

Harvard Law

bulletin

Law, ethics
and medical
tourism

Patients *without* Borders

**ALSO
INSIDE:**

**The unsimplified
life of Cass
Sunstein**

**HLS charts
a new course
in online
education**

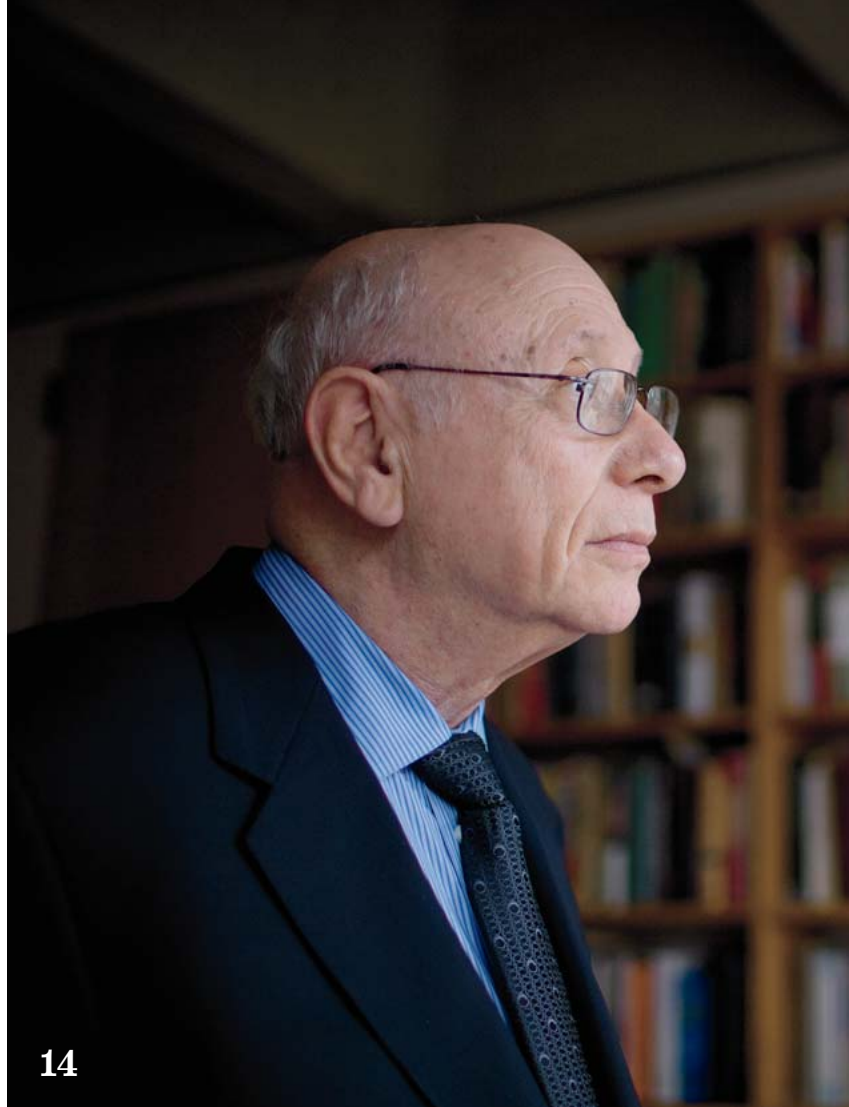
**Backing
the future**



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Navigating the path of a life



Photographs by KATHLEEN DOOHER

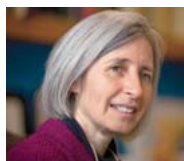
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“Mutual aid” may not be the first phrase that comes to mind in connection with law schools and lawyers, yet consider these examples. Harvard

Law School’s Professor Jonathan Zittrain ’95 created a course joining HLS students with Stanford Law School students to brainstorm “Ideas for a Better Internet.” One student group tackled Internet security at Facebook, whose 1 billion users experience about 5 percent of all phishing attempts—600,000 of which succeed every day in locking users out of their accounts and compromising their personal data, including photos.



The students developed an idea for improving security: allow a “cabinet” of friends to help reset a compromised account, instead of going through

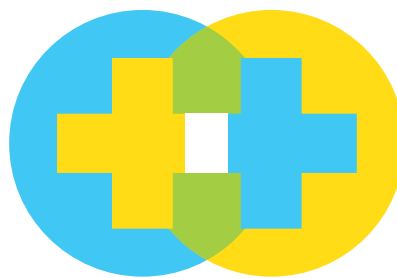
customer service, which has been chronically (and understandably) overloaded. The students called it the “25th Amendment” approach, modeled after the U.S. Constitution’s authorization of the vice president and a majority of the Cabinet to declare the president unfit for office. The students presented the idea to Facebook—and the public—in J-term 2011, and on May 1, 2013, Facebook implemented a feature that resembled it. The approach deploys mutual aid of trusted friends—identified by each user—to veto suspicious activity. It improves on-the-ground user privacy and security without relying upon traditional regulatory approaches (see bit.ly/Facebookunlock2013).

Classes like this allow our students to focus on real solutions to real problems, in dialogue with some of the best engineers in digital technology.

This spring the school also celebrated the launch of a new nonprofit orga-

nization founded by an HLS alumna with the help of the International Human Rights Clinic and a wider interdisciplinary community at Harvard. Led by Amelia Evans LL.M. ’11, the Institute for Multi-Stakeholder Initiative Integrity (MSI Integrity, bit.ly/msiintegrity) evaluates the effectiveness of voluntary initiatives, like the Kimberley Process and Fair Trade, which address human rights problems associated with industry. By identifying minimum standards required for these collaborations between companies and civil society to prevent human rights violations and to remedy abuses, the organization can evaluate existing initiatives, support learning across them, and test this increasingly popular approach to improving human rights compliance by businesses. The effort grows from the supervision and collaboration of Clinical Professor Tyler Giannini, the International Human Rights Clinic, the Transactional Law Clinics, statisticians at Harvard’s Institute for Quantitative Social Science, and experts from the Kennedy School and Business School, and it is leading to consultations in Europe, South America, Asia and the South Pacific.

Those are two happy examples of mutual aid arising from the academic mission of Harvard Law. And in the pages of this magazine, you will read about others. But mutual aid also arose in a sadder context in recent weeks—in the aftermath of the Boston Marathon bombings, which had an impact on our surrounding communities and on our own community at HLS. The tragedy brought out extraordinary efforts across Boston, Cambridge, and the region, as first responders, including law enforcement and medical personnel, tended to the wounded and restored order out of chaos. Countless individuals volunteered to help take victims to safety and shared photographs and



videos in quick and effective information gathering; everyone learned how each person can, with

caution and carefulness, help guard public safety. We at HLS feel grateful and lucky. We saw strengths of emergency preparedness within the city and the university and will now redouble efforts with lessons learned in the experience. Our own teams of staff and students communicated well despite understandable uncertainty, and adapted to a rapidly evolving situation that presented huge logistical challenges. While we were forced to cancel classes and events, including class reunions, we were nevertheless able to put on some events for reunion attendees who had already arrived in Cambridge, and we were able to go forward with our Admitted Students Weekend.

