 1887

The Law Review was founded 130 years ago, and now you are its president. Do you ever get caught up in thinking about the historical implications of running such a well-known and influential publication?

I think of the history often, for sure. Obviously I have moments where it is 4 a.m. and I am just trying to get my work done and go to bed. But it makes it that much more special when I think about the developments we've made in the law, the law school, and the Law Review.

Looking at it through a historical lens, the diversity of the student body and Law Review editors and authors is especially meaningful, as it makes legal institutions more inclusive, and therefore the law more inclusive. It's important to keep pushing in that direction and never become complacent. The history is very important.

You are the first black woman who was elected to serve as president of the Law Review. Why do you think it took so long for that to happen?

I've thought about it a lot and I just don't know the answer. My thought

is that it just tracks the lack of inclusion of black women in legal institutions, full stop. It's a function of that. There's always more we can be doing to be more inclusive. The slowness of milestones like this might have a broader cause than just something specific to the Law Review.

How has your time on the Law Review influenced you as a student and future attorney?

I'm really fortunate to be around some of the most thoughtful and critical people I've ever met. Just engaging with the editors and seeing them do the work always inspires me to be more thoughtful, more discerning, and critical of my own work. Having increased interactions with, and being deeply immersed in, the work of other editors has been a real blessing in being president. I've really loved the intellectual, editorial immersion that the Law Review experience has been, and I plan on taking that with me in my public interest work [as a public defender] after law school.

Lana Birbrair '15, a former legal journalist, is now an associate at a litigation firm in Los Angeles.

From Law's **Boundaries**

*A sampling
from the
Harvard
Law Review
Bicentennial
issue*

to the Law and Justice **Gap**

CRUCIAL CLASSROOM CONVERSATIONS

“Law school is still, and I hope will continue to be, less a trade school and more an intellectual journey that aims to prepare students for doing law in a way worthy of a society we want to live in. The harder it may be to have reasoned dialogues about matters of importance in our society, the more crucial it is for professors to practice doing so with their students.”

—Professor **JEANNIE SUK GERSEN '02**, from “*The Socratic Method in the Age of Trauma*”

STUDENT ACTIVISM IN PERSPECTIVE

“Like the struggles at Harvard in the 1980s, today’s student activism must be read as a chapter in the ongoing conflict between the liberal center and the critical left on how to conceptualize the contemporary implications of American Apartheid. From yesterday’s contestations over the ideals of colorblind meritocracy to today’s interment of the short and bittersweet romance with post-racialism, race liberals and their radical critics have struggled over the terms of engagement with legal institutions and their role in reproducing racial hierarchy.”

—**KIMBERLÉ WILLIAMS CRENSHAW '84**, professor at UCLA School of Law and Columbia Law School, from “*Race Liberalism and the Deradicalization of Racial Reform*”

THE LAW AND JUSTICE GAP

“Justice is both deeply contested and central to the study of law and legal institutions. The question of what is just is, of course, not congruent with the positive question of what is law. ... But the gap between law and justice is not one to be relished: Law ought to aspire to reflect deeply held community conceptions of justice.”

—Professor **VICKI C. JACKSON**, from “*Thayer, Holmes, Brandeis: Conceptions of Judicial Review, Factfinding, and Proportionality*”

WHEN LAW IS NOT REALLY LAW AT ALL

“It is not surprising ... that most of the important debates in jurisprudence over the past 200 years have been about the boundaries of law, and about the extent to which what some have thought of as non-law is, or has become, law, and occasionally about the extent to which what some have thought of as law is not really law at all.”

—**FREDERICK SCHAUER '72**, professor at the University of Virginia School of Law, from “*Law’s Boundaries*”

Read the entire
Bicentennial
issue at Harvard
lawreview.org

WHAT LEGITIMIZES THE ADMINISTRATIVE STATE?

“What, if anything, legitimates the administrative state? By ‘legitimacy’ I refer not to any thick normative notion, but to sociological and public legitimacy—the ambient sense in the polity that, whatever grievous errors or injustices the administrative state may inflict in particular instances, its basic existence is acceptable, and the errors and injustices are jurisdictionally valid; they do not amount to reasons for rejecting the extant institutional arrangements altogether.”

In American legal theory there is a rich intellectual tradition—actually a field or domain of overlapping, conflicting, and competing traditions—that attempts to answer this set of questions about the administrative state, and the Harvard Law School has historically been central to the enterprise.”

—Professor **ADRIAN VERMEULE '93**, from “*Bureaucracy and Distrust: Landis, Jaffe, and Kagan on the Administrative State*”

ON LEGISLATIVE INTENT

“Certainly, human beings routinely *attribute* intentions to multimember institutions such as sports teams, businesses, and armies. But when the questions get tough, those intentions are constructed, not real. Hence, in the case of statutory interpretation, the challenge is how to decide what *should* count as Congress’s decision and to determine what creative license judges *should* have to build upon or repair Congress’s handiwork.”

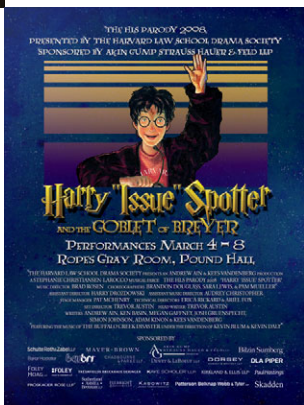
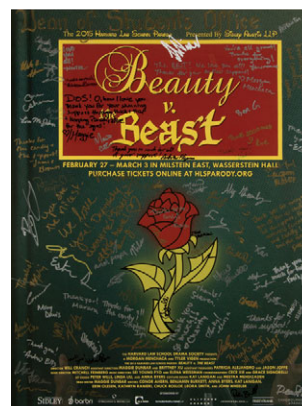
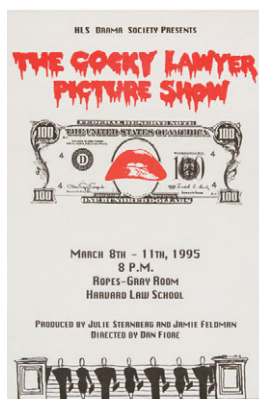
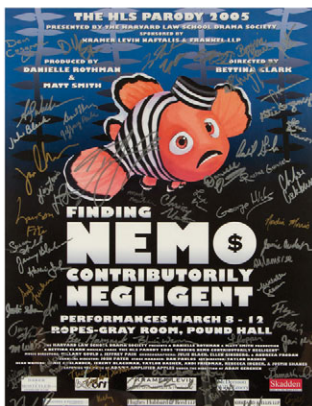
—Dean **JOHN F. MANNING '85**, from “*Without the Pretense of Legislative Intent*”

Fun

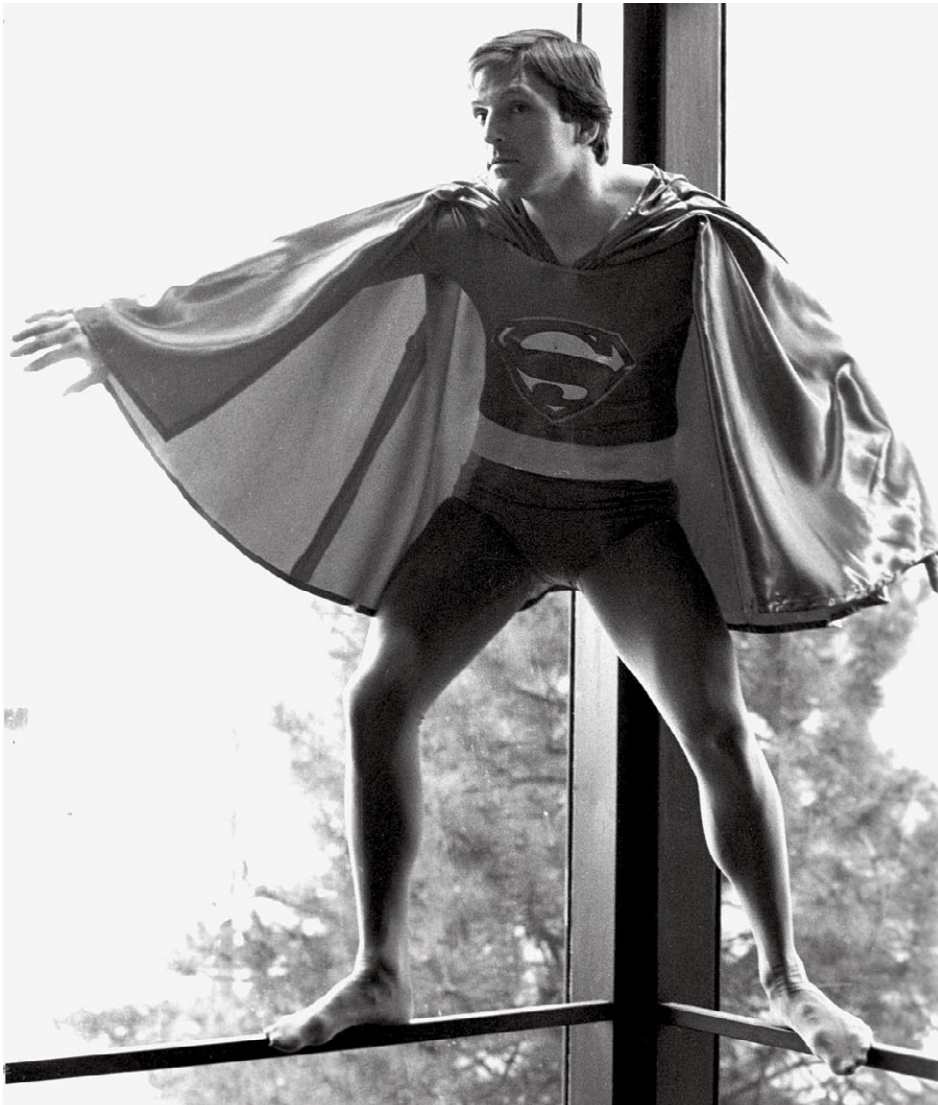
in

Law

With jokes, songs
and, yes, real
talent, the annual
Parody show
has brought the
HLS community
together in
laughter for more
than 50 years /
BY LEWIS I. RICE



During his 50th Reunion in 2011, Laurence Silberman '61 joined several of his classmates in a rousing rendition of a tune they had sung 50 years before in a show whose significance they never could have imagined. Called "It's a Long Way to Certiorari" (sung to the tune of "It's a Long Way to Tipperary"), the song was part of a performance put on by HLS students in 1961 that satirized the legal process and the law school and began an annual tradition that continues today in what has become known as the Parody produced by the HLS Drama Society.



Clockwise from bottom: Greg Martin '82 in costume for "Supraman—the Parody" (1980); Wizardry at work in "Harry Palsgraf in Fantastic Briefs and Where to File Them" (2017); Law students join the circus in "The Greatest Show Unearthed" (1972); A closeup from "Law Wars: Attack of the Loans" (2016)

R

REACHED RECENTLY, SILBERMAN, a senior United States circuit judge of the U.S. Court of Appeals for the D.C. Circuit, who by coincidence played a judge in the show, could still belt out the tune impromptu—this

time not fortified by the scotch that fueled his student performance. It is merely one example of the resonance of the Parody for many who have participated in it, who celebrated the chance to turn a winking eye back to the law school and bond with fellow students and even professors in the process.

Though replete with silly songs, as well as wordplay and puns evident in titles such as “Finding Nemo Contributorily Negligent,” “The Cocky Lawyer Picture Show,” and “Holmes Is Where the Hark Is,” the Parody has also brought people together in lasting friendship and even in marriage and bolstered the HLS experience of now generations of law students who look back on their time at the school fondly with no small credit due to their participation in the show. Some of them, including Silberman, came back as alumni during the HLS in the Arts festival in September, when they performed Parody highlights from over the years, singing with the same enthusiasm they brought

“My only problem is that in terms of the courtroom, an audience of just 12 people at a time is not enough for my ego. That’s why I have to go to the stage.” —GREG MARTIN ’82

to the crowd in their student days.

Perhaps not surprisingly, many students who come to HLS seeking to command the stage as an attorney also possess a certain theatrical flair and in some cases serious theatrical talent and experience. Daniel Dykes ’14 came to HLS as a self-described “theater geek,” with dozens of shows under his belt. When he was an admitted student, his discovery that the Drama Society put on an annual Parody cemented his desire to attend HLS, and he would go on to play the lead his first year and direct the show his last two.



A scene from “The Spider People.” Cast members in the 1969 show included David Sonenberg ’71, now an Academy Award-winning producer.

The HLS productions compared favorably with many shows he had worked on in terms of quality of talent and production level, he said. The Parody also had the added benefit of shining a spotlight on his and other students’ experience of the law school at the time. Performers, he said, “are playing Harvard Law students, they’re playing like a mythologized larger-than-life version of their own experience, and everyone else in the audience is relating to that and laughing at it. ... It can be cathartic. It helps you to make fun of it in a way that empowers you, and the audience gets that empowerment, too.”

Now an associate at Curtis, Mallet-Prevost, Colt & Mosle in New York City, Dykes has become an unofficial Parody historian, having collected videos, posters and other memorabilia from shows over the years. Someday he may even compile a full history of the Parody in book form, he said. We will look forward to that, but for now here is a brief history, based on his findings and other sources.

The show, which didn’t become widely known as the “Parody” until the ’90s, be-

gan in a musical revue format, with songs and sketches not necessarily connected to one another. In the later ’60s, when the Drama Society took over the production, the show was tied together with a more coherent plot, such as “Kid Me Not, or Matter of Tot” (1966), which centered on a 10-year-old child prodigy admitted to the school. Many productions have been twists on well-known popular culture—e.g., “Laws” (1976), a shark-filled tale staged shortly after the movie “Jaws” scared people away from the beach. The early ’80s saw more ambitious productions, with original shows for which students wrote their own lyrics and music. That era also introduced serious plays that the Drama Society staged earlier in the school year in addition to the Parody in the spring, the first being “The Caucasian Chalk Circle” (1979) by Bertolt Brecht. The Parody itself generated serious discussion in the 2000s, after the characterization of individual students was seen by some as sexist or racist, leading the school to convene a town hall meeting. Mostly, however, shows have tackled general foibles of law school life, such as when dancing construction workers satirized the inconvenience caused by a renovation of Langdell Library.

A hallmark of the show has been regular cameos from professors. Arthur Miller ’58



Judge Laurence Silberman '61 played a judge his 3L year in the HLS musical show that was a precursor to the Parody.

appeared as Satan, Alan Dershowitz was a dystopian overlord, and various deans have played along with the joke, too, most recently Martha Minow, Elena Kagan '86 and Robert Clark '72 (who one year took the stage as the Phantom of the Law School). One participant recalled seeing Professor Clark Byse, who was known more for his tough classroom demeanor than his sense of humor, sitting in the audience. Byse couldn't stop laughing.

MOST PARODY PARTICIPANTS graduate and never see a stage again except as a spectator. Silberman, who has also taught law during his career, including at Harvard, noted that while he has never acted again after law school, "I'm accused by one of my colleagues of being an effective law professor because of my dramatic flair." Yet other alumni have kept a closer connection to the performance world—and not just in a courtroom or classroom.

Greg Martin '82 noted that he certainly does use his acting skills in the courtroom as a deputy district attorney in Los Angeles who frequently tries criminal cases. But,

as he joked, while he loves his career, "My only problem is that in terms of the courtroom, an audience of just 12 people at a time is not enough for my ego. That's why I have to go to the stage."

A longtime member of Actors Co-op theater company, he continues to perform in plays and has snagged several television and movie roles. His love of acting was actually reinvigorated at Harvard Law School, where he played the lead in "Supraman—the Parody" (appearing on stage in a diaper at one point, much to his fellow students' amusement). He also discovered a side of Harvard Law students different from what

"The Parody lets people see what's funny and a little bit crazy and take a step back from the pressure of it all."

—MICHAEL LEOTTA '97

he ever expected.