Renowned Harvard evolutionary biologist Stephen Jay Gould once reflected that Charles Darwin’s image of the “survival of the fittest” could undermine human morality. Gould noted, “Perhaps cooperation and mutual aid are the more common results of struggle for existence.”

Among the many themes in the innovative research and teaching, extraordinary careers, new clinical and curricular offerings, and the upcoming 100th anniversary of the Harvard Legal Aid Bureau, all touched on in this Bulletin, you, like me, may detect many elements of mutual aid.

Those elements are certainly salient in the visionary generosity of Morgan Chu ’76—interviewed in this issue—and his wife, Helen. I will be the holder of the chair they have endowed, as will all future deans of HLS, and I am deeply honored. I am also very moved at Morgan’s description of the gift as a way “to give back.”

A handwritten signature in dark ink, reading "Matthew Minow". The signature is written in a cursive, slightly slanted style.

LETTERS

MORE ON MIRO

I ALWAYS ENJOY reading the Bulletin but was thrilled to read the article on Page 5 of the Fall 2012 issue on the Miró mural ["Art Appreciation"]. It sent me to my file cabinet of my old writings from Harvard Law, in particular my full-page article in the March 15, 1956, Record on the Harkness Commons murals. I got to interview Walter Gropius about them, and you can read in my article what he said about the Miró. ["Art has its own language; listen to the painting ... and you will understand it."] I'll never forget the observation of the fine arts instructor, also quoted: "You can interpret it all you want, but it's not exactly clean."

BERT SUBRIN '57
Fairfax, Va.

PROUD TO BE A MEMBER

I ENJOYED JERI Zeder's article "Jointly Held" in the Fall 2012 Bulletin. Like my business school classmate Mitt Romney, I received the coveted J.D./M.B.A. degrees from Harvard, although I was not a student in the combined program. I earned mine the "hard" way, first spending three years in the law school, then, after a brief stint with a Wall Street firm, returning to Soldiers Field to obtain my M.B.A. Ironically, after being first accepted into the J.D./M.B.A. program at Stanford, I was not one of the fortunate ones to be admitted to Harvard's initial joint class, so I elected to take them one at a time. I'm glad I did, and I have utilized both degrees in subsequent careers in law, real estate and, now, executive search. Needless to say, this is an exclusive "club" of Harvard alumni and I am proud to be a member.

PHILIP K. CURTIS J.D. '71
M.B.A. '74
Atlanta

WHAT DID THEIR WOMEN CLASSMATES THINK?

I RECEIVED THE Fall 2012 issue

yesterday and read with interest your profiles of Mitt Romney and Barack Obama as law students.

After listening to Tuesday evening's presidential debate, the most notable portions of which were devoted to discussion of each candidate's position on women's issues, I was struck by the fact that not a single woman from either the Class of '75 (Romney) or the Class of '91 (Obama) was quoted among those who remembered the candidates as law students. I was a classmate of President Obama's but would have been interested in the recollections and perspectives of other women about both candidates in their days at HLS.

LAURA JEHL '91
Chevy Chase, Md.

A FALSEHOOD TWICE REPEATED

HAVING ATTENDED HLS with President Obama, I was naturally interested in the feature on him in the Fall 2012 issue ["Most Likely to Succeed?"]. I was surprised, however, that you twice repeated the falsehood that his speech introducing Professor Derrick Bell occurred in 1991. It did not. The speech occurred in 1990. I know because I was there. In the "infamous" video, I may be seen in the background behind Professor Bell in a brown hat and bomber jacket.

The 1991 inaccuracy seems to have arisen from the laughable Andrew Breitbart "exposé" of the 1990 film. Such an error is expected and acceptable on Faux News, but not from an official HLS publication.

LAWRENCE L. TAYLOR '90
Portland, Ore.

EDITOR'S NOTE: *The rally in support of Derrick Bell at which Barack Obama spoke occurred in 1990, as Mr. Taylor reports. We regret the error.*

QUESTIONS OF CONSISTENCY

YOUR ARTICLE ON Ted Cruz underscores the difference between the Tea Party and Libertarians [Fall

"IF YOU CHAMPION LIBERTY, [DON'T] RESTRICT A WOMAN'S RIGHTS CONCERNING HER UTERUS."

2012, "Carrying the Tea Party Banner"]. The former espouses limited government only when that

conforms to its right-wing ideology, including Christian values (but certainly not charity for the poor).

If you champion liberty, you should not restrict a woman's rights concerning her uterus nor give her rights to contraception an inferior legal status just because popular religions deplore such rights.

Archconservatives say their opponents ignore the meaning of the Constitution—as if only conservatives know what "due process" means. Yet they say the U.S. Constitution limits a state's power to regulate gun possession. What can be more wrong? The Bill of Rights does not limit state power. However, the 14th Amendment has been held to apply *some* of the restrictions of the Bill of Rights to the states, but not all. (For instance, the Supreme Court has held that a unanimous verdict of 12 jurors is necessary for a criminal conviction in federal court but not in a state court.) Of all the provisions of the first nine amendments, the Second Amendment, concerning the right to bear arms (based on the states' right to have a militia), is the least likely to carry over to restrict the states.

Cruz boasts that his father did not get government handouts, but his father did go to a state university. The Tea Party speaks of cutting taxes as if education, police and fire protection, roads, courts, and libraries were not legitimate functions. It's like the frugal farmer who thought he could save money by gradually decreasing his horse's food. When the horse died, he complained that it was terrible because he almost had the horse down to eating nothing.

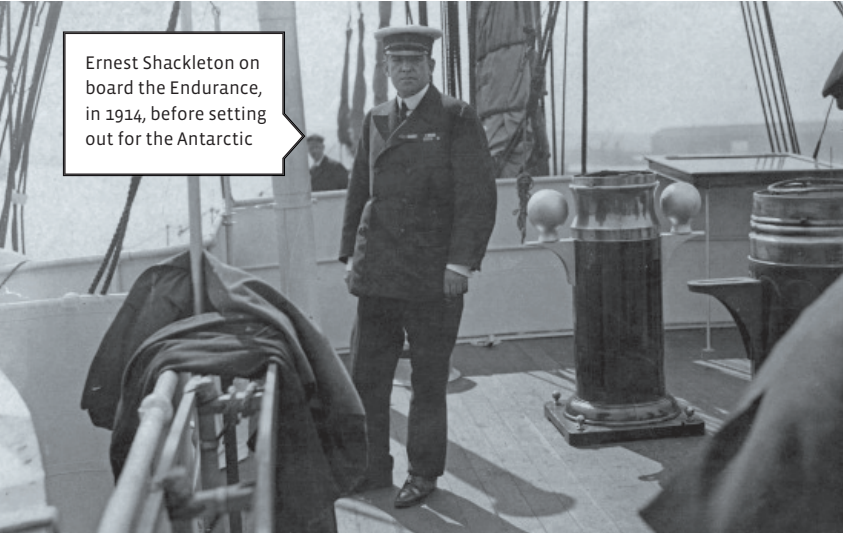
DONALD MARCUS '58
Brooklyn, N.Y.

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Briefs

Lessons, legal services, and luminosity

Ernest Shackleton on board the *Endurance*, in 1914, before setting out for the Antarctic



POPPER/GETTY IMAGES

◆ CASE IN POINT

THE LESSONS OF FAILURE

ERNEST SHACKLETON'S FIRST journey to the Antarctic in the early 1900s ended in a very public failure. On his second journey, in a race to the South Pole, he turned back within 100 miles of his goal. In his third expedition, not only did he fail to traverse Antarctica, but his ship was destroyed by ice, stranding the crew on ice floes for more than a year. So why do law and business students and executives in legal and business organizations study Shackleton as an example of successful leadership?

"Shackleton's experience teaches us about navigating through extreme turbulence and what teams can do to survive volatile, changing circumstances," says Professor Ashish Nanda,

who has taught Leadership in Law Firms to students at HLS, and led that course in the Executive Education program. He and other management scholars focus on Shackleton's ability to bring his men through extreme deprivation with their health and morale intact.

Nanda uses his case study on the explorer's third journey to prompt class discussions about effective leadership in the face of sudden change, and to draw lessons for leaders of today's law firms and legal departments. In recent years, he says, some well-established firms have closed, in part because their leaders focused on short-term performance, failed to build resilient teams, and did not inspire confidence and loyalty in their partners and associates.

The case study, he says, allows students to ponder the meaning of success and leadership, whether on the high seas or in today's business world.

◆ ENGAGING WITH DEMOCRACY

A LESSON ON CIVICS

Retired Supreme Court Justices David Souter and Sandra Day O'Connor



MARTHA STEWART

Two people who served on the Supreme Court and two who have argued before it cited their own experiences championing civics education during an HLS panel discussion in the spring. Moderated by Dean Martha Minow, the event featured retired Supreme Court Justices Sandra Day O'Connor and David Souter '66, Professor Laurence Tribe '66, and former Solicitor General Kenneth Starr.

After she stepped down from the Court in 2006, O'Connor founded iCivics, a website offering materials on civics, to help "teach young people how our government works and how each of us is part of it," she said. Souter noted the importance of history in civics education and the "value system" embodied by the Constitution. Starr pointed to his argument on behalf of the Flag Protection Act, which he said highlighted the importance of a "culture of liberty." For Tribe, a First Amendment case he took based on a student's observation of how a church was dictating a business's practices offered "the unintended lesson that civic engagement matters." Ultimately, the panelists agreed, civics education will help mitigate the cynicism many people feel about government.

◆ To watch video of the event, go to bit.ly/iCivics2013



"Ernest Shackleton's journey to the *Endurance*" is one of more than 100 case studies and role plays used in HLS classes and available on the newly launched Harvard Law School | The Case Studies website.

◆ ACCESS TO JUSTICE

AFTER GIDEON

FIFTY YEARS AFTER the Supreme Court determined in *Gideon v. Wainwright* that criminal defendants must be provided with counsel, scholars and practitioners from around the country grappled with continued limits on access to justice during an HLS conference in April titled “Toward a Civil Gideon: The Future of Legal Services.”

The keynote speech, given by Professor Gene Nichol of the University of North Carolina School of Law, explored how the *Gideon* case came about and what it has meant for access to justice. “*Gideon* sparks celebration, the way it should, but mainly it mocks us,” he said. “Between its marginalization on the criminal side and its brutal rejection on the civil side, it is at best the glass one-third full. And the two-thirds it leaves unsatisfied says more than any other stark reality about what sort of people we actually have become.”



MARTHA STEWART

Jacquelynne Bowman, the executive director of Greater Boston Legal Services, addressed what legal aid organizations need to better tackle today’s crisis in legal services.

The conference, which included HLS faculty and alumni, also considered the U.S. Supreme Court’s ruling in *Turner v. Rogers*, in which a narrow majority decided that civil litigants who face incarceration for contempt do not automatically have a right to counsel. Participants also explored the unmet needs of civil litigants, including in foreclosure cases. Another panel addressed the effectiveness of pro bono efforts, both in America and globally, as well as offering an analysis of legal aid cases. The conference also presented a panel on the future of legal services.

Dean Martha Minow, who serves on the board of directors of the Legal Services Corporation, noted in her opening remarks that connecting low-income people with legal assistance enables them to maintain their housing, jobs, family and physical safety. Yet Americans who can’t afford legal help routinely forfeit their basic rights, she said.

“And when people forfeit their rights simply due to absence of counsel, we all suffer,” said Minow.

◆ To watch video of the event, go to bit.ly/Gideon2013



BOB O’CONNOR

← FINISHING TOUCHES

A plaza now stretches between the renovated Pound Hall, Langdell, and the Wasserstein Hall, Caspersen Student Center, Clinical Wing Building. It’s a crossroads and an anchor—a gathering place at the heart of Harvard Law School.

◆ 100TH ANNIVERSARY

CELEBRATING A CENTURY OF LEARNING AND SERVICE

SINCE 1913, the Harvard Legal Aid Bureau has trained thousands of lawyers and provided free legal assistance to numerous low-income clients in the Greater Boston area. As the oldest student-run legal services organization in the country, the bureau has helped

countless families and has been used as a model for other organizations. In November 2013, the bureau will mark its 100th anniversary. Hundreds of its alumni from all over the country will be returning to Cambridge on Nov. 8 to 10 for reunion events and panels celebrat-

ing “A Century of Learning and Service.”

Panels will cover topics ranging from trends in clinical legal education to serving low-income communities to alternative strategies for increasing access to justice. While ticketed events, such as

the dinner and reception, will be reserved for bureau alumni, the entire Harvard community is welcome to attend the panels.

For more information, email 100thCelebration@harvardlegalaid.org or go to www.harvardlegalaid.org/100th.



Strange New Rules of a Cool War

Feldman looks at the UNPRECEDENTED
DYNAMIC OF COOPERATION AND CONFLICT
between the U.S. and China



AFTER THE GLOBAL meltdown of 2008, while the United States was distracted by economic recovery and disengaging its troops from Iraq and Afghanistan, a new war quietly began. Many Americans have yet to realize the world-changing implications of the conflict between the United States and China that is the focus of Harvard Law Professor Noah Feldman's new book, "Cool War: The Future of Global Competition" (Random House).