"I always had the idea that Harvard would be populated by just overwhelmingly brilliant, single-minded, egg-headed, brainiac types," he said. "In one sense that's true, but in another sense what was both amazing to me and delightful to me was to realize these people were a lot more well-rounded than I am."

Lisa M. Poyer '80, too, made a discovery



During the HLS in the Arts festival, Eric Jordan '14, Dave Zucker '12, Daniel Dykes '14 and Annie Craig '12 performed "Blackstone's Back" from the 2012 Parody.



From left, Tim Hearn '83, director of "North By North Middle," with Dale Cendali '84 and Chris Hewitt '83, who together produced the 1983 show.

she never expected as an HLS student. Working on the Parody, she first was in charge of costumes, then served as producer. Now a theater manager who has overseen many shows on Broadway (where her legal training serves her well in managing a highly unionized workforce), she said the experience helped propel her into her career.

“I looked around and realized all the tasks that had to go on behind the scenes. I had never thought seriously that there must be some real-world equivalents for all of these jobs that people probably get paid for doing,” said Poyer. “It made me think for the first time that maybe it would be possible for me to do something in the theater where my legal skills wouldn’t be totally wasted.”

Also combining her legal skills with her interest in theater, Dale Cendali ’84 has litigated Broadway-related cases as a partner focused on intellectual property at Kirkland & Ellis in New York City and has invested in and produced Broadway shows. During her time at HLS, she helped produce shows during an era when the many serious theater enthusiasts among the student body put on three shows a year. “We had a talent-rich environment, and we loved doing it,” she said. “It was a real highlight of our experience and made us have a really great experience at law school.”

As part of her role as producer, Cendali would recruit professors to make appearances in the show. She would later return to HLS as a lecturer, teaching copyright and trademark litigation. Her students learned that she represents J.K. Rowling, the creator of the Harry Potter series. As it happened,

students did a Parody performance with a Harry Potter theme when she was teaching. And Cendali made her own cameo appearance in the show.

AND FINALLY, LET US END AS so many shows do: with the happily-ever-after love story.

As many have described, working on a theatrical production is an intense and intimate experience.

People spend a lot of time together on a common goal, leading to longtime connections, friendships, and more. Cendali noted that she met her husband, Francis Fitzpatrick ’86, while working on the Parody, and they were one of several couples who met that way during their time at HLS.

And in a show meant to generate laughs, it doesn’t hurt when you can get the person you are interested in to laugh along with you.

Michael Leotta ’97 and Allison Harnisch Leotta ’98 became friends the year they both participated in the show—his third year, her second. She was interested in dating his roommate; he was interested in her even as she solicited his advice on how to get his roommate’s attention. Michael got Allison’s attention at the Parody cast party at his (and, of course, his roommate’s) house, where all involved engaged in a rather awk-

ward discussion culminating in a decision that Michael and Allison would begin dating the next day. They’ve been together since, and Allison recalled the spark of interest when she saw Michael performing his Parody role of an evil professor—evil but also very funny.

“Law school is such a structured and serious time in some ways,” said Allison, who now writes legal thrillers after serving as a federal prosecutor. “That’s what’s so lovely about the Parody. Everybody’s just making fun of themselves and the seriousness of the life. And everyone’s laughing and having a good time. And Mike was always making me laugh. That’s where it all started for us.”

“Something told me [the Parody] was going to change my life. I know it sounds crazy and hokey, but it did.”

—ALLISON HARNISCH LEOTTA ’98

The value of the show went even beyond the chance to meet his future wife, said Michael, a partner at WilmerHale in Washington, D.C. It provided perspective on life at the law school and reinforced the bonds of the people who share that experience.

“It tells them that so much pressure the rest of the year isn’t all that serious after all, and there’s more fun and camaraderie than maybe you noticed,” he said. “When you’re actually in the trenches with people, no one thinks: Man, it’s great to be actually in the trenches with these folks. But it is great to be with close friends and go through an intense experience with them. The Parody lets people see what’s funny and a little bit crazy and take a step back from the pressure of it all.”

Allison could not have realized exactly what being in the show would mean to her when she saw a note written on the board in her contracts class asking students to try out for the Parody. She had seen the show the year before, and it seemed like a fun group to be a part of. But there was also something more: “Something told me it was going to change my life. I know it sounds crazy and hokey, but it did.”

Lewis I. Rice is a freelance writer based in the Boston area.

Dean Robert Clark ’72, in the swing of “Backbench to the Future,” the 1997 Parody



The World at HLS

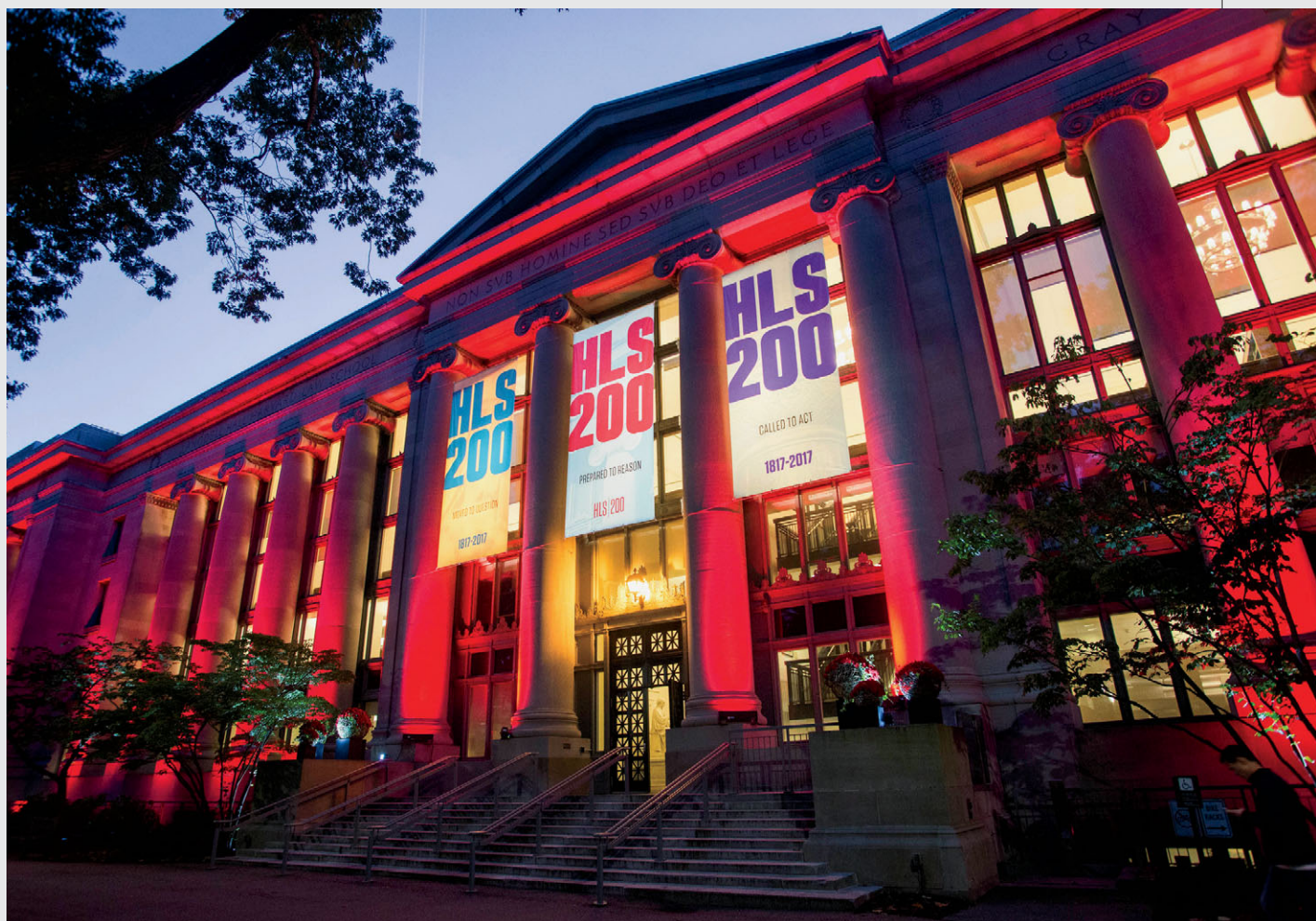
A gathering for the history books

**HLS
200**

At the end of October, some 3,000 members of the HLS community participated in Harvard Law School's Bicentennial Summit: HLS in the World. If you attended, you were in the company of HLS legislators, governors, judges, public interest leaders, entrepreneurs, financiers and journalists from around the globe.

It began with a spirited conversation among six members of the U.S. Supreme Court, all HLS alumni, moderated by Dean John Manning '85. During the event in Sanders Theatre, the justices shared memories, humor and even a little advice for advocates. The summit continued the next day with an abundance of offerings, including panel discussions with HLS senators and representatives, a forum on national security and privacy, and a highly entertaining reargument of *Marbury v. Madison* by two eminent Supreme Court advocates—to name just a few of the 62 events. In between sessions, you might have run into the founder of the Equal Justice Initiative, a governor or three, or the president of the EU's highest court, and have lifted a glass to the next 100 years.

Lighting it
up, with
debate, discus-
sions and
deliberation



A Supreme moment: Chief Justice John G. Roberts Jr. '79 (top center) with Justices Anthony M. Kennedy '61, Stephen G. Breyer '64, Neil Gorsuch '91, David H. Souter '66 (retired), and Elena Kagan '86, surrounded by faculty and students, before the procession to Sanders Theatre



U.S. Senators Tom Cotton '02, Mark Warner '80, Tim Kaine '83, Elizabeth Warren, Jack Reed '82 (left to right). David Gergen '67 moderated the panel.

Below: Clinical Professor Dehliia Umunna, deputy director of the HLS Criminal Justice Institute, hosted a Moth-style session on effective client representation.

Addressing the domestic challenge of globalization: HLS Assistant Professor Mark Wu; U.S. Rep. Sandy Levin '57; Michael Froman '91, former U.S. trade representative; Robert Zoellick '81, former president, World Bank



“This afternoon underscores ... the notion that graduates of this school should be citizen-lawyers.”

—David Gergen '67



Executive Vice Presidents and General Counsel Laura Stein '87 (Clorox) and Deirdre Stanley '89 (Thomson Reuters) addressed the expanding role of in-house counsel.

Leading cities: Karen Freeman-Wilson '85, mayor of Gary, Indiana, and Jorge Elorza '03, mayor of Providence, Rhode Island



Bryan Stevenson '85, founding director, the Equal Justice Initiative, on race, punishment and the law

Loretta Lynch '84, former U.S. attorney general, in conversation with HLS Professor Annette Gordon-Reed '84



William K. Reilly '65, former Environmental Protection Agency administrator, with Professor Jody Freeman LL.M. '91 S.J.D. '95, director of the HLS Environmental Law and Policy Program



Former Congresswoman and ranking Democrat on the Homeland Security intelligence subcommittee Jane Harman '69 on the prospect of endless war

“To be able to have people trust you with [their] pain or their story means a great deal.”

—Loretta Lynch '84





Barney Frank '77, former U.S. congressman, on lessons from the financial crisis



Peggy Kuo '88, who served as a prosecutor on the International Criminal Tribunal for the former Yugoslavia, participating on the panel "International Criminal Law from Nuremberg to the ICC and Beyond"



HLS Professor Laurence Tribe '66 and his former student Kathleen Sullivan '81 reargued the landmark 1803 case *Marbury v. Madison* before four federal judges: Merrick Garland '77, Joseph Greenaway Jr. '81, Jane Kelly '91 and Patricia Millett '88.

In a role reversal, it was the justices who answered the questions. Their responses to Dean Manning touched on law and judicial heroes, as well as lesser-known facts such as penchants for sword-dueling, pet goats, and Baskin-Robbins marshmallow sundaes.



Special prosecutors and independent counsel: Patrick Fitzgerald '85, George T. Frampton Jr. '69, and Michael Bromwich '80 (from left) were among the seven panelists, all of whom drew on their personal experience of major White House investigations.





Former Governors Jennifer Granholm '87 and Michael Dukakis '60



Andrew McLaughlin '94, former deputy chief technology officer of the U.S.; Matt Olsen '88, former director, National Counterterrorism Center; and HLS Assistant Professor Daphna Renan, whose research focuses in part on surveillance, were participants in the discussion of national security, privacy, and the rule of law.



Harold Koh '80, professor of international law at Yale, who served as legal adviser to the State Department, and HLS Professor Samantha Power '99, who served as ambassador to the U.N., spoke about their roles in government and academia.

“It takes restraint to listen rather than speak, to consider rather than dismiss, to follow new wisdom rather than familiar doctrine.”

—Chief Justice John G. Roberts Jr. '79



→ MORE coverage of the sessions at bit.ly/HLSsummit

CREDITS P. 27: TONY RINALDO; P. 28: MARTHA STEWART (TOP MIDDLE), LORIN GRANGER (BOTTOM LEFT), TONY RINALDO (BOTTOM RIGHT); P. 29: LORIN GRANGER (TOP), HERATCH EKMEKJIAN (MIDDLE), TONY RINALDO (BOTTOM); P. 30: TONY RINALDO (TOP, BOTTOM LEFT), STEVE GILBERT (BOTTOM RIGHT); P. 31: TONY RINALDO (TOP LEFT, TOP RIGHT), MARTHA STEWART (BOTTOM); P. 32: MARTHA STEWART (2); P. 33: MARTHA STEWART (TOP LEFT, BOTTOM RIGHT), TONY RINALDO (TOP RIGHT), HERATCH EKMEKJIAN (MIDDLE)

Mentors,

Friends

and Sometime

Adversaries

Mentorships between Harvard Law School professors and the students who followed them into academia have taken many forms over the course of two centuries. In some instances, it's even possible to trace a kind of intellectual lineage that connects contemporary scholars on the faculty to forebears who taught at HLS in its first century.

As seen in the stories on the following pages, some first encountered the professors who had the most influence on their subsequent careers on the first day of class; other mentorships didn't ripen until years after graduation.

Some followed paths into identical areas of law, while many learned more about how to think about legal scholarship or teaching than they did about any particular subject.

Some have become lifelong friends or, in the case of one pair of faculty colleagues, intellectual adversaries.

Some have returned to Harvard's faculty, and many more have gone on to teach elsewhere, some of those eventually assuming deanships at the nation's other top law schools.

Together, they have influenced the direction of legal doctrine and shaped the course of American legal education.



The school and Thayer

No professor can claim deeper family ties to the Harvard Law School faculty than **JAMES BRADLEY THAYER** LL.B. 1856, who taught at the school from 1874 to 1902. His son served as the school's third dean between 1910 and 1915, and his grandson was also later a faculty member.

His theory of judicial restraint proved to be an even more lasting intellectual legacy, one that influenced a trio of interconnected alumni who served on the U.S. Supreme Court for much of the 20th century.

In their own ways, Justices **OLIVER WENDELL HOLMES JR.** LL.B. 1866, **LOUIS BRANDEIS** LL.B. 1877 and **FELIX FRANKFURTER** LL.B. 1906 all became adherents to the "School of Thayer," as **RICHARD POSNER** '62, the recently retired federal appeals court judge, called it in a 2010 lecture.

Thayer first laid out his theory that judges should invalidate laws only if their unconstitutionality is "so clear that it is not open to rational question" in an 1893 article in the *Harvard Law Review*. (This was far from Thayer's only contribution to legal scholarship: His study of evidence paved the way for a treatise by his former student **JOHN HENRY WIGMORE** LL.B. 1887 that's still published today.)

Thayer's view of the judicial function "was the bedrock upon which Holmes, Brandeis, and Frankfurter built their judicial philosophies," **WALLACE MENDELSON** '36, a longtime government professor at the University of Texas, wrote in a 1978 law review article.

Holmes, who practiced with Thayer at a Boston law firm and overlapped with him briefly on the Harvard Law School faculty, later wrote that he "heartily" agreed with Thayer's approach.

Brandeis studied under Thayer and helped Thayer collect materials for a new course he planned on constitutional law, according to a biography of Brandeis by Melvin Urofsky. Thayer later enlisted Brandeis to help convince Holmes to join the faculty. Holmes did so, but soon left to become a judge on the Massachusetts Supreme Judicial Court.

Brandeis later taught Thayer's evidence course when his

former professor went on leave and did such a good job that the school offered him an assistant professorship, although he opted to stick with his legal practice, Urofsky recounts.

Frankfurter, who taught at Harvard Law School between 1914 and 1939 before joining the Supreme Court and was a close friend to Holmes and Brandeis, considered Thayer "the great master of constitutional law."

By the time ill health forced Frankfurter to retire from the Supreme Court in 1962 after 23 years, many justices, including Chief Justice Earl Warren and Frankfurter's former student **WILLIAM J. BRENNAN JR.** '31, had abandoned even a pretense of adhering to Thayer's notion of restraint.

Frankfurter, legendary for sending his former students to jobs in New Deal Washington, left a similar mark on Harvard Law School. At the time of his death in 1965, 11 professors then on the Harvard Law faculty either had served Frankfurter as clerks or had been chosen by him to serve in the chamber of Holmes or Brandeis, according to a Harvard *Crimson* obituary.

In the years that followed, it fell to one of Frankfurter's former clerks, Yale law professor **ALEXANDER BICKEL** '49, to carry the torch for Thayer's ideas, most notably in his 1962 book, "The Least Dangerous Branch."

At least one current faculty member—**ADRIAN VERMEULE** '93—still identifies with Thayer.

Vermeule's principal focus was administrative law, but he became interested in statutory interpretation while clerking for Justice **ANTONIN SCALIA** '60, who "more or less ordered me" to do so, he said.

Vermeule argues in his first book for a strict version of the kind of deference advocated by Thayer, prompting Posner to label him a "neo-Thayerian." Harvard Law School librarians put Thayer's portrait in Vermeule's office after he joined the Harvard Law faculty in 2006. The portrait still "hangs in the place of honor" in his office in Areeda Hall, Vermeule said.



**JAMES
BRADLEY
THAYER 1856**



Louis
Brandeis 1877



Richard
Posner '62



Wallace
Mendelson '36



Alexander
Bickel '49



Antonin
Scalia '60



Oliver Wendell
Holmes Jr. 1866



Felix
Frankfurter 1906



John Henry
Wigmore 1887



William J.
Brennan Jr. '31



Adrian
Vermeule '93

'He belonged on Mount Rushmore'

LAURENCE TRIBE '66 finds it fitting and “a little bit ironic” that he holds a professorship previously occupied by two of his mentors. **ARCHIBALD COX '37** and **PAUL FREUND '31** S.J.D. '32 both preceded him as Harvard's Carl M. Loeb University Professor.

Freund, who taught at Harvard from 1939 to 1976, supervised Tribe's third-year law school paper. Tribe also enrolled in Freund's seminar in constitutional law.

Tribe, not yet 30, found it difficult to call Freund by his first name when he returned to teach at Harvard Law School a few years later. “He belonged on Mount Rushmore,” Tribe said.

Tribe wasn't alone in holding in such high regard a professor whom former Harvard Law Dean **JAMES VORENBERG '51** called “the leading constitutional law scholar of his time.”

Freund turned down offers by two presidents to serve as solicitor general. When he told President Kennedy he wanted to continue work on a Supreme Court history, Kennedy retorted he'd hoped Freund would “prefer making history to writing it.”

As a justice, Frankfurter relied on Freund, his former student, to pick all of his clerks, as did Justice Brennan at the start of his tenure on the Court. Tribe played a similar role for Justice Potter Stewart, for whom he'd clerked.

“The law and the nation have been most fortunate to have Paul Freund as a thinker and as a poet of the law,” Tribe said in 2007 at the opening of a law school library exhibit honoring Freund, noting his “gentle erudite wisdom and his wise and genuine erudition.”

Freund and Cox weren't the only professors who influenced Tribe. He also credits **HENRY HART LL.M. '30** S.J.D. '31, **PAUL BATOR '56** and **LOUIS JAFFE '28** S.J.D. '32. Jaffe joined the faculty in 1950 and is considered a founder of modern administrative law.

'She was 'the most extraordinary student'

KATHLEEN SULLIVAN '81 credits her mother for introducing her to Tribe and a former Harvard faculty member who later served as a mentor: **SUSAN ESTRICH '77**.

Sullivan's mother sent her an ad for the first edition of Tribe's treatise when she was studying at Oxford as a Marshall Scholar, with a note remarking that the book might be helpful before law school. Her mother also sent her a Time magazine story on Estrich's election as the Harvard Law Review's first female president.

She loved the book and was eternally grateful that she wound up assigned to Tribe's constitutional law class her second year. “I marveled at this brilliant man who spoke in perfect paragraphs and seemed to bring a new level of elegance to any topic,” Sullivan said.

Tribe enlisted her help on a Supreme Court brief the following year.

“Her sense of the most persuasive way to cast the issues and her rhetorical command were remarkable for any lawyer, much less a student,” Tribe recalled.

He described Sullivan as “the most extraordinary student I had ever had,” the sort of effusive praise he has since offered for another student who also subsequently taught constitutional law, at least part time: former President **BARACK OBAMA '91**. (Tribe also points proudly to two of his former students who've joined the Court: Chief Justice **JOHN G. ROBERTS JR. '79** and Justice **ELENA KAGAN '86**.)

That first case proved to be one of many such collaborations between Tribe and Sullivan, including one in 1983 that pitted them against Estrich, who was so impressed by Sullivan that she vowed they would never be on opposing sides again. They became fast friends, Estrich told the Los Angeles Times in 1999.

Estrich was teaching at Harvard Law School at the time and set out to get Sullivan hired there as well, enlisting her contacts and coaching her protégé about presentation. “I had been in law teaching ... long enough to see enough women



LAURENCE TRIBE '66



Archibald Cox '37



Henry Hart LL.M. '30 S.J.D. '31



Louis Jaffe '28 S.J.D. '32



Susan Estrich '77



John G. Roberts Jr. '79



Paul Bator '56



Paul Freund '31 S.J.D. '32



James Vorenberg '51



Paul Bator '56



KATHLEEN SULLIVAN '81



Barack Obama '91



Elena Kagan '86

come through and fail to generate excitement because we don't know how to be commanding in this world," Estrich told the Times.

Sullivan joined the Harvard Law faculty in 1984 and stayed until heading for visiting professorships at USC and Stanford, where she moved permanently in 1993.

She told the Los Angeles Times that getting out from under Tribe's shadow was perhaps an unconscious part of the West Coast's appeal: "[H]ere on the West Coast, I have just been Kathleen Sullivan. I haven't been Kathleen Sullivan, comma, protégé of Laurence Tribe."

Nevertheless, Sullivan said having Tribe as a mentor had been "crucial," and she credits him with showing every dimension of what's "wonderful about this job." "To study with Larry then become his research assistant and his colleague in litigation and later his colleague on the Harvard Law faculty has been one of the greatest joys and privileges of my life," she said.

Sullivan became Stanford's first female dean in 1999, succeeding another constitutional law scholar, **PAUL BREST** '65. In 2005, Sullivan joined the law firm Quinn Emanuel Urquhart, building a practice as one of the nation's top appellate advocates. (The firm also recruited Estrich in 2008 and then added Sullivan's name to its moniker in 2010.)

Tribe and Sullivan reunited—this time as adversaries—as part of Harvard Law School's bicentennial celebration in October, taking opposite sides in a reargument of the landmark case *Marbury v. Madison*.

A 'complicated' relationship

RANDALL KENNEDY admits he had a "complicated" relationship with **DERRICK BELL**, whom he considers "a mentor, colleague, friend and adversary."

Bell, Harvard Law School's first tenured African-American professor, had left the school temporarily by the time Kennedy joined the faculty in 1984.

Kennedy began teaching the course Bell had previously taught on race relations and law. (Among those who helped ease his transition was **DUNCAN KENNEDY**, who shared long walks with Kennedy around Cambridge, talking over contracts law and race relations.)

Bell and Randall Kennedy didn't meet until 1986, when Bell returned to Harvard after serving as dean of University of Oregon School of Law, although they had followed each other's scholarship closely.

After all, they "tilled the same soil" intellectually, albeit from very different perspectives, Kennedy said. They differed in private about law school hiring decisions and quite publicly in an unusually pointed volley in reviews of each other's books.

Bell said Kennedy took positions "that render him an apologist on aspects of the criminal justice system," despite "the threat they pose for all blacks." Kennedy said Bell's defense of Louis Farrakhan represented an "egregious toleration of bigotry."

"He and I dealt with similar subjects, race relations law. Sometimes we agreed, sometimes we disagreed—sometimes rather sharply," Kennedy said. "But I think the disagreements have been productive for me. Having to be pushed to explain why I disagree with him was important, so he certainly is an important person in my development here as an ideological adversary."

Even as they disagreed publicly, Kennedy said he and Bell came to share "a mutual and quite profound set of tragedies that drew us together even while ideologically we were apart."

Bell's wife, Jewel, was diagnosed with breast cancer and consulted with Kennedy's wife, Yvedt, who was a breast cancer surgeon. Bell's wife died in 1990; Kennedy's wife later died of melanoma.

Bell and Kennedy partially reconciled at the end of Bell's life. Kennedy phoned when he first heard Bell was ill. Bell called a few weeks later to ask Kennedy to teach a session of his seminar at NYU School of Law, where he'd taught since 1990. Kennedy taught the class a week after Bell died in 2011.

Kennedy recently finished an essay about Bell, motivated

*They both
focused on
race and law,
but often
disagreed.*



**RANDALL
KENNEDY**



Derrick
Bell



Sheryll
Cashin '89



Charles Hamilton
Houston '22 S.J.D. '23



Duncan
Kennedy



Charles
Ogletree '78

by a sense that he hasn't gotten his proper due from overly "hagiographic" admirers or "dismissive" critics.

His research has deepened Kennedy's appreciation for Bell and what he'd experienced as Harvard Law School's first tenured African-American professor.

"Places like this weren't used to black professors. For God's sake, with all the tumult, all the cross-cutting pressures, I'm sure it was very difficult for him," Kennedy said. "I'm sure he had to contend with lowered expectations. I'm sure he had to contend with condescension, all sorts of things, and in my view he did contend with those things."

Georgetown law professor **SHERYLL CASHIN** '89 considered Bell, Kennedy and **CHARLES OGLETREE** '78 all mentors during law school. But it is Kennedy who influenced her the most—and whose career hers has paralleled most closely.

Like Kennedy, Cashin clerked for Justice Thurgood Marshall after graduation. (Bell worked on school desegregation cases at the NAACP Legal Defense and Educational Fund with Marshall, who was recruited there by his own mentor, **CHARLES HAMILTON HOUSTON** '22 S.J.D. '23.)

She has taught a course at Georgetown similar to Kennedy's on race, racism, and American law and has written on similar topics, such as affirmative action and interracial intimacy.

"Randall Kennedy inspired me, by his own example, to be brave and just write what I wanted to write in the format I wanted to write it in, which is books for a larger audience," Cashin said. "I didn't have many models other than him for doing what I wanted to do. I can't thank him enough."

In 2004, The New York Times ran a review of Cashin's book on the legacy of the *Brown v. Board of Education* decision that also reviewed books on the same subject by Ogletree and Bell.

Cashin said she considers all three "wonderful role models" who taught her that academics have "an obligation to use this platform and this voice to help others and help the community and be socially relevant."

"All of them did that in different ways," Cashin said.

A mentor's persistence: 'Maybe I am interested'

ELIZABETH BARTHOLET '65 had no interest the first time—or the many that followed—that Professor **JAMES VORENBERG** '51 broached the idea of joining the Harvard Law School faculty.

Bartholet was happy with her public interest career, one that Vorenberg had tracked since she'd been a student in his criminal law class.

Bartholet went to work for Vorenberg after a clerkship when he served as executive director of President Lyndon B. Johnson's Commission on Law Enforcement and Administration of Justice.

Vorenberg helped her get "in the door" for an interview at the NAACP Legal Defense Fund by introducing her to Jack Greenberg, its director-counsel. She wound up working there for five years.

He also introduced her to Herbert Sturz, the founding director of the Vera Institute of Justice, where she went to work in 1972 in order to start a new public interest law firm focused on helping ex-offenders and ex-addicts fight discrimination and gain access to jobs and treatment. She then left Vera to run this firm, the Legal Action Center.

It was during this time that one of Vorenberg's former law school professors offered him the part-time job he would become most famous for beyond Harvard Law's campus. **ARCHIBALD COX** '37 hired him as his principal assistant in the Watergate Special Prosecutor's Office.

All the while, Vorenberg continued to stay in touch, calling Bartholet once a year to see if she might want to move to academia. She kept telling him she had no interest. "But at a certain point, after running Legal Action for five years, I thought, Maybe I am interested," she said. "I called Jim and he set up an interview."

Bartholet started teaching at Harvard Law School in 1977 and was granted tenure in 1983, two years after Vorenberg became dean. She was the first woman on the assistant professor track to gain tenure in the law school's history.

"He was an incredibly important adviser, mentor and friend over the years," Bartholet said.

Vorenberg stayed in touch, calling once a year to see if she might want to transition to academia.



ELIZABETH BARTHOLET
'65



James
Vorenberg '51



Archibald
Cox '37

'The model of ... the person I wanted to be'

CAROL STEIKER '86 graduated from law school just seven years after the professor she has considered her mentor while she was a student and throughout the three decades since: **MARTHA MINOW**.

Minow, who joined the Harvard Law faculty in 1981 after completing a clerkship with Justice Thurgood Marshall, taught Steiker family law and later supervised her third-year paper.

In between, Steiker, her friend **ELENA KAGAN** '86, and another classmate asked Minow to join their informal reading group on law and literature inspired by an article by Judge **RICHARD POSNER** '62 on culture and the law. (The small reading group that met outside on the lawn would ultimately produce three Harvard Law School professors, the school's first two female deans, and the nation's first female solicitor general and fourth female Supreme Court justice.)

Steiker came to law school thinking she wanted to be a professor, a goal affirmed during a conversation in Minow's office on the third floor of Griswold Hall in which she asked whether Minow enjoyed being a law professor.

"I remember the way her face lit up and she said, 'I love it,'" Steiker said. That was a time when Harvard still had less than half a dozen women professors, and she said, "That was very affirming to me of what I wanted to do, and she was the model of the kind of career I wanted to have and the person I wanted to be."

Minow continued to be a "wonderful mentor" when Steiker returned as a professor in 1992, although she chose a different academic focus: criminal law and the death penalty, inspired in part by her time as a clerk for Justice Marshall. Their connection continued after Minow became dean, and she supported Steiker's efforts to build the Criminal Justice Policy Program, which she co-directs with Alex Whiting.

Some of Steiker's former criminal law students are now teaching the subject themselves on the faculty, including **JEANNIE SUK GERSEN** '02 and **RONALD SULLIVAN** '94.

No student has followed in Steiker's footsteps more closely

than **ANDREW CRESPO** '08, who took her advanced criminal law class and worked as her research assistant. She invited Crespo to attend the oral argument for a pair of Supreme Court cases they'd worked on together. "The way she included me in that was really special," Crespo said.

Like Steiker, Crespo also served as president of the Harvard Law Review—in his case, the first Latino ever to do so.

Like Steiker, he also worked as a public defender and clerked on the Supreme Court—he clerked for Kagan and Justice **STEPHEN BREYER** '64—before joining the faculty in 2015.

Steiker and Minow championed his hiring although he wasn't even formally on the academic market.

"I feel really fortunate to have her as a mentor, friend and colleague," Crespo said of Steiker.

Crespo said he models his classroom style on former Professor **ELIZABETH WARREN**, who taught him contracts a few years before her election to the U.S. Senate in 2012 took her to Washington.

"I do try to call on 40 students per class and keep this multi-threaded conversation going, and I think I have the confidence to try to do that because of the experience I had learning that way with Elizabeth Warren."

What it means to be a great teacher

Professor **STEVEN SHAVELL** began guiding **CRYSTAL YANG** '13 before she even applied to law school.