After years of thinking about and writing on Islam and democracy, the last decade's pivotal conflict, Feldman has turned his focus on the tense pas de deux entwining China

"with its still inchoate and forming system of government" and the United States "with its strong conceptions of democracy and the rule of law and human rights." He uses the term "Cool War" to invoke an "unprecedented historical situation" in which the world's fastest-growing power and the established dominant power "have at the exact same time a dynamic of cooperation and interdependence in the economic sphere, and a dynamic of conflict and diverging interests in the geopolitical sphere."

In 2012, China-U.S. trade exceeded \$425 billion in goods. Exports to the United States account for nearly 25

percent of Chinese trade, while the Chinese government owns 8 percent of America's outstanding debt and invests billions in U.S. companies. In addition, Feldman notes, more than 150,000 Chinese nonimmigrant citizens now reside and study in the United States, with perhaps half that many Americans living in China, and there is frequent contact between government officials on both sides as well—a depth of exchange unimaginable in the Iron Curtain era.

Therein lies the "paradox" of the Cool War, says Feldman: While the United States and China race to claim allies and resources to

weaken each other, simultaneously, they are cooperating in trade and in international affairs in ways that make them each stronger.

But as competition between the two powers intensifies, this balance could tip and turn the Cool War hot. Feldman cites some potential “flash points”: the Korean peninsula, where China’s ally North Korea threatens U.S.-backed South Korea, and Taiwan, where Sino-U.S. ties are strained by China’s push for unification. “A longer-term risk is that a rising China will eclipse U.S. interests and security arrangements in Asia, bringing not only Taiwan but also South Korea and Japan within its sphere of influence and control, fundamentally changing the global balance of power,” Feldman says.

The Cold War was an ideological battle on both sides; each thought its worldview was unassailable. In contrast, “China’s leadership is extremely pragmatic; they don’t think that everybody has to adopt their way of doing things, and they don’t mind if we do things our way,” Feldman explains. In fact, this time, the ideology is on the U.S. side: “We reject the idea that a state can be just without the rule of law and democracy and human rights.”

As a result, many misinterpret China’s political system. The casual U.S. observer notes the fact that China is a one-party state and concludes it is a pure dictatorship, “but that is totally wrong,” Feldman says. Dictatorships struggle and fall with power transfers, whereas the Chinese Communist Party has successfully turned over its leadership three times, in 1992, 2002 and 2012, with the reigning cohort of male leaders making way for a younger one each time.

China’s “pragmatic experimentalism” is driving other significant changes, too. More leaders are selected for proven abilities, infusing the system with new talent.

These meritocrats share power with the hereditary “princelings,” relatives of the senior leaders, in what Feldman calls the Chinese Communist Party’s “permeable elite.”

The party has also realized value in tolerating limited free speech, especially on the Internet, typically following a public event or controversy. It soon shuts down these short bursts of opinion, and deploys its “Great Firewall” to censor, but even fleeting free speech enables the government to react to public sentiment and convey accountability.

The biggest threat to China’s political stability is corruption. “The perception that the party is only in it for itself, that its members are ripping off the country, is a terribly threatening one,” says Feldman. China’s new leadership has made curbing corruption a priority and recently announced regulations to prohibit spending on official hospitality, including limiting the size of party-hosted public banquets notorious for their excess.

“A well-meaning person watching China naturally wants to see greater respect for human rights and freedom of speech, and wants to see a fairer system and less corruption,” says Feldman. “But from a broader U.S. perspective, those improvements will make China stronger and the United States weaker.”

The central lesson of the Cool War, according to Feldman, is that “economic interdependence can be leveraged to help manage real political conflict.” How well the U.S. and China continue to cooperate while competing ferociously has profound implications for other nations, international institutions such as the U.N. Security Council and WTO, global corporations, human rights efforts, and much more. Says Feldman: “Those are the rules of the game in this Cool War, and they’re very different and strange new rules.”

—*Julia Collins*

**ACCORDING TO
 FELDMAN, THE BIGGEST
 THREAT TO CHINA'S
 POLITICAL STABILITY IS
 CORRUPTION.**

“Designing Systems and Processes for Managing Disputes” (Wolters Kluwer, 2013), co-written by **CLINICAL PROFESSOR ROBERT C. BORDONE ’97**, **PROFESSOR EMERITUS FRANK E.A. SANDER ’52**, Nancy H. Rogers, and Craig A. McEwen, is the first course book of its kind offering a multidisciplinary and skill-based guide to designing and implementing alternative dispute resolution systems.

ASSISTANT PROFESSOR I. GLENN COHEN ’03 is the editor of “The Globalization of Health Care: Legal and Ethical Issues” (Oxford, 2013). Medical tourism, medical migration, telemedicine, and pharmaceutical research and development are among the topics explored. (See story, Page 22.)

“Simpler: The Future of Government” (Simon & Schuster, 2013), by **PROFESSOR CASS SUNSTEIN ’78**, reimagines government as user-friendly as an iPad, with rules based on empirical evidence, and with built-in “nudges” that maintain personal freedom but encourage good choices. (See story, Page 28.)

The “Routledge Handbook of Constitutional Law” (Routledge, 2012), edited by **PROFESSOR MARK TUSHNET** et al., provides a survey of the current state of the field and identifies promising avenues for new research. For a discussion related to the book between Tushnet and Professor Vicki Jackson go to bit.ly/Tushnet2013.

A Clear and Future Danger?

You walk into your shower and find a spider. You are not an arachnologist. You do, however, know that any one of the four following options is possible:

- (A) The spider is real and harmless.**
- (B) The spider is real and venomous.**
- (C) Your next-door neighbor, who dislikes your noisy dog, has turned her personal surveillance spider (purchased from “Drones ‘R Us” for \$49.95) loose and is monitoring it on her iPhone from her seat at a sports bar downtown. The pictures of you, undressed, are now being relayed on several screens during the break of an NFL game, to the mirth of the entire neighborhood.**
- (D) Your business competitor has sent his drone assassin spider, which he purchased from a bankrupt military contractor, to take you out. Upon spotting you with its sensors, and before you have any time to weigh your options, the spider shoots an infinitesimal needle into a vein in your left leg and takes a blood sample. As you beat a retreat out of the shower, your blood sample is being run on your competitor’s smartphone for a DNA match. The match is made against a DNA sample of you that is already on file at EVER.com (Everything about Everybody), an international DNA database (with access available for \$179.99). Once the match is confirmed (a matter of seconds), the assassin spider outruns you with incredible speed into your bedroom, pausing only long enough to dart another needle, this time containing a lethal dose of a synthetically produced, undetectable poison, into your bloodstream. Your assassin, who is on a summer vacation in Provence, then withdraws his spider under the crack of your bedroom door and out of the house and presses its self-destruct button. No trace of the spider or the poison it carried will ever be found by law enforcement authorities.**

—GABRIELLA BLUM from the essay “Invisible Threats,” bit.ly/Invisiblethreats

DOES THIS SCENARIO sound like science fiction? According to Harvard Law Professor Gabriella Blum LL.M. ’01 S.J.D. ’03, “It’s the future.” In her essay “Invisible Threats,” Blum builds on themes from a joint book project with Benjamin Wittes of the Brookings Institution.