Yang was a Ph.D. student in Harvard's economics department and first got to know Shavell as his research assistant.

"He said, 'I think you might have a skill that could be very valuable if you combine law and economics,' and he encouraged me to apply to law school in the first place," she said.

Shavell similarly started out as an economics professor in 1974 before joining the law school faculty in 1980.

Yang took Shavell's economic analysis of law class and a seminar on law and economics he co-teaches with **LOUIS**



CAROL STEIKER '86



Martha Minow



Richard Posner '62



Ronald Sullivan '94



Stephen Breyer '64



Crystal Yang '13



Elena Kagan '86



Jeannie Suk Gersen '02



Andrew Crespo '08



Elizabeth Warren



STEVEN SHAVELL

KAPLOW '81. (Kaplow and fellow law and economics professor **LUCIAN BEBCHUK** LL.M. '80 S.J.D. '84 were also students of Shavell's.) Yang was also a student fellow at the John M. Olin Center for Law, Economics, and Business, which Shavell founded in 1985 and directs.

Yang came to focus on applying empirical analysis to criminal law, which Shavell supported. "Steve is encouraging of using the tools of law and economics in every single field," Yang said. "He's written in criminal law, torts, contracts, for example. He's supportive no matter what you do."

He has been a "consistent mentor" for Yang at every stage of her career, as she first applied for academic jobs and then after she joined the HLS faculty in 2014 as an assistant professor, continuing to read and provide detailed feedback on every paper she has written.

"You can trace so many generations of law and economics scholars to Steve," Yang said. "When he mentors law students, he makes a lifetime commitment to doing so."

Shavell played a similar role in the academic career of NYU law professor **MARCEL KAHAN** '88, who was his student when law and economics was still an emerging field a quarter century ago.

"It was Steve and the class that he taught and work I did as his research assistant that really piqued my interest and really put me in a position that I was able to get a job," said Kahan, who also considers Kaplow and Bebchuk mentors.

Yang said she looks to Shavell as a model in her own career. "He's really set an example of what it means to be a great teacher and that your commitment to your students does not end when class is over," she said.

"You can trace so many generations of law and economics scholars to Steve."



Louis
Kaplow '81



Marcel
Kahan '88



Lucian Bebchuk
LL.M. '80 S.J.D. '84



Kwang Lim Koh
LL.M. '52
S.J.D. '55



**HAROLD
KOH '80**



Louis
Sohn LL.M. '40
S.J.D. '58



Manley Hudson 1910
S.J.D. 1917



Erwin
Griswold '28
S.J.D. '29



Jean Koh
Peters '82



David
Kennedy '80

'Grandfather in the law'

Yale law professor **HAROLD KOH** '80 isn't exaggerating when he calls **LOUIS SOHN** LL.M. '40 S.J.D. '58 his "grandfather in the law."

Koh's father, **KWANG LIM KOH** LL.M. '52 S.J.D. '55, wrote his doctoral dissertation under Sohn in the early 1950s before becoming the first Korean law professor in the United States and serving as South Korea's envoy to the United States and United Nations. Twenty-five years later, Koh and his sister, **JEAN KOH PETERS** '82, who is also a Yale law professor, studied under Sohn.

Sohn was a magnet for foreign students such as Koh's father due, in part, to his own experience as a Jewish refugee from Poland. Sohn arrived at Harvard Law School at the age of 25, two weeks before the start of World War II, at the invitation of a professor who'd read one of his treatises.

Sohn served six years as a research assistant to his mentor, **MANLEY HUDSON** LL.B. 1910 S.J.D. 1917, who taught international law at Harvard from 1919 until 1954. Together, they helped write the framework that created the United Nations Charter and the statute establishing the International Court of Justice.

Hudson started teaching international law at a time when it "was hardly accepted as a fit subject for law schools," and lived "to see it become an essential part of legal education," in large part through his efforts, Dean **ERWIN GRISWOLD** '28 S.J.D. '29 said in a tribute after Hudson's death in 1960.

"In a very real sense, the program of International Legal Studies not only at Harvard Law School but elsewhere in the world is his monument," Griswold said.

Sohn later succeeded Hudson as the Bemis Professor of International Law and as the elder Koh's thesis adviser after his mentor's retirement. In the course of a 35-year career at Harvard Law School, Sohn taught an early course on the U.N. "because nobody else would teach anything so crazy," as he recalled in a 1977 interview, and served as a delegate to a 1977 conference that drafted the U.N. Convention on the Law of the Sea.

A few years later, Koh and his sister reconnected with their father's mentor as law students, sharing lunches at a Harvard Square Chinese restaurant where Sohn invariably ordered the kung pao chicken with pignolia nuts.

Koh never took Sohn's class (his sister did), although he wound up focusing on international law in a career that's included stints as the dean of Yale Law School and as the U.S. Department of State's chief legal adviser.

Koh's work often involves law of the sea issues. "Never for a second do I do it without thinking of my dad and Professor Sohn," he said.

DAVID KENNEDY '80, the Manley O. Hudson Professor of Law, took all of Sohn's classes that fit in his schedule and served as his research assistant while studying for the bar in Cambridge (Sohn was in Geneva).

Kennedy never got to know Sohn very well, and it wasn't until much later that he learned about the pivotal role his professor played in his career.

Sohn had recommended Kennedy for appointment to the Harvard Law faculty without ever mentioning it to him.

"It's not always the people you sit around having coffee with that do what's needed for you to become successful," Kennedy said. "I wouldn't be here if he hadn't done that."

Kennedy does his part to mentor future generations of international professors, bringing 100 young scholars together each year for a workshop under the auspices of HLS's Institute for Global Law & Policy.

Stern professor, lifelong mentor

In the fall of 1955, **ARTHUR MILLER** '58 was just a frightened 1L rather than the classroom colossus he later became teaching for 36 years at Harvard Law School.

That's when he enrolled in the civil procedure course taught by **BENJAMIN KAPLAN**, the "stern and demanding" professor who Miller said became his "mentor and role model, not simply in law school but for the better part of my profes-

sional life." Kaplan invited Miller to be his summer research assistant after reading a memo Miller wrote on the deficiencies in the Harvard Law Review's copyright practices. They spent weekends discussing copyright law revisions while digging for clams and picking blueberries on Martha's Vineyard.

Kaplan again enlisted Miller after graduation, even getting him released from military duty for a weekend to work on a revision to "Federal Rules of Civil Procedure." Kaplan convinced Chief Justice Earl Warren to write Miller's commanding officer that his absence was in furtherance of the nation's business.

Their relationship continued as Miller joined Harvard's faculty in the early 1970s and Kaplan left to become a justice on the Massachusetts Supreme Judicial Court.

"After more than 50 years of teaching his subjects—civil procedure and copyright—there is only one answer I can give to the question he asked me repeatedly over the years (as if asking it of himself), what was I going to do when I grew up?" Miller wrote in a tribute after Kaplan's death in 2010. "Time has made the answer clear. It has been to try to follow in his footsteps and to be a mentor to others as he was to me."

No relationship with a student has meant more to Miller than the one he formed with **JOHN SEXTON** '79, who enrolled in law school at the age of 33, already a tenured professor of religion.

Miller's civil procedure class was Sexton's first at Harvard, and it was also where he met his wife, **LISA GOLDBERG** '79.

In Sexton's second year, Miller asked him to teach his first-year civil procedure class for two weeks in his absence. That opportunity—which Miller repeated in Sexton's third year—helped launch Sexton's career as a civil procedure professor. Miller later asked Sexton to co-write a revision of his casebook.

In 2007, after Sexton had become dean of NYU's law school and then president of NYU, he helped lure Miller to teach there full time, a move Sexton calls "a dream come true."

"People who are willing to share the spotlight or indeed turn the spotlight away from them to others are too rare in this world, and he's one of them," Sexton said.

"People who are willing to share the spotlight ... are too rare in this world."



**ARTHUR
MILLER '58**



Benjamin
Kaplan



John
Sexton '79



Lisa
Goldberg '79

'I could only hope to be half as good'

RICHARD FALLON had perhaps absorbed too well his alma mater's approach to thinking about the law before joining Harvard's faculty in 1982 just two years after graduation.

"When I was in law school [at Yale], some of the professors who influenced me most had a tendency to start theorizing at 30,000 feet and then gradually move downward and frequently, never totally make contact with the earth," Fallon said.

It was his colleague Professor **DAVID SHAPIRO** '57, whom Fallon turned to when he taught federal courts for the first time in the spring of 1983, who taught him how important it was to ground grand legal theories in the facts of cases.

"He'd say again and again, 'Give me a case,'" Fallon recalled. "He wanted to be rooted in the concrete facts of some particular dispute to see if the theory was illuminating and helpful."

Shapiro, who joined Harvard Law School's faculty in 1963, was also a link all the way back to the roots of federal courts as a legal discipline at the school decades earlier.

The founding of the field is credited to Harvard Law Professor **HENRY HART** LL.M. '30 S.J.D. '31 and Herbert Wechsler of Columbia Law School, who first published their casebook on federal courts in 1953. They dedicated that first edition to **FELIX FRANKFURTER** LL.B. 1906, whom they credited with first opening their eyes to these problems. Hart had studied in Frankfurter's seminar on federal jurisdiction at Harvard Law School.

Shapiro took Hart's class in the 1950s and went on to co-write five revisions of the Hart and Wechsler casebook. (Hart and another one of his former students, **ALBERT SACKS** '48, produced their own set of teaching materials on the legal process.)

Fallon established a connection with another giant in the field immediately upon arriving at Harvard. He sat in and observed the federal courts course taught by Professor **PAUL BATOR** '56, who was a co-editor of the casebook's second and third editions.

Fallon himself has been working on the casebook since 1996 and, along with **DANIEL MELTZER** '75, dedicated the fifth edition to Shapiro.

Fallon and Meltzer both joined the Harvard Law faculty in 1982 and became close friends as they began teaching federal courts at the school at almost exactly the same time. No one affected the way Fallon thought about the topic more than Meltzer.

"Mentor relationships are terrific, but there can also be enormous benefit in having an exact contemporary who is struggling with the issues more or less at the same time and at the same stage of professional development," Fallon said.

Meltzer died in 2015, and Fallon now has two former students as co-editors on the casebook's seventh edition: Harvard Law School Dean **JOHN MANNING** '85 and **AMANDA TYLER** '98, a professor at the University of California, Berkeley School of Law, who was also a student of Shapiro's.

Manning said he first began thinking about the role of the federal courts during Fallon's class in the fall of his third year.

"That fascinated me and that got me interested in larger questions of proper institutional roles and the rule of law in a constitutional democracy, and it really set me on a new course," Manning told the Harvard Gazette in a video at the time of his appointment as dean this year.

When Tyler decided to become a law professor, she was asked during interviews whether she had a model on which she'd draw in her teaching and scholarship. "The answer was obvious. I could only hope to be half as good as David," she wrote in a 2006 Harvard Law Bulletin tribute.

A link all the way back to the roots of federal courts as a discipline



RICHARD FALLON



David Shapiro '57



Albert Sacks '48



Paul Bator '56



John Manning '85



Henry Hart LL.M. '30 S.J.D. '31



Felix Frankfurter 1906



Daniel Meltzer '75



Amanda Tyler '98

He built something enduring

From the moment **GARY BELLOW** '60 joined the faculty as director of Harvard's clinical program in 1972, his new colleagues recognized that he was unique.

"There aren't a lot of Gary Bellows around the United States," Professor **FRANK SANDER** '52 told The Harvard Law Record at the time of his appointment. "It's very hard to find people to integrate good clinical work with academic work of the kind Gary Bellow has done."

In subsequent decades, Bellow and **JEANNE CHARN** '70—named an assistant dean in 1973—built Harvard's unique model of clinical education, one that combines classes and placements that provide hands-on training to students and free legal counsel to those in need.

It is a model that not only survived Bellow's death in 2000, but continues to thrive at Harvard Law School and far beyond, thanks, in part, to the generations of students they mentored.

One of the students he inspired most—**DAVID GROSSMAN** '88—first found a professional calling when he was Bellow's student and during his time at HLS's Legal Services Center.

"He became my mentor and, in a sense, my hero—someone whom I sought to model my life after," Grossman said in remarks at Bellow's funeral. "And that was true not only of me but of literally hundreds of his former and current students who were similarly inspired by him."

Grossman returned seven years after graduation as a clinical instructor and then served as managing attorney of the housing unit for 11 years before becoming director of the Harvard Legal Aid Bureau in 2006. (He died in 2015 of cancer at the age of 57.)

"It's generation to generation," said **DAN NAGIN**, vice dean for experiential and clinical education and faculty director of HLS's WilmerHale Legal Services Center. "Gary taught and mentored Dave, and Dave carried on that tradition and mentored others."

ESME CARMELLO '99, who served as Grossman's deputy director at the Legal Aid Bureau, remembers how Grossman

adopted Bellow's model of using legal services to effect social change in response to the foreclosure crisis a decade ago.

Grossman collaborated with community partners to flood resources and change the expectations of the courts and bank lawyers who had grown used to getting orders to force tenants of foreclosed properties to vacate quickly.

"We did a bunch of these cases until the expectation changed to: The homeowner or tenant gets to stay or gets tens of thousands of dollars in cash to buy them out," said Caramello, who is now faculty director of the Legal Aid Bureau and a clinical professor of law. "It was through the volume of targeted small cases that we achieved that cultural change."

No faculty member had a greater influence on Bellow than **ALBERT SACKS** '48, in whose course The Legal Process Bellow enrolled as a student, said Charn, who was married to Bellow for nearly three decades. Bellow later titled his book "The Lawyering Process" in tribute to Sacks. He was also instrumental in hiring both Bellow and Charn and helping build the clinical program while serving as dean between 1971 and 1981, Charn said.

LUZ HERRERA '99 took the lawyering process course taught by Bellow and Charn. She said the related clinical work helped her find a practical application for the critical race theory that her law school mentors, **CHARLES OGLETREE** '78 and **LANI GUINIER**, had exposed her to.

Herrera later reconnected with Charn when Herrera received the 2005 Gary Bellow Public Service Award for her work as a solo practitioner providing legal services in the underserved community of Compton, California.

Charn invited her to apply for a fellowship at the Legal Services Center, an experience that helped cement her interest in community development and ultimately led her to a career in clinical legal education.

"Jeanne is a mentor not just in clinical education; she's a mentor in helping me navigate the entire system of legal services delivery," said Herrera, who is now a professor of law and associate dean for experiential education at Texas A&M University.

Seth Stern '01 is a deputy news director at Bloomberg BNA and co-author of "Justice Brennan: Liberal Champion."



**GARY
BELLOW '60**



Frank
Sander '52



Dan
Nagin



Albert
Sacks '48



Luz
Herrera '99



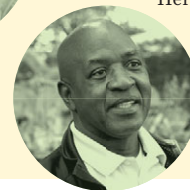
Jeanne
Charn '70



David
Grossman '88



Esme
Caramello '99



Charles
Ogletree '78



Lani
Guinier

Picturing

Harvard Law School:

A Bicentennial

Since the doors of College House Number 2 opened to the first six students in the fall of 1817, almost everything at Harvard Law School has changed. But in this collection of photos selected from the school's Historical & Special Collections, the Harvard University Archives and the Harvard Law Bulletin, you will see threads of continuity, no matter which decade—or even

which century—you arrived. A photo offers up a moment, and we hope this collection conveys something of the history of this place, its people and its ethos.

Album



Joseph A. Kelly

*Yours truly, Andrew Allison,
Litanon,
Iowa.*

*Truly yours friend
W. Trillee*

*Yr's truly,
W. J. Wood Field*

*Your friend truly,
W. P. Goodison,
Litanon, Ia.*

E. Lull

Photos of students from the Class of 1865, some of them signed and inscribed





2016

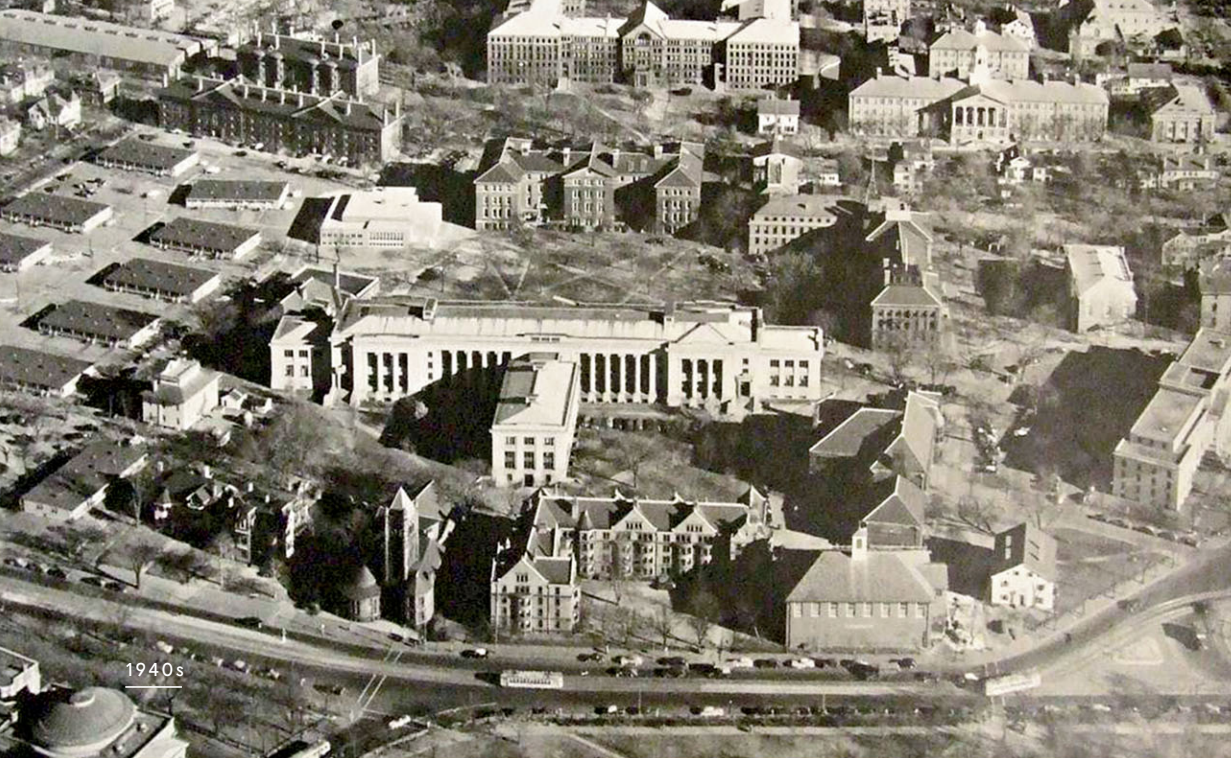
Selfies and snapshots to capture Commencement day



1955

“ Law school is challenging, and it’s supposed to be. ... It’s good to have friends who are going through that with you.”

—LORETTA LYNCH '84



1940s



2007



2009

ON THE MOVE:
After World War II, temporary housing was built on Jarvis Field to accommodate the influx of new students (top). An archway to the WCC complex, now the center of student life at Harvard Law School.



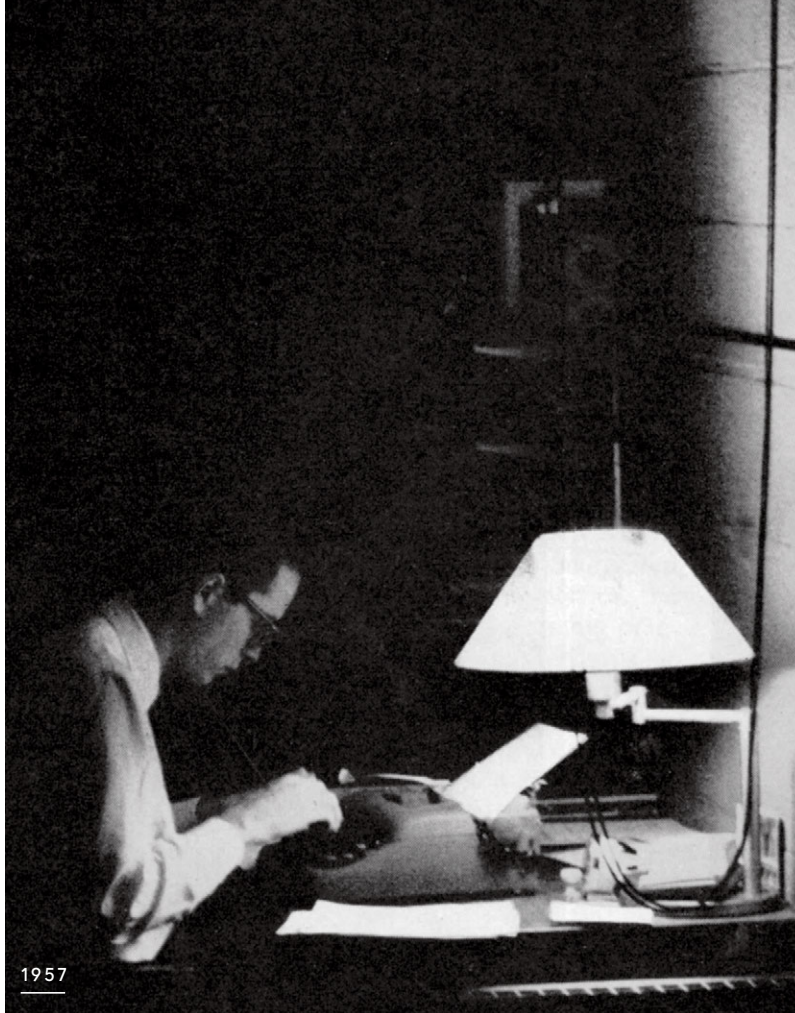
1883



This 200-ton Victorian moves down Massachusetts Ave. to make room for the WCC. Below right: Gannett House, once home to the Legal Aid Bureau and now to the Harvard Law Review, was also once moved—in 1938, it was rotated 90 degrees. Below left: The house to the right of Austin Hall was torn down in 1884. As a student, Oliver Wendell Holmes Jr. LL.B. 1866 had likely lived there. It's where his father grew up.



2016



1957



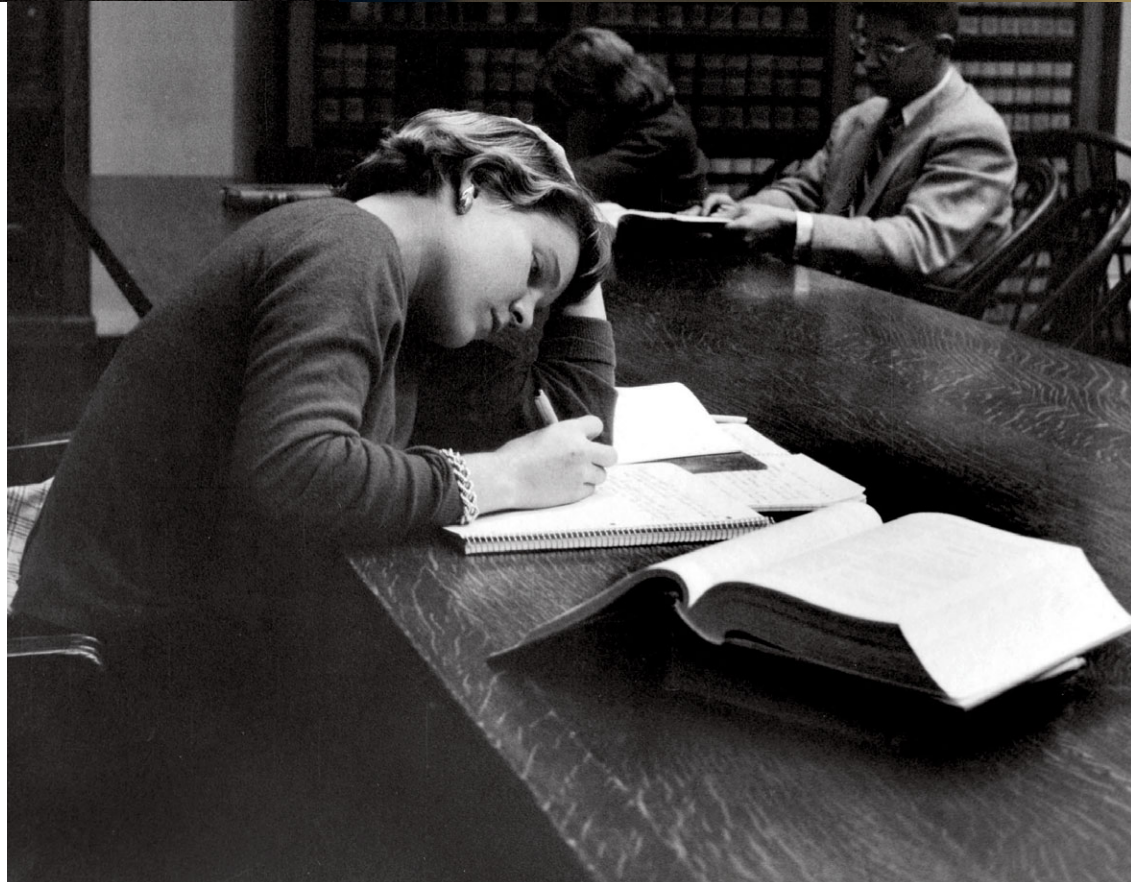
2017

“ I have now finished my first week in the Law School. I have studied hard and am confident that my real gain is as great as I should have had in two weeks in an office.”

—RUTHERFORD B. HAYES LL.B. 1845
SEPT. 1, 1843

THE WORK:
In the still of the night in the Gropius Complex. On an expanse of table in Langdell.

In a “speed mentoring” session, talking about ideas for scholarship with professors.



1957



1950



1902

For generations of law students, Austin Hall was reminiscent of a grand European train station. The high-ceilinged great room served as the school's library before becoming the Ames Courtroom in 1954.

Under the gaze of legal luminaries, Harvard Law men in jacket and tie fill a classroom in Langdell.





NO SMOKING

Rest 10.000
How many 4

“ We were in the finals and my chief judge was Thurgood Marshall. When he announced that I had won best oralist, he came down off the bench and he grabbed my hand ... and he said, ‘Lady, I like your style.’”

—SHEILA KUEHL '78

Kuehl making her case during the 1977 Ames Competition



The 1982 Lech Walesa team after the argument





1994



1951



2011

**Study group.
Sharing a
meal and a
milk chaser.
Going door-
to-door in
Boston to help
residents fight
foreclosure.**



Stream of consciousness: The buzz and mill on the way to class in Wasserstein Hall

2012





1926

STEPPING UP:
By 1925, lawyers
could pursue
graduate degrees
(LL.M.s and S.J.D.s)
at HLS.

“ The LL.M. class was absolutely fun. ... [A] lot of people were a little bit older than the J.D. students. They’re from all over the world—leaders in their professions, and some of the top lawyers in their countries.”

—SHEELA MURTHY LL.M. '87



2012

A stroll in the hallways of the WCC is also a trip through time with HLS faculty, from Austin Wakeman Scott LL.B. 1909, who became professor of law in

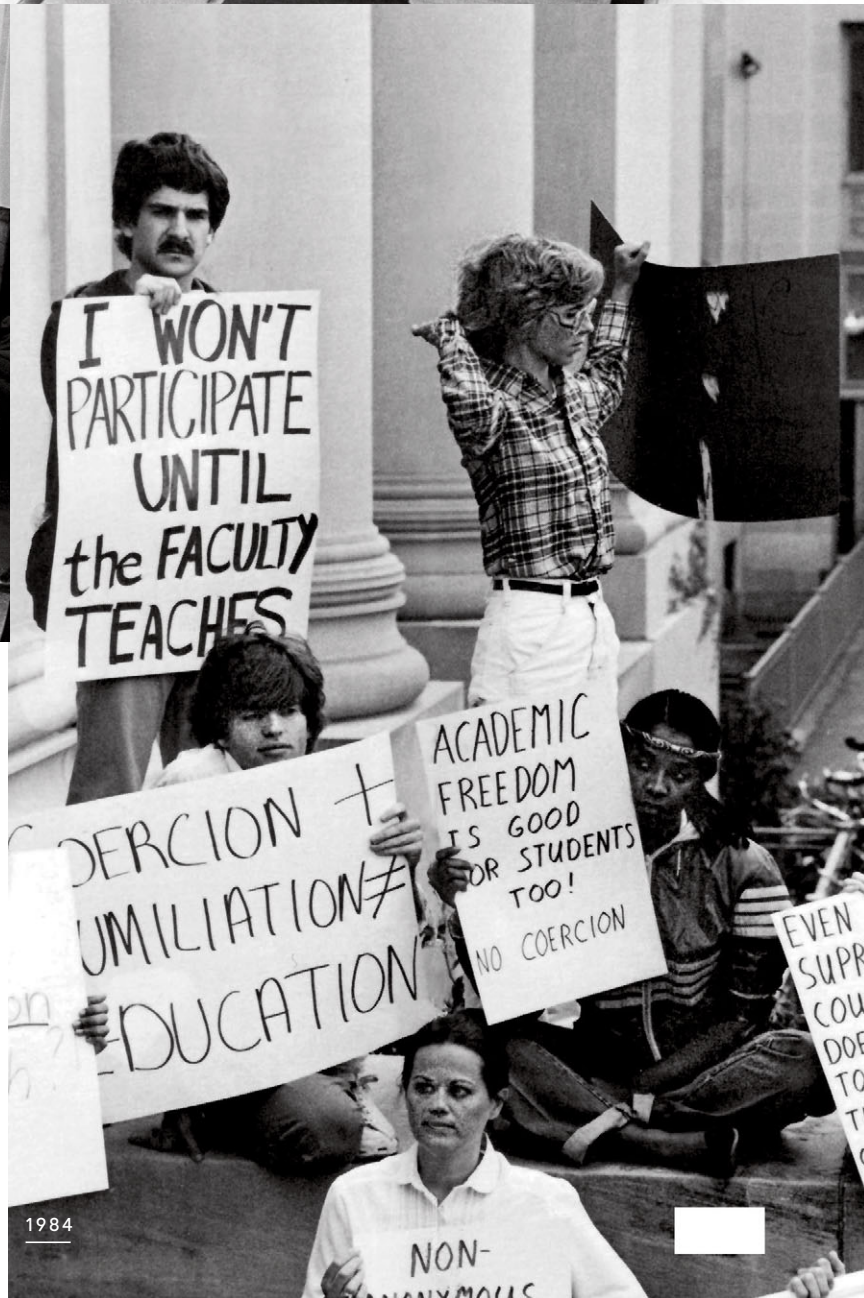
1914, to Naz Modirzadeh '02, who joined the faculty in 2016.