Blum’s interest in those themes developed when targeted killings involving drones began in the early 2000s. Unlike military aircraft, that kind of technology is available to everyone, she noted. “Realistically speaking, there is just no way to contain the technology,” she said. “Making the drones lethal is just the next step. ... It’s going to be very hard to control.”

Her research has focused on how the proliferation of such technology will affect society. In the essay, she contends that “three features of new weapons technology—proliferation, remoteness and concealment—make violence more likely.” The nature of those threats, and how they should be addressed, became more visible during a roundtable discussion convened by Blum at HLS in February. Called “Technology and the Future of Violence,” it brought together representatives from the military—such as Gen. James Cartwright, former vice chair of the Joint Chiefs of Staff, and Richard Danzig, former secretary of the Navy—with experts from the fields of law, security, finance, and science and technology.

Although the possibly lethal spider scenario may seem futuristic, the discussion raised concerns about threats that are present in the world today and those we may face soon, particularly involving cyber and biological attacks. These threats are magnified by the fact that individuals and small groups may have the capacity to render more harm than ever before and from more remote locations. With available computer technology, nonstate actors could, for example, unleash viruses to disrupt faraway industrial systems and cause widespread damage. The capacity for biological terror has also increased, with greater access to deadly materials available outside regulated facilities. Even the cosmetics industry was cited as a possible avenue for biological weapons.

Of course, governments need to address these threats. Some

AT A ROUNDTABLE AND IN RESEARCH, BLUM EXAMINES THREATS SEEN, UNSEEN—AND EVEN ARACHNID.



PROFESSOR GABRIELLA BLUM IS CO-DIRECTOR OF THE HLS-BROOKINGS PROJECT ON LAW AND SECURITY.

EUGENIA ELISEVA



fear current efforts may be insufficient and the law is not keeping up with fast-paced technological innovation. Sessions covered options for both domestic and international responses, including ways to improve international cooperation and whether surveillance rules are outdated. As one strategy to enhance defense, participants pointed to the possibility of governments and private companies sharing information about cyberthreats, although such efforts may raise concerns about civil liberties and privacy issues.

The proceedings will be catalogued in a white paper written by Susan Hennessey '13, an editor on the *Harvard National Security Journal*, one of several students involved in the invitation-only roundtable. She said the event showed the importance of different people from diverse disciplines working together to address the problem.

“We need to develop response frameworks that anticipate technologies that don’t exist yet,” Hennessey said. “We’re going to have to change the way we think about these things.”

As for Blum, she became conditioned as a native of Israel to expect threats. But the stakes could become even greater, with increased vulnerability no matter where someone may live. If something like the spider story came true, and anyone could kill anyone else anywhere without getting caught, it would essentially be the end of civilization as we know it, she said. Yet at the same time, technology can provide immeasurable benefits to society. In the end, said Blum, technology “will come with a certain level of threat. We’ll have to meet some of it, and get used to what we can’t handle and just accept that as a fact of life.” —*Lewis I. Rice*

How It All Adds Up

ACCOUNTING ‘BOOT CAMP’ is added to a growing roster of law and business courses at HLS

STEPHANIE ATWOOD '13 started her 3L year several days early in a basement classroom of Wasserstein Hall in a new intensive “boot camp” on accounting and finance.

In just three days, Atwood and 44 classmates learned a credit’s worth of previously foreign-sounding concepts such as internal rate of return and the cost of capital.

The boot camp is just one on Harvard Law School’s growing roster of law and business courses, which now includes classes in business strategy, corporate finance and how to lead law firms.

These courses ensure that students headed to law firms can speak a “common language” with their clients and understand the business environment

in which both operate, said Professor Kathryn Spier, who teaches a course on the business of law firms.

“They can do a better job providing clients with legal services if they understand their clients’ broader needs,” Spier said.

The spectrum of course offerings is designed to take account of HLS students’ diverse backgrounds. Some students majored in economics in college or worked in consulting before enrolling, while others view finance as a completely alien subject.

Preparatory classes, such as Visiting Professor Bala Dharan’s accounting and finance boot camp and Professor Reinier Kraakman’s introduction to finance concepts, help make sure the uninitiated aren’t at a disadvantage when

they enroll in classes on corporations or accounting.

“What we wanted to do is make sure those without any background can already hit the ground running,” said Dharan, who also teaches semester-long courses on accounting and financial reports.

He will teach the three-day boot camp again before the fall semester starts, as well as a similar version during the first part of the semester for students who may not be able to return to campus early.

Atwood, who majored in psychology and women’s studies in college, said the three-day course is particularly useful as she prepares for her first job out of law school doing transactional work at Cleary Gottlieb in New York City.



Learning to read and understand income statements and balance sheets, she said, has “given me the tools to at least do a rudimentary financial analysis.”

How much finance makes sense for students depends on their intended career path, said Assistant Professor Holger Spamann LL.M. '01 S.J.D. '09, who teaches a corporate finance course each year. “Any lawyer who litigates has to be aware of discounting and finding the right discount rate, and then people who want to practice in finance will need more than that,” he said.

So this coming academic year, in addition to the three-credit finance class, Spamann will offer an extra one-credit supplement for students interested in learning more about topics relevant to transactional lawyers who plan to practice in areas such as securities or mergers and acquisitions.

This kind of knowledge is increasingly expected at law firms, some of which send first-year associates to their own one- or two-day boot camps in corporate finance when they start work, Spamann said.

Students interested in learning about the business of law firms can enroll in a business strategy course taught by Spier and in Professor Ashish Nanda's class on law firm leadership.

Atwood said Spier's business strategy course, as well as classes on the regulation of financial institutions and an introduction to financial institutions at Harvard Business School, has helped her prepare to practice transactional law and increased her interest in hedge funds and tax law as areas of focus.

“Learning about the business side of things makes the legal work more interesting,” Atwood said.

According to Spier, what students learn in these courses also helps those who might later go into business themselves or start their own law firms.

“Giving them a broader education will help them with that transition,” Spier said. —*Seth Stern '01*

“THE COMPENSATION GAME”

Professor Lucian Bebchuk LL.M. '80 S.J.D. '84 and Rakesh Khurana, professor at Harvard Business School FORBES INDIA April 8, 2013

“Reports about the high pay of star athletes are often greeted with awe and approval rather than outrage. The rise of executive pay, its defenders claim, is no more problematic than the fact that, say, Red Sox slugger Manny Ramirez is paid much more than earlier stars like Ted Williams.

“But the process affecting the compensation of star athletes is quite different from the one that determines CEO compensation. ... Because the CEO market is not, in fact, operating like others, the presumption that it will produce efficient outcomes is unwarranted. The problem is not just one of excess pay. Flaws in the pay-setting arrangements for corporate leaders have produced arrangements that dilute or even distort incentives. For example, executives continue to enjoy broad freedom to unload options, a practice that enables executives to benefit from increases in short-term stock prices that come at the expense of long-term value. ...