1968



1968



1984

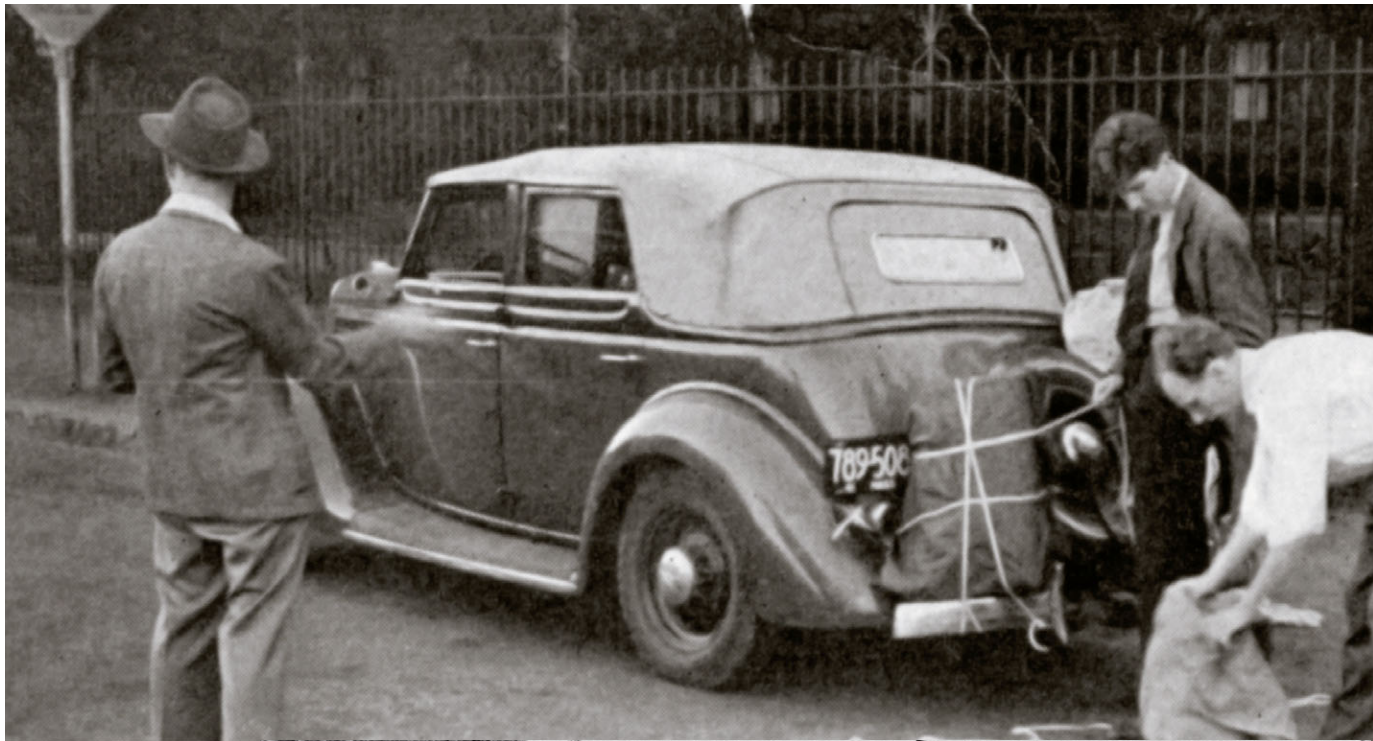


2016

CALLS TO ACTION:
Through research, volunteering and protest, student activists work for change in society—and at the law school itself.



2015



1941

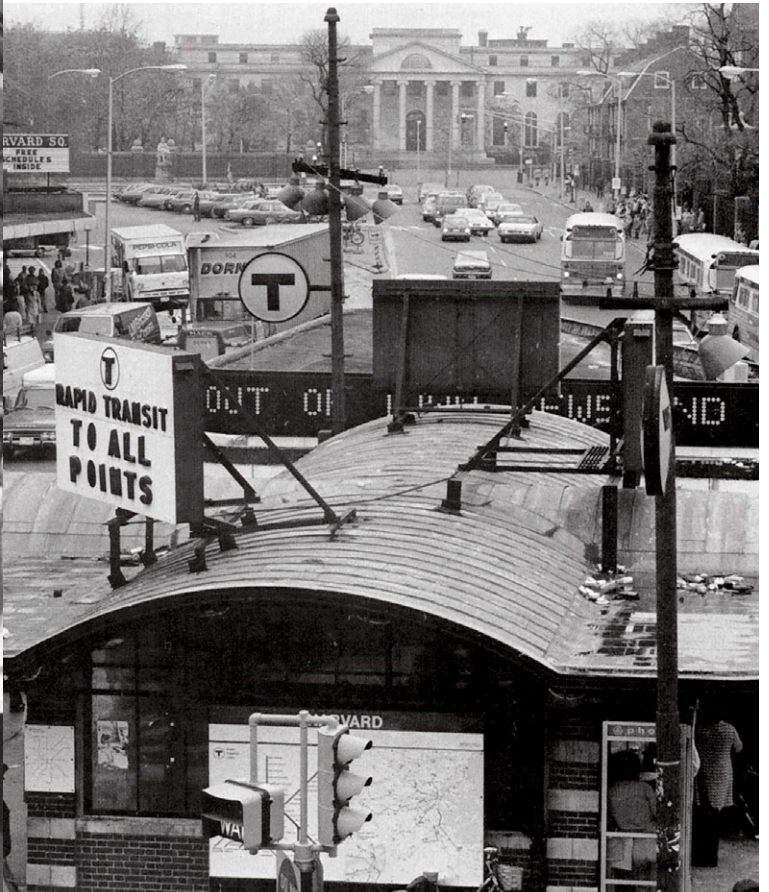
**TAKING
BREAKS FROM
THE BOOKS:**
Road trips,
basketball, the
T, scavenger
hunts, boat
races



1980s



c. 1980



1978



2017



MR. FRED

Laurel

PROFESSIONAL SOCIETY OF
[Illegible text]



“ Reverence for what we know, humility in the presence of the unknown, awe in the face of the unknowable—these are pervasive moods of the spirit that transcend religious differences and make of learning itself a spiritual adventure.”

—PAUL FREUND '31 S.J.D. '32

Samuel Williston LL.B. 1888, who joined the HLS faculty in 1895, was author of an influential contracts treatise. He also was known as a kind teacher

who charmed students with hypotheticals involving his horse, Dobbin.

A place of
illumination, the
WCC



2013



Photographs curated
by Linda Grant

CREDITS

PAGES 46-47

Clockwise from left: Harvard University Archives; Martha Stewart; HLS Historical & Special Collections

PAGES 48-49

Clockwise from top left: HLS Historical & Special Collections; Phil Farnsworth; Brooks Kraft; Harvard University Archives; Phil Farnsworth

PAGES 50-51

Clockwise from top left: Myron Beldock '58; Martha Stewart; Harvard University Archives; HLS Historical & Special Collections (2)

PAGES 52-53

Harvard University Archives

PAGES 54-55

Clockwise from top left: HLS Historical & Special Collections; Gustav Freedman; Harvard University Archives; Aynsley Floyd; HLS Historical & Special Collections

PAGES 56-57

Tony Rinaldo

PAGES 58-59

HLS Historical & Special Collections; Joshi Radin

PAGES 60-61

Clockwise from top left: HLS Historical & Special Collections; Lorin Granger (2); HLS Yearbook 1984; HLS Historical & Special Collections

PAGES 62-63

Clockwise from top left: HLS Yearbook 1941-42(3); Lorin Granger; HLS Historical & Special Collections

PAGES 64-66

HLS Historical & Special Collections (2)

PAGES 66-67

Brooks Kraft

Possible Futures

Thoughts on what awaits HLS and the legal profession / BY JULIA COLLINS / Illustrations by James Yang

Julia Collins is a Somerville-based writer, editor and bookmaker.



“The great thing in this world is not so much where we are, but in what direction we are going,” said Supreme Court Justice Oliver Wendell Holmes Jr. LL.B. 1866. His emphasis on moving forward fits the spirit of 2017, the 200th anniversary of Harvard Law School, as it prepares students to enter a profession in the thick of upheaval, innovation, rethinking and deepening purpose. What possible futures await them? The Bulletin asked an eclectic group of forward thinkers to take a longer view and imagine what decades from now might hold for HLS and its graduates. [Here are some of their thoughts.](#)

NO MERE SERFS:
HLS SHOULD
CHAMPION
ALTERNATIVES
TO DIGITAL
FEUDALISM

AS THE WORLD GROWS EVER MORE complex, globalized, and dominated by technology, the trend for contractual arrangements to displace tort rights and government regulation will only accelerate. Already, terms of service, click-through agreements that no one reads, and the like are being used to govern relationships between powerful

companies and individual consumers, and to take most disputes out of the realm of courts and traditional litigation. Over the next few decades, virtual services and goods will become a bigger and bigger piece of the economy, and virtual reality, augmented reality, and mixed reality platforms will become as important as, if not more important than, the internet services of today in the lives of most consumers. Powerful companies will dictate the terms of their walled-garden economies in complex contracts that individual consumers will have no power to deviate from (and perhaps no recourse to the courts either), and they may be enforced in software code through “smart contracts” that leave no room for human interpretation. The notion that you will have access to many of your most

precious electronic possessions and memories at the pleasure of the owners of these virtual platforms—who can change the terms of your contractual relationship at will—can make the most terrifying visions of dystopian authors seem benign. A future in which most of us are mere serfs for the great digital feudal lords is only too likely to come true.

Since most of HLS’s grads will be working for the owners of these platforms, I hope Harvard Law School will push against this trend. I wish to see the law school become part of the forefront of research and resistance against digital feudalism and give its graduates the tools to become advocates and regulators for our freedom. As private companies become the unchallenged legislators for virtual platforms that will play larger and larger roles in our lives, the future of democracy may well depend on new legal theories and practices that preserve our privacy and autonomy against these new threats.

KEN LIU '04 is an award-winning science fiction writer whose recent work includes “*The Paper Menagerie and Other Stories*,” two novels, and translations of best-selling Chinese science fiction into English. In addition, he is a litigation consultant in intellectual property cases.



LEAD
WITH
THE IDEALS OF THE
PROFESSION

THE PROFESSION IS CHANGING.

Optimism: The prospect of AI doing many of the jobs that first-year associates used to do—like discovery—means that law school graduates can be pushed to those areas most in need of what Professor David Wilkins calls “wise counsel.” The toughest and most interesting problems will remain for lawyers to take up. **Pessimism:** The drift of lawyering away from the function of wise counsel and more toward simply taking a business decision arrived at by others and making it so. Perhaps we can take the ideals of the profession at their most aspirational and lead the way for adjacent professions to see that they serve not only their clients, but the public interest as well. Data scientists and software developers are gatekeepers to levers of power the way lawyers have been, and should see their roles as capaciously as lawyers traditionally have.

PROFESSOR JONATHAN ZITTRAIN '95 is vice dean for library and information resources, and faculty director of the Berkman Klein Center for Internet & Society.

Some shifts are natural evolutions; some will be revolutions as machines and algorithms play greater roles in our lives and our legal systems.

MAKE
HLS A
BIGGER
TENT

Given that Harvard Law School is the birthplace of clinical legal education, and as someone who has benefited greatly from the school's clinical programs, I would love to see participation in a clinical program made a graduation requirement—

both for the tremendous benefit that this experience can add to one's legal education and because I think it's important that students use the skills and resources they receive here on behalf of the broader community. And as one of the few indigenous students at Harvard Law School, given how many indigenous communities are located in remote areas, I would like to see this institution find new ways to attract and encourage applicants from remote communities. So, when I imagine Harvard Law School 25 years from now, say, I see more indigenous students, and more students from remote and rural communities, making up the student body. And I see more students from the law school out in the community, using their legal education to help others.

JULIAN SPEARCHIEF-MORRIS '18 is head of the Harvard Legal Aid Bureau, the nation's oldest student legal services organization (founded in 1913), which provides free civil legal services to low-income clients.





**STRIKE A NEW
BALANCE BETWEEN
DISRUPTION AND
FIDELITY**

There's no question that the pace of change in the legal profession has been accelerating dramatically. To see why, one need only look at the forces that are transforming the rest of our lives: globalization of economic activity; the exponential rise in the speed and sophistication of information technologies; and the "blurring" of traditional boundaries between what we once thought of as separate fields, such as "public" and "private," or, even more important for these purposes, "law" and "business."

Lawyers in fields as diverse as mergers and acquisitions, family law, and human rights increasingly find themselves dealing with clients and issues that cross national boundaries. To solve these problems, lawyers are turning to new technologies and processes such as artificial intelligence, data analytics, and even cryptocurrencies and the underlying blockchain platform. All of these changes are sure to accelerate in the coming years as clients demand that lawyers address complex problems at the intersection of law, business, strategy, sustainability and the public good.

To tackle these issues, law schools will need to move beyond teaching students necessary "core" legal competencies such as critical thinking and a thorough grounding in law and legal institutions to also provide them with an introduction to the "complementary competencies"—e.g., financial literacy, the ability to read and interpret data, cross-cultural fluency, teamwork and team leadership skills—that they will need to be "wise counselors" and "effective leaders" in this new global age of more for less. The goal is not to "disrupt" everything. Instead, we must strike a new balance between equipping our students to respond to the powerful forces changing our world and reinforcing the fundamental values of professionalism and fidelity to truth and the rule of law that are—and must always be—at the core of what it means to be a lawyer.

DAVID WILKINS '80 is the *Lester Kissel Professor of Law and faculty director of the Center on the Legal Profession at Harvard Law School.*

**TRAIN
LAWYERS
SANS
FRONTIÈRES**

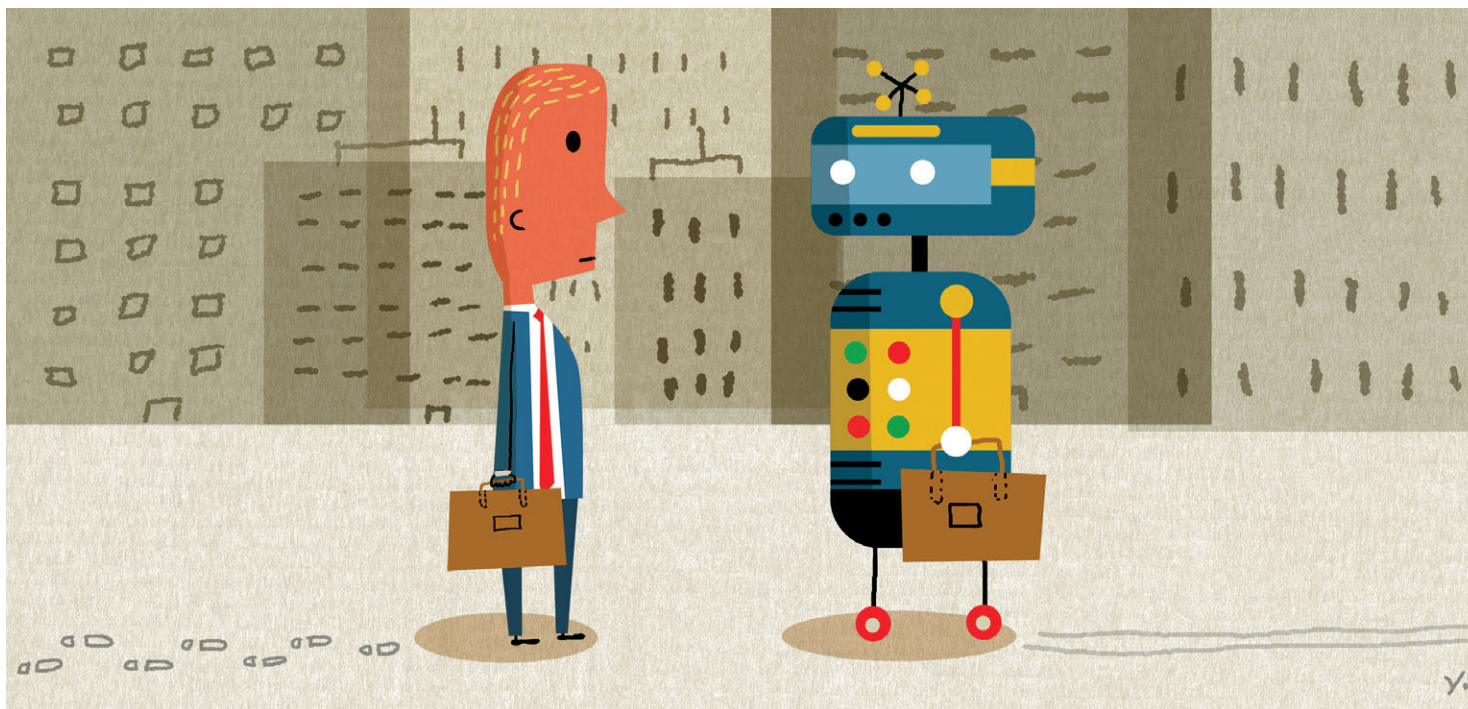
I ORIGINALLY FOUNDED LAWWITHOUTWALLS TO break down barriers between lawyers and clients, as well as between legal training and practice, and to shift our focus from what lawyers do to how we work. Its mission is not only to create innovations that solve problems at the intersection of law, business, and technology but also to equip

future and current lawyers with new skills that cannot be taught in the traditional classroom format and that are essential for 21st-century lawyering.