“Without real reform, compensation programs in the world of business and the world of sports aren't even in the same ballpark.”

“A FINANCIAL-REFORM AGENDA FOR OBAMA'S SECOND TERM”

Professor Hal S. Scott BLOOMBERG VIEW Jan. 13, 2013

“[W]e must return to our regulators the tools—

taken away by the 2010 Dodd-Frank Act—that enabled the U.S. to survive the most pernicious aspect of the 2008 crisis: the contagion following the collapse of Lehman Brothers Holdings Inc. Had Dodd-Frank been enacted in 2008, the financial meltdown would have been even more devastating.

“The Federal Reserve can no longer provide liquidity to nonbanks without the consent of the Treasury secretary. The Treasury can no longer guarantee money-market-fund investors against runs, and the Federal Deposit Insurance Corp. can no longer insure senior debt or increase insurance on deposit accounts without congressional approval.

“These backstops are politically unpopular, and should only be deployed in extreme circumstances, but they should be available if needed.”

“LONDON WHALE IS THE COST OF TOO BIG TO FAIL”

Professor Mark Roe '75 THE FINANCIAL TIMES March 24, 2013

“The dollar estimates of the too-big-to-fail subsidy to the largest banks range into very high numbers. ... Moody's, the credit rating agency, estimates Citigroup would be near to junk bond status in credit quality if it were not for the fact that the state is assumed to back it. It is only because lenders lower their interest rate to too-big-to-fail companies such as Citi that its debt is anywhere near investment grade.

“So that's the choice for the shareholder: they can own a degraded, too-big-to-fail behemoth, but one with a hefty, not fully visible too-big-to-

fail subsidy. Or they can have one that is well run, allocates capital effectively and does well by its customers, but does not enjoy the subsidy that creates much of the present shareholder value. ...

“We pay once as taxpayers, visibly and big when taxpayers' billions bail out the biggest financial firms. And, long before then, we all pay continuously as financial consumers because the too-big-to-fail subsidy means that big financial conglomerates can be profitable for shareholders, even while being poorly run.”

“THE BEST WAY TO REFORM HEALTH CARE—AND CUT THE DEFICIT”

Professor Einer Elhauge '86 THE DAILY BEAST Jan. 6, 2013

“[T]he fragmented nature of the U.S. healthcare system is remarkable. ... Why isn't health care ... like other industries, where large integrated corporations coordinate multiple personnel and costly machinery to achieve a valuable result and have the incentives and control to do so as efficiently as possible? The reason is simple: current law gets in the way. ...

“The Obama administration should use [its] powers to adopt regulations that both preempt legal obstacles to health-care integration and allow payments to corporations that would orchestrate all the providers necessary to provide valuable health outcomes. The result would be improved health care that would likely save tens of thousands of lives, avoid hundreds of thousands of injuries, and save hundreds of billions of dollars in medical costs.”

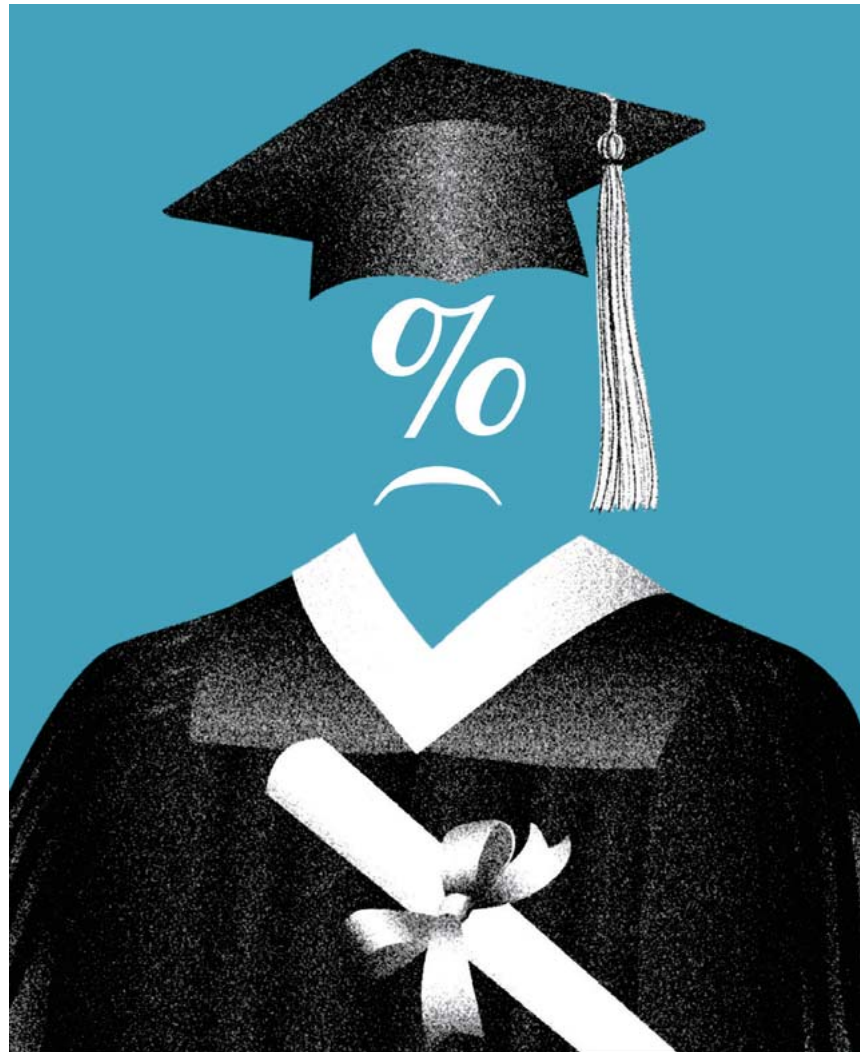
Debt Trap

A clinical project HELPS STUDENTS
preyed on by for-profit schools

When it abruptly closed its doors for good last January, the American Career Institute, a for-profit college with five campuses in Massachusetts, left students stranded in dire financial straits: They won't get the job training or certificates they paid for, but they remain on the hook for student loans they can't afford.

Stories like this are not unusual. Many for-profit colleges, which get the overwhelming majority of their revenues from federal financial aid programs, rely on high-pressure tactics and false employment and salary guarantees to lure students into taking out loans. Unlike most other debts, student loans are almost never dischargeable in bankruptcy. Yet, within three years of leaving for-profit schools, 25 percent of students have defaulted, significantly more than at other colleges, according to the Massachusetts attorney general's office, which is investigating ACI.

Now, through the efforts of Toby Merrill '11, some of the victims of these practices can get free legal aid to enforce their rights. Merrill was awarded a 2012 Skadden Fellowship to expand the services of the Predatory Lending Prevention/Consumer Protection Clinic at HLS's WilmerHale Legal Services Center, which had huge success in battling the subprime mortgage crisis, into the area of



student loans. HLS is the first law school to incorporate such cases into its clinical program.