My dream for our future is that [within a few decades] law schools will be training lawyers to be 1) creative problem-solvers who understand their clients' needs and innovate solutions with empathy and ingenuity; 2) cross-competent leaders with a high-risk tolerance and ability to team across countries, cultures, and disciplines; and 3) business-minded and business-focused industry experts readily able to harness technology, social media, collaboration, and communication skills to meet the needs of tomorrow.

MICHELE DESTEFANO '02 is a professor of law at the University of Miami, guest faculty in Harvard Law School's Executive Education Program and the founder of LawWithoutWalls. She is author of *Legal Upheaval: A Guide to Collaboration, Creativity, and Innovation in Law*, forthcoming from ABA Press.





**ANTICIPATE
EVOLUTIONS AND
REVOLUTIONS IN
THE WORLD OF LAW**

THE SPEED OF technological shifts suggests that changes are likely to come our way across multiple

dimensions that will affect our laws, the ways they are enforced, who has rights and how the legal profession is practiced.

With all predictions, it is easier to see potential directions we are likely to head in than to suggest the exact timing. That said, technological shifts over the next two decades will include a much greater role for robotics (e.g., self-driving vehicles are likely to come to market by 2025 if not before); expansion of the digital ecosystem (with close to 7 billion people and more than 30 billion devices connected to the internet in 2025); the rise in use of and disputes over data; and the expansion of genomics and medtech (to allow for personalized medicine and human augmentation).

Some of the challenges raised by these new technologies will be familiar—with issues of access and privacy at the center—but others will impact not only our current systems of rights but even our venue and approach for legal adjudication.

Dimensions along which change may come include:

NEW USES OF DATA. As we enter an era with more than 16 ZB of data produced each year,

we can expect increasing disputes in different jurisdictions over who owns data, who can access it and how it can be used. Already at least one U.S. court has allowed pacemaker data to be used against a defendant in an arson trial, and a suspected murderer was asked to pass over data from his Amazon Echo.

NEW ROLES FOR ROBOTS AND ALGORITHMS. We prefer to think that judicial adjudication depends on unique human discernment and nuanced skill; however, given that RPA (robotic process automation) already assists human decision-making in transportation management, accounting, and stock portfolio selection, the legal system, too, is likely to experience some of this technological shift. Currently, U.S. courts and corrections departments are experimenting with algorithms to determine a defendant's risk to inform decisions about bail, sentencing, and parole.

The jury is still out on these approaches, but we can predict that algorithms and RPA will play some augmentation/recommendation role in the future—even if it is too early to describe the exact role.

NEW FORUMS FOR DISPUTE RESOLUTION AND WAYS OF PRACTICING LAW. Today we live in a world with both physical and virtual spaces. In retail, we see hybrid physical/virtual models emerging (e.g., Amazon Go). As more disputes become global, more venue options will arise, including virtual

sites for dispute resolution. The U.S. Virtual Courthouse (<http://www.virtualcourthouse.com/>) now “hears” mediations and arbitrations, and USAID has funded virtual trials in Colombia. The practice of law, too, will expand in virtual ways. The American Bar Association already has an e-lawyering task force and minimum requirements for law firms delivering legal service online; we can expect these online options to grow.

NEW CRIMES. Cybercrimes are exploding, and attempts at enforcement are often less than successful. Expect continued evolution of laws and enforcement approaches to cyberbullying, online predators, and polihacking, with more online crimes likely to emerge. Over the coming decades, the virtual world will begin to feel even more real and compelling—in fact, already a married woman divorced her husband for marrying another woman in the virtual world (yes, not only do online chatting and cheating exist but also online private detectives).

These are just a few of the potential changes ahead. Some shifts are natural evolutions, but some will be real revolutions as we enter a period when machines and algorithms will play greater roles in our lives and likely in our legal systems.

ALISON SANDER J.D./M.B.A. '86 serves as director of the Center for Sensing and Mining the Future, The Boston Consulting Group.

IN MEMORIAM

1930–1939

STANLEY L. WEINBERG '37
Nov. 30, 2015
 DAVID SOLOMON '39
March 23, 2017

1940–1949

JAMES M. DELORETO '42 ('46)
May 29, 2017
 WILLIAM E. FISHER '43 ('47)
March 4, 2017
 JAY H. SCHAFFRANN '43
Feb. 28, 2017
 DENNIS EDWARDS JR. '44
April 13, 2017
 RAYMOND J. MCMAHON JR. '45
Aug. 9, 2017
 ROBERT E. BARD '48
June 4, 2017
 WILLIAM G. BRUNSELL '48
Feb. 14, 2017
 JOHN L. CADY '48
April 3, 2017
 WILLIAM R. HALEY '48
June 28, 2017
 C. OWEN JOHNSON '48
Aug. 11, 2017
 HERBERT F. MOORE '48
July 15, 2017
 RICHARD W. PALMER '48
March 1, 2017
 EDWARD STERN '48
March 20, 2017
 MELVIN J. SYKES '48
May 22, 2017
 JOHN H. BASS '49
May 5, 2017
 GEORGE BENEDICT '49
Aug. 7, 2017
 EDWARD J. CALLAHAN JR. '49
June 2, 2017
 ROBERT C. GRAFF '49
April 5, 2017
 WILLIAM H. HUBER '49
May 19, 2017
 CLOYD LAPORTE JR. '49
May 3, 2017
 ROBERT K. LESSER '49
March 10, 2017
 ROBERT W. MAYNARD '49
May 8, 2017
 ARTHUR J. TORSIGLIERI '49
March 10, 2016
 HAROLD M. WILLIAMS '49
July 30, 2017

1950–1959

THOMAS M. QUINN '50 LL.M. '56
Aug. 1, 2017
 DWIGHT SULLIVAN '50
April 4, 2017
 RICHARD G. CRAWFORD '51
March 6, 2017
 RICHARD D. LEGGAT '51
June 17, 2017
 JOHN D. SCARLETT '51
July 10, 2017
 JULIUS H. SHERMAN '51
April 17, 2017
 PHILIP M. SHIEKMAN '51
Feb. 6, 2017
 JORDAN BITTEL '52
March 9, 2017
 BARTRAM C. BRANCH '52
July 25, 2017
 DEAN C. CAMERON '52
June 20, 2017

ROBERT A. GOLDSTON '52
Sept. 23, 2017
 DALE L. MCGARVEY LL.M. '52
July 22, 2017
 FRED I. SONNENFELD '52
March 24, 2017
 EDWIN S.S. SUNDERLAND JR. '52
May 12, 2017
 ALEXANDER ALDRICH '53
July 19, 2017
 ROBERT P. BIGELOW '53
March 23, 2017
 NORMAN DORSEN '53
July 1, 2017
 LAMBERT L. GINSBERG '53
May 1, 2017
 STANLEY HERMAN '53
June 2017
 NATHAN HERSHEY '53
April 15, 2017
 BENJAMIN I. KREITZBERG '53
June 26, 2017
 FREDERICK A. LEVY '53
Jan. 18, 2017
 KALMAN B. LIFSON '53
May 2, 2017
 HENRY T. LOWE '53
March 1, 2017
 PAUL J. MILLER '53
June 15, 2017
 JOSEPH F. O'HANDLEY '53
Feb. 24, 2017
 J. KELLUM SMITH JR. '53
April 7, 2017
 JEROME B. SPUNT '53
April 30, 2017
 ANTHONY Q. DEVEREUX '54
June 16, 2017
 EUGENE P. GRISANTI LL.M. '54
March 29, 2017
 ROBERT J. HOFFMAN '54
April 28, 2017
 NATHANIEL C. KENYON LL.M. '54
July 16, 2017
 AMEDEO C. "ARMIE" MEROLLA '54
April 28, 2017
 EDWARD G. "TED" MURRAY JR. '54
June 6, 2017
 ROGER V. PUGH JR. '54
April 12, 2017
 DAVID H. ROGERS '54
March 21, 2017
 VINCENT E. STARZINGER '54
Sept. 6, 2017
 WILLIAM D. ANDREWS '55
May 21, 2017
 FRANK H. D'ANDREA JR. '55
March 10, 2017
 ALLAN G. FREUND '55
Feb. 22, 2017
 WILLIAM N. JENKINS '55
May 1, 2017
 MYLES V. WHALEN JR. '55
March 21, 2017
 DAN WILKES '55
December 2016
 BASIL S. YANAKAKIS LL.M. '55
May 8, 2017
 HERBERT BARALL '56
April 20, 2017
 NANCY HOWES GORMLEY '56
July 6, 2017
 ANTHONY C. BEILENSON '57
March 5, 2017
 MAXWELL H. BLOOMFIELD III '57
April 21, 2017
 GEORGE M. BRANTZ '57
May 12, 2017

RICHARD E. DEER '57
March 1, 2017
 JAMES D. HANLON '57
March 3, 2017
 ROBERT P. MONCREIFF '57
May 6, 2017
 ESTHER CLAIRE RODITTI '57
Aug. 22, 2017
 CHESTER R. DAVIS JR. '58
March 15, 2017
 JOHN F. FINNELL JR. '58
June 8, 2017
 JERVIS S. FINNEY '58
April 9, 2017
 EDWARD FLAX '58
March 15, 2017
 TOMAS P. MATIC JR. LL.M. '58
June 16, 2017
 WESLEY J. FASTIFF '59
July 7, 2017
 EDWARD C. HALBACH JR. LL.M. '59
June 1, 2017

1960–1969

PHILIP M. BREEN '60
March 31, 2017
 NAHUM L. GORDON '60
April 20, 2017
 CHESTER L. GRAY JR. '60
April 26, 2017
 PETER R. HAJE '60
July 2, 2017
 PAUL E. KLEIN '60
May 18, 2017
 SHELDON L. BASKIN '61
June 26, 2017
 RAYMOND L. BRITTON LL.M. '61
May 19, 2017
 HOWARD S. CHASANOW LL.M. '62
April 2, 2017
 LEON P. GOLD '62 ('63)
May 5, 2017
 HARVEY G. GROSSMAN '62
July 30, 2017
 M. LAURENCE POPOFSKY '62
May 9, 2017
 DAVID BERMAN '63
June 22, 2017
 NEIL L. CHAYET '63
Aug. 11, 2017
 BARRY F. CORN '63
March 28, 2017
 ROBERT A. FARMER '63 ('65)
July 22, 2017
 V. DUNCAN JOHNSON '63
March 14, 2017
 NORRIS C. KNOSHER '63
June 8, 2017
 L. CHARLES LONG JR. '63
March 19, 2017
 WALTER MCCANN '63
July 17, 2017
 HENRY H. THAYER '63
March 26, 2017
 GEORGE F. CARR JR. '64
April 16, 2017
 JOHN G.S. FLYM '64
Feb. 24, 2017
 MICHAEL E. HAGER '64
May 26, 2017
 E. BAYARD HALSTED '64
July 10, 2017
 JAMES D. LORENZ JR. '64
Jan. 19, 2017
 ANTHONY C. STOUT '64
May 30, 2017

JAMES KNOLL GARDNER '65
April 26, 2017
 LUDWIG B. GARTNER JR. '65
March 6, 2017
 BRIAN R. HENDERSON '65
March 1, 2017
 OLIVIA BARCLAY JONES '65
June 1, 2017
 AUGUSTUS B. KINSOLVING '65
March 27, 2017
 WILLIAM P. KOSMAS '65
April 1, 2017
 CHARLES R. MERRILL '65
April 25, 2017
 WARREN MILLER '66
June 22, 2017
 MICHAEL D. ROSE '66
April 2, 2017
 JAMES B. SWIRE '66
May 21, 2017
 JOSEPH D. SHUMAN '67
March 4, 2017
 ARNOLD B. BASS LL.M. '68
March 2017
 GERALDEEN G. CHESTER '68
July 18, 2017
 JOHN A. ROBERTSON JR. '68
July 5, 2017
 ROBERT A. THOMPSON '69
July 29, 2017

1970–1979

NEIL J. MURPHY LL.M. '70
May 22, 2017
 RAPHAEL "RICK" DUBARD JR. '71
May 12, 2017
 STEPHEN F. GATES '71 ('72)
July 7, 2017
 ROBYN (COOPER) GREENE '71
Aug. 2, 2017
 NEIL P. COHEN LL.M. '72
May 8, 2017
 ERIC L. CUMMINGS LL.M. '73
May 1, 2017
 GILBERT F. WHITTEMORE JR. '75
Aug. 27, 2017
 LEWIS C. HORNE JR. '76
Feb. 23, 2017
 LEWIS M. ANTHONY '77
May 28, 2017
 CARL SCHWARTZ '78
Oct. 26, 2016

1980–1989

NORMAN G. LARSEN LL.M. '80
April 26, 2017
 DANIELA R. WINKLER '80
Jan. 27, 2017
 DOUGLAS EDWARD NORDLINGER '81
May 16, 2017
 BASHA V. HICKS '85
Feb. 23, 2017
 CHARLES W. MURPHY '85
March 27, 2017

1990–1999

JENNIFER WARD OPPENHEIMER '93
May 16, 2017

2000–2009

KIMBERLY S. MCNISH '04
Feb. 10, 2017

Online: Visit the In Memoriam section at bit.ly/inmemfall2017 for links to available obituaries.

Letters

Transformed Beyond Recognition

I graduated in 1958, got a clerkship, wrote a law review article, then practiced in NYC. But I left the law, never to go back, by 1962. My view of the law school was that of the late '50s. So I never contributed, never attended HLS class events, never read the Bulletin (was it even published then?).

But the current Bulletin shows that the law school of the '50s has been transformed—beyond recognition. Perhaps the current one might have kept me (and many others) a lawyer. But in any event, the difference between the late '50s and now is well worth celebrating, even by an ex-lawyer.

PETER SZANTON '58
Baltimore

In Praise of Alan Stone

Alan Stone was/is a hero of mine. Not only was it the case that his Psychiatry and the Law class in 1972 produced the only “straight A” that I received at HLS. Far more importantly, taking his class and writing the required term paper (the details of which I do not recall—only that it focused on self-analysis of some important personal issue) was, in retrospect, the single most fulfilling and therapeutic act of my law school career.

As referenced in Mr. MacCourt's tribute [“A Moral Adventure in the Law,” Spring 2017], Professor Stone had a knack for “encouraging not only the class superstars but also the more timid or struggling.” After all these years, I wear as a badge of honor that I was among the latter group. My ultimate success in navigating to graduation day at HLS was in no small measure due to Professor Stone.

STU MANDEL '73
Guilford, Connecticut

The Life of an Immigration Lawyer

As an immigration lawyer since 1993, I appreciated the article in the Spring

2017 Bulletin about the Harvard Law students working for the Immigration Response Initiative of the Harvard Immigration and Refugee Clinical Program. Right after reading the article, late on Thursday night, June 1, I received a series of text messages informing me that an immigration client had been picked up by DHS-ICE and was now sitting in jail under detention, facing imminent removal from the United States to El Salvador. I also found out, late on Thursday night, that an unexpected check had gone through against my account, reducing my bank balance to an impressive negative \$32.12. Such is the life of an immigration lawyer: You win a very few cases against an opponent with so many resources compared with you and your client that it makes David v. Goliath look like a cakewalk.

I will continue to fight for my clients, despite the impossibility of the battles, because it's my life as well as theirs; but I wish, perhaps, there were more support for us in the trenches. I do belong to the American Immigration Lawyers Association, and have received valued assistance from NIPNLG (the National Immigration Project of the National Lawyers Guild), but inevitably most of us immigration lawyers are a one-person show, and that translates to hours spent on the grunt work (photocopying, assembling application packages) that those in top law firms, doing this as a pro bono project, can simply hand off to the legal assistants. *C'est la guerre*. Keep fighting, keep soldiering on.

JUDY RESNICK '90
Far Rockaway, New York

The Tells of Hofman

I am now 85 years of age but still conscious of the beneficial effect of my studies at HLS for my professional life. That is why I enjoy so much reading your Bulletins.

This was particularly true for the article on Alan Stone [“A Moral Adventure in the Law”] in the most recent issue. You improved my command of English by using vocabulary like “greenlighted” and “smarts.” The article on “War or Peace?” reconfirmed my conviction that international law is largely ineffective. I fully shared Kim Rivera's conviction [“Pathways Upward”] that Harvard is a place where students are genuinely exposed to people “both incredibly smart and really diverse.” A prize is due to your photograph on top of Page 45 [“The Law and Happiness in Bhutan”].

Looking forward eagerly to your next issue.

WILFRIED A. HOFMANN LL.M. '60
Bonn, Germany

Just the Beginning of the Analysis

In your story on the Corporate Boards and Governance seminar, “Bringing Boardroom Experts to the (Seminar) Table,” the example of IBM partnering with the Bill & Melinda Gates Foundation and the suggestion of thorny legal issues to address made me smile. As a retired corporate attorney serving publicly traded corporations in many senior capacities, including as general counsel, the hypothetical posited really would be a no-brainer for IBM. My guess is the seminar in fact takes on much more difficult and truly real-life issues such as reconciling a duty to shareholders with dramatically high executive compensation, political and lobbying expenditures, officer and director liability indemnification, and costly perquisites defended under often distorted rationales. I hope the seminar also addresses the purpose and role of publicly owned corporations. For me, having “shareholders to satisfy and a bottom line to maintain” is a beginning to the analysis, not the end.

DON BERGMANN '66
Westport, Connecticut

Catching 'The Paper Chase'



**HLS
200**

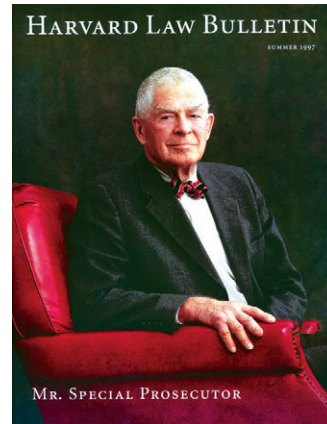
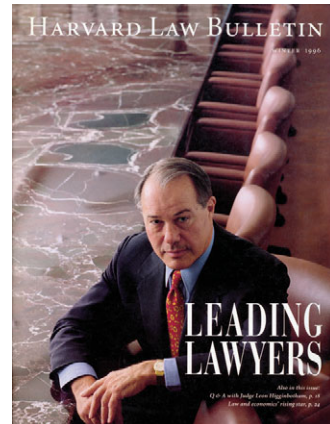
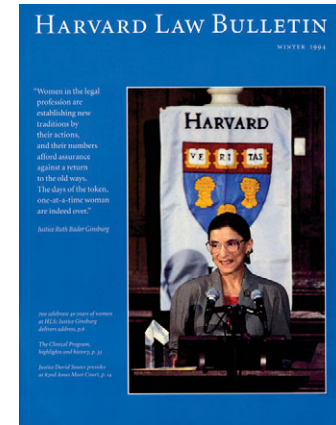
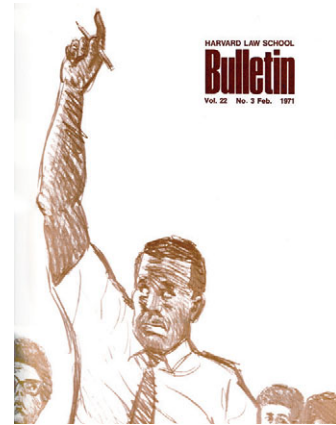
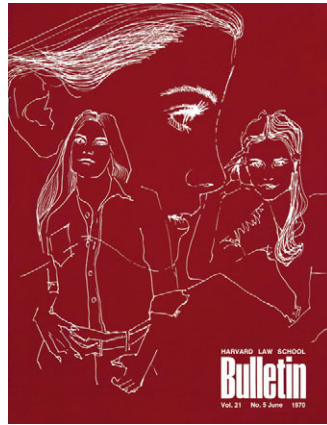
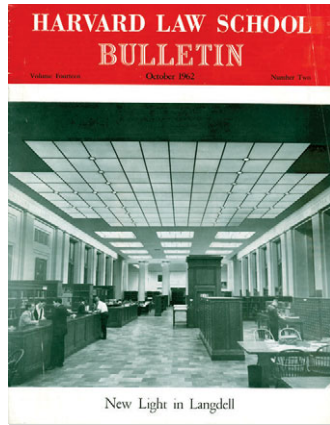
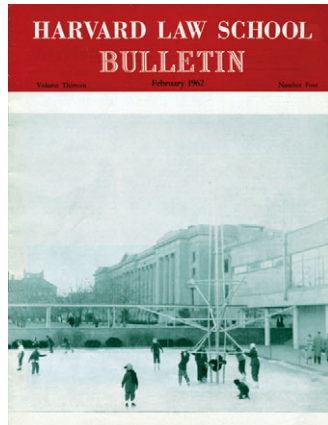
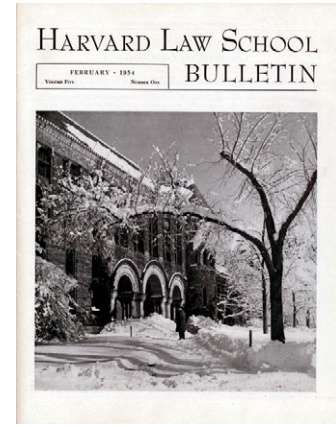
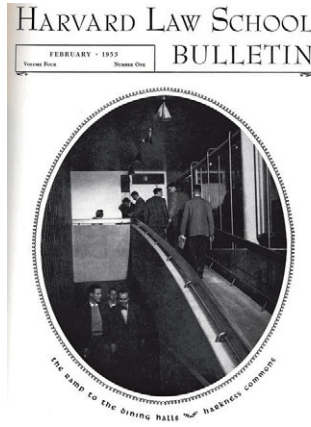
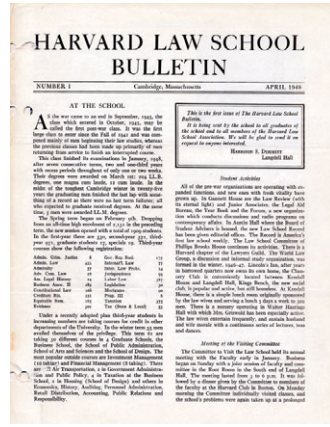
When Professor Kingsfield addressed the hapless 1L: “Mr. Hart, here is a dime. Take it, call your mother, and tell her there is serious doubt about you ever becoming a lawyer,” the class went deadly silent.

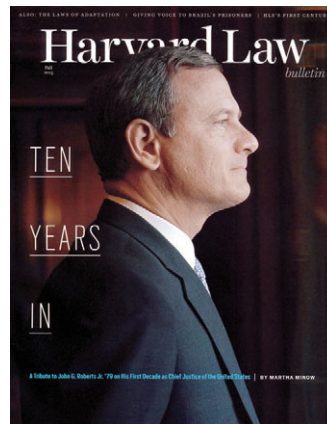
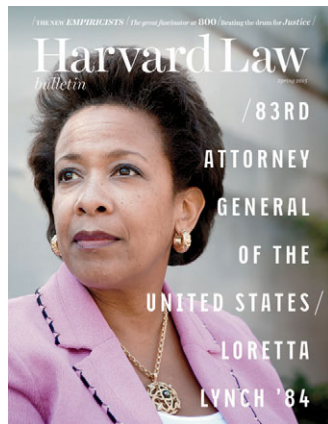
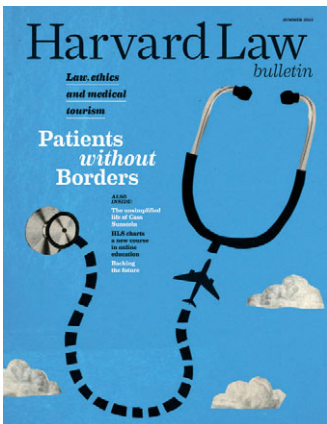
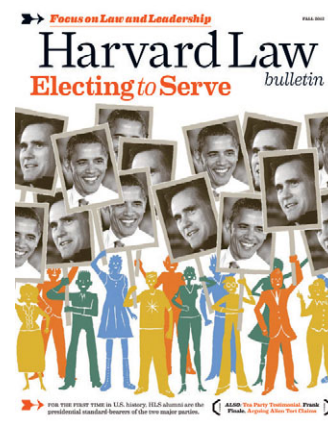
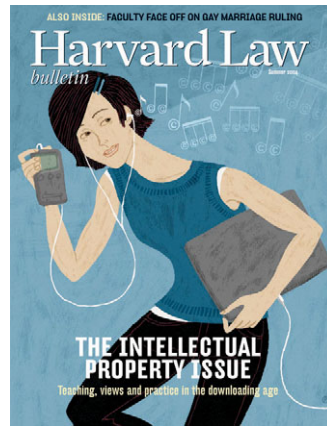
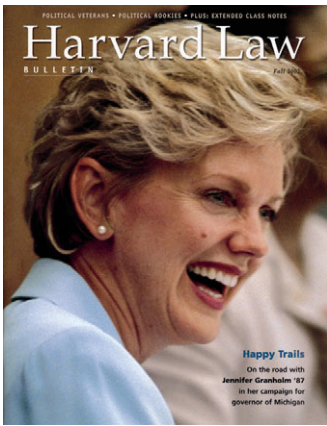
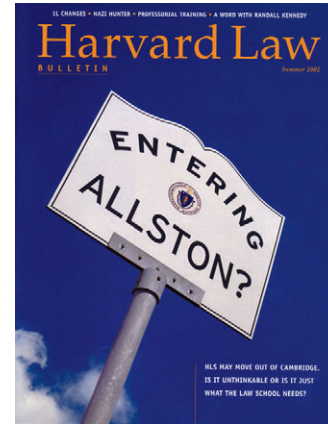
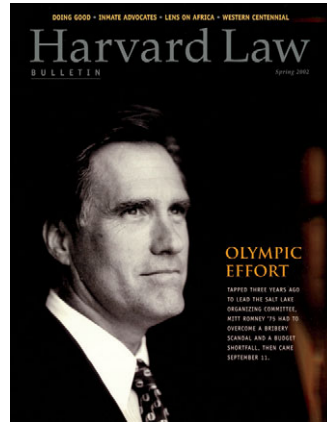
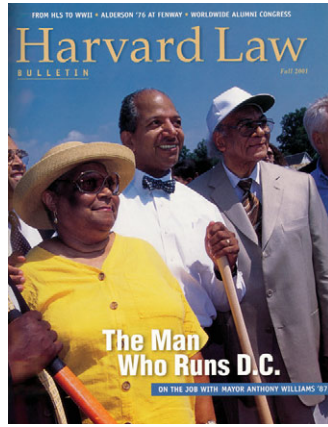
Recently, Kingsfield, the professor in the movie based on the iconic book by John Jay Osborn Jr. '70, had a very different effect on a Harvard Law crowd. During a late-night outdoor screening of “The Paper Chase,” a raucous audience of HLS students and faculty called out the lines “Rocky Horror Picture Show”-style. That evening, the story seemed to have a leavening effect.

Dean John Manning '85 was among those in the audience during the screening, which was part of the HLS in the Arts festival. The experience of watching the movie under the stars with the HLS community, he said, will stay with him well beyond the bicentennial year.

Gallery

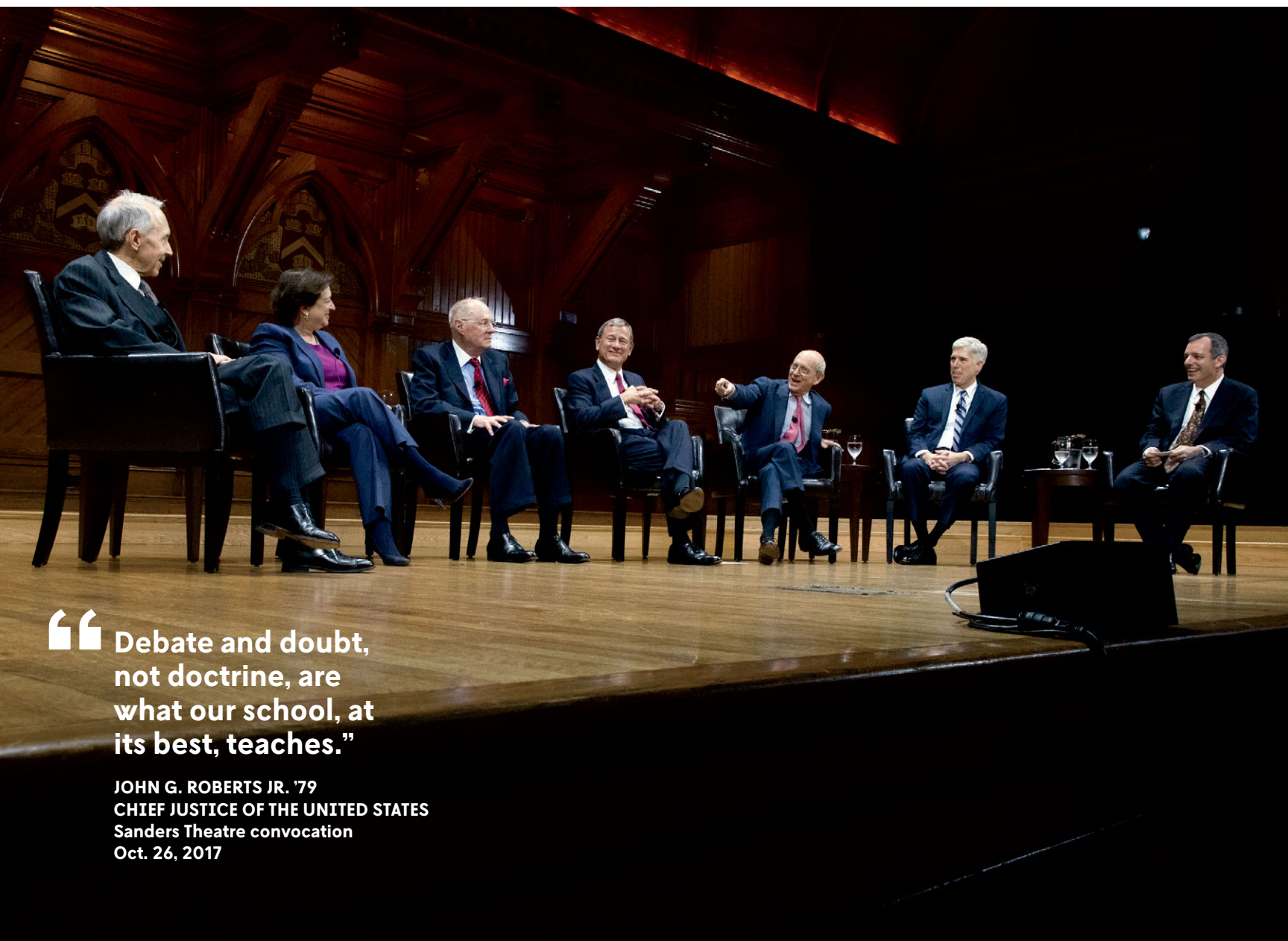
Since April 1948, when the inaugural eight-page issue of the Harvard Law School Bulletin was sent to all graduates, the Bulletin has been covering the school, its students and—in more recent years—its alumni. Instead of the photos or illustrations that have adorned the cover in later years, that first issue led with news, like a letter from a cranky, truth-telling relative: The Class of 1948 had set “something of a record,” by all managing to graduate.





Harvard Law Bulletin
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Cambridge, MA 02138

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“ Debate and doubt,
not doctrine, are
what our school, at
its best, teaches.”

JOHN G. ROBERTS JR. '79
CHIEF JUSTICE OF THE UNITED STATES
Sanders Theatre convocation
Oct. 26, 2017