"We've wanted to do this work for years," says Max Weinstein, a lecturer on law and clinical instructor in the predatory lending clinic. "We were fortunate to have Toby seek us out."

As a 3L, Merrill was a student of Weinstein's in the predatory lending clinic, working on a subprime mortgage case, when she learned her client also had student debt she was

unable to pay—with few remedies.

"Unlike credit card and mortgage debt, and most other sorts of debt, student debt is inescapable," Merrill says. "It sticks with you until you die."

Not all student lending is predatory, Merrill is quick to point out. She's focusing on for-profit colleges that target low-income people—for example, a student who goes to a trade school for a relatively low-paying profession but takes on an enormous amount of debt. "They are really mined for all

FROM THE CLINICS

the federal money they are worth, and then left with debt but no benefits,” she says. It’s an issue everyone should be concerned about, she adds. “This is your money and my money going to private executives making millions of dollars a year on the backs of poor people.”

The practice is just getting on its feet, with Merrill doing outreach to local organizations to let potential clients know of her work. By late March she had done about 35 client intakes, including some from ACI, although not all will result in lawsuits. In

addition to several clinical students working with her, a student group is starting to provide opportunities for 1Ls and 2Ls to counsel victims of predatory student loans without enrolling in the clinic. The Legal Services Center, in conjunction with a community partner, recently received a grant to participate in a pilot program on

student loan counseling.

Weinstein notes that Massachusetts already has good consumer protection laws, with strong regulation of student loans. The problem is that they have rarely been enforced through litigation, another way in which the student loan situation parallels the mortgage crisis in the commonwealth. “Our clinic [mortgage] cases were, in some instances, the first to result in a published decision enforcing the law,” he says. “It’s my hope that the project on predatory student lending will play a similar role,” he added, “ensuring that student borrowers receive the protection to which Massachusetts law entitles them.” —*Elaine McArdle*

Skadden Fellow Toby Merrill is helping victims of predatory student lending enforce their rights.



MARTHA STEWART

Serving Those Who Have Served

A new HLS clinic addresses

expanding LEGAL NEEDS OF VETERANS

Andrew Roach '13 and Dan Nagin, the supervising attorney, meet with a veteran to discuss the status of a case on appeal.

MARTHA STEWART



THE BOARD OF Veterans' Appeals of the U.S. Department of Veterans Affairs denies a soldier's claim for disability benefits for an injury that occurred while he was on active duty. But the decision is handed down while the soldier is redeployed to Afghanistan, and he doesn't realize he has the right to appeal until after he returns stateside—after the appeal deadline has passed.

For students in HLS's new Veterans Legal Clinic, the chance to work on this case and others like it is eye-opening.

“As law students,

THE DEPARTMENT OF VETERANS AFFAIRS HAS A BACKLOG OF 600,000 BENEFITS CASES.

we like to think of law as this just machine that works properly, but when you're introduced to a case like this, it blows your mind,” says Abigail Dwyer Maltz '13, who interviewed the client and his wife, and, with another clinic student, drafted a 20-page brief on his behalf.

With a huge increase in recent years in the number

of combat veterans, and with an aging veteran population in declining health, the unmet legal needs of veterans are proliferating. The Department of Veterans Affairs has a backlog of 600,000 benefits cases, according to The New York Times, with veterans waiting an average of 273 days before receiving disability and other benefits, and far longer if they're applying for the first time. The VA system is complicated, and for low-income veterans especially, getting legal aid is challenging.

HLS launched the

Veterans Legal Clinic last fall, under the leadership of Clinical Professor Daniel Nagin, to address this growing need. Nagin, the new director of community-based lawyering at the WilmerHale Legal Services Center in Jamaica Plain, joined HLS in June 2012 from the University of Virginia School of Law, where he had founded the Family Resource Clinic to do public benefits litigation. In joining HLS, he proposed a Veterans Legal Clinic as part of the Legal Services Center. Dean Martha Minow, a strong supporter of veterans, quickly agreed.

The clinic's first group of students enrolled in the clinic last fall. Students have already worked on a variety of cases for veterans and their family members. In addition to benefits cases at all levels of the process—from VA regional offices to the U.S. Court of Appeals for Veterans Claims—they have also tackled discharge upgrades, correction of military records cases, access to health care, financial assistance and other necessities.

One student successfully represented a homeless veteran in an appeal hearing before the Massachusetts Department of Veterans' Services that overturned a denial of financial assistance. Other students have tackled problems from pursuing an appeal for a client whose VA pension

was wrongfully terminated to representing a veteran at the Court of Appeals for Veterans Claims in an appeal for an increased disability rating.

Nagin was interested in creating the clinic, in part, because there are so few lawyers serving this population. He had also seen up close the struggles a family member faced with the VA: After serving in Iraq, his brother-in-law lived with

Nagin and his family as he attempted to readjust to civilian life. "When things hit home, that's a real wake-up call about the countless other veterans facing similar or more daunting obstacles," Nagin says.

In addition, Nagin saw real value for law students in this type of clinical work. "These cases are very good teaching tools to expose students to legal issues that are rich and complex, not to mention the human dimension of the cases," he says. Moreover, he adds, many of these cases involve issues related to medical and mental health diagnoses and treatment. "This gives students a great opportunity to interact with medical providers and experts, and consider the intersection of law and medicine."

Nagin expects the scope of the clinic's services and docket to grow over time. The clinic has already begun to assist incarcerated veterans with legal problems. Nagin and his students have made presentations to veterans

confined in Boston-area jails, and taken some on as clients. And the Legal Services Center's Estate Planning Clinic, under the leadership of Clinical Instructor Tamara Kolz Griffin '93, is pivoting its focus so that it serves veterans and their families.

Nagin has also helped to forge a partnership with one of the nation's top firms for veterans' benefits, Chisholm Chisholm & Kilpatrick in Providence, R.I., to facilitate students' participation in appeals before the Court of Appeals for Veterans Claims. Since the system is so backlogged and cases take so long to reach the court, partnering with the firm gives students the chance to handle cases there while providing clients continuity. These veterans' cases are referred to the clinic through Chisholm Chisholm & Kilpatrick's existing pro bono program with the Disabled American Veterans, the largest veteran service organization in the country.

Zachary M. Stolz is an attorney at the firm who is co-supervising students in two cases. "This partnership gets the students associated with a group of people that need and deserve our help," says Stolz, a leading practitioner before the Court of Appeals for Veterans Claims, "and gives them some good experience in our federal court system." And, he adds, "The value to our clients is they get some top-notch law students working with them and teaming up with our attorneys."

—Elaine McArdle

.....
**NAGIN CREATED
THE CLINIC, IN
PART, BECAUSE
THERE ARE SO
FEW LAWYERS
SERVING
VETERANS.**



EMERITUS

The Transformations of Morton Horwitz

By Kenneth W. Mack '91



For a young law student arriving at Harvard Law School in the fall of 1988, Morton Horowitz [’67] seemed to encapsulate everything that I (no doubt, naively) expected to see in a Harvard professor. Among the students, he was widely known as “Mort the Tort,” for the passion that he brought to the class with which he was most widely identified. I can still remember the intense discussions among my friends over lunch in Harkness Commons about the latest salvo from Morty that somehow seemed to connect tort law to important debates in philosophy, politics and economics.

As a scholar, Morty was also associated with Critical Legal Studies, which was also the subject of many animated Hark conversations, although I must admit that few of us understood it very well. He was also the author of a book called “The Transformation of American Law,” which, one of my fellow students remarked in hushed tones, was “one of the most important books ever published in American legal history.”

What I did not know at the time was that behind the somewhat daunting figure of a Harvard professor was a person who had undergone many transformations of his own. A product of City College of New York, Morty had been in his first year of study at Harvard Law School when he faced an important decision. He had completed a Ph.D. in government at Harvard with Louis Hartz, and a prestigious university was now interested in giving him a tenure-track offer in that field. He was enjoying law so much, however, that he turned down the offer and never looked back. He finished HLS and eventually returned to the law school as a Charles Warren Fellow before joining the regular

faculty in 1970. Here he wrote a series of articles and a Bancroft Prize-winning book that earned him the Charles Warren Professorship, while making common cause with like-minded professors to challenge the accepted contours of both teaching and scholarship at a school that still resembled the HLS portrayed in the book and the movie “The Paper Chase.” The interactions between Morty, Duncan Kennedy and Roberto Unger [LL.M. ’70 S.J.D. ’76] would soon coalesce into something called the CLS “movement”—a novel approach to legal scholarship that, in part because of Morty’s influence, continues

to affect the writing of legal history more than any other field. He encountered resistance from more senior members of the faculty to his own brand of teaching—“ferociously Socratic,” he once described it to me—which nonetheless broke with what his older colleagues expected of a traditional HLS professor.

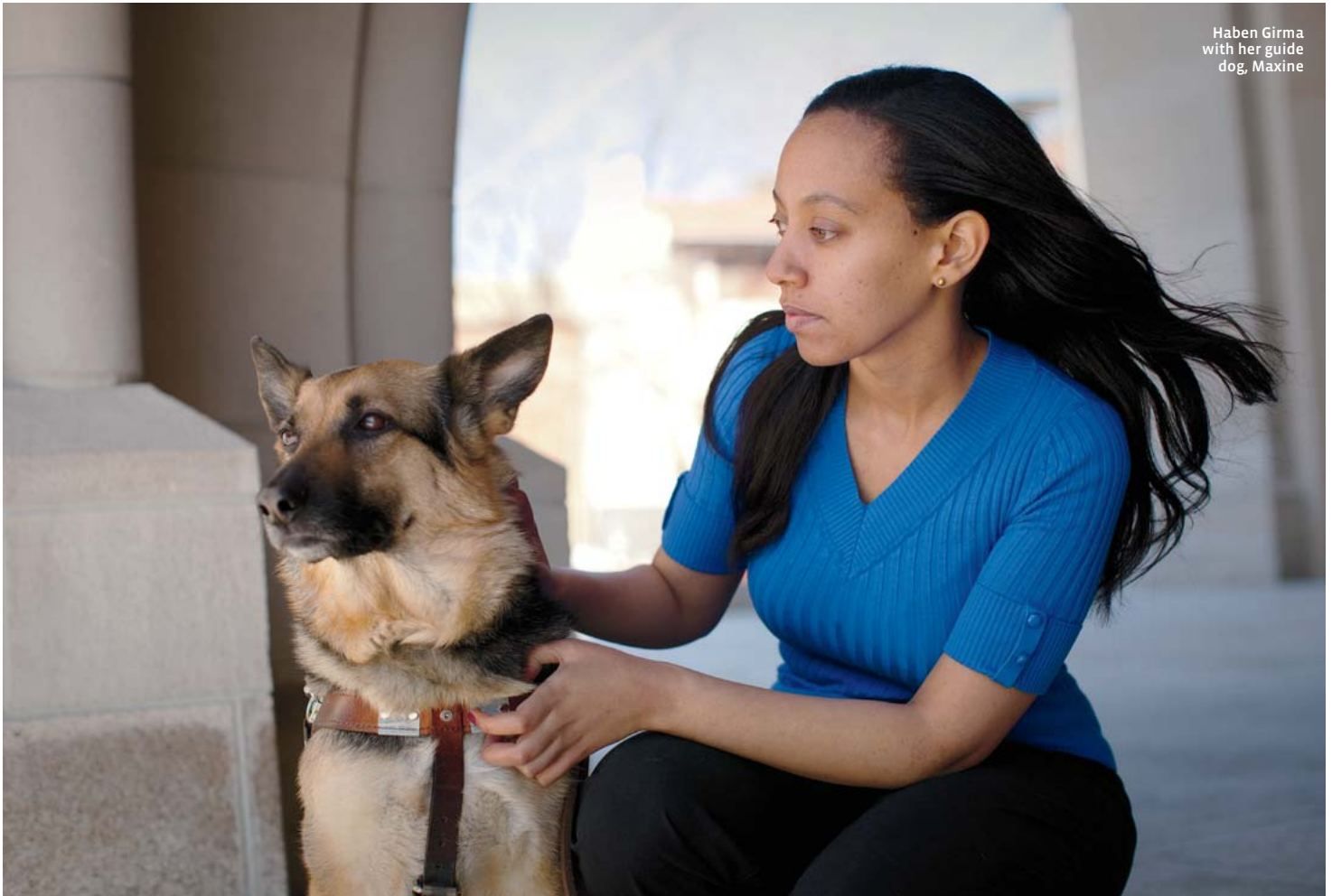
Much to my regret, then and now, I was not in Morty’s first-year Torts class. He was already 50 years old, but he still exuded his own brand of intellectual “coolness” that belied his age and made many of us wish we were in his section. I finally got a chance to take his American Legal History class in the winter term of 1990, along with 150 of my fellow students who packed into a large classroom in Austin Hall to hear Morty give a series of three-hour lectures that became the basis of the second volume of “Transformation.” Actually, they were less lectures than extended colloquies with the students. Their subjects ranged from Roscoe Pound, to the Frankfurt School, to the Warren Court, to Modernist art, and they made law come alive like no other class I had ever taken. There was also a popular undergraduate lecture class. More books and articles would follow for Morty; his history of the Warren Court, part of the Holmes Devise History of the Court series, is forthcoming.

My own desire to become a legal historian dated from the weeks that I sat in Morty’s legal history class that winter, and this past year I was fortunate enough to co-teach Morty’s last class at HLS on the History of American Economic Regulation. It is difficult to imagine him in retirement, and for me he will always remain at least partly the figure I met two decades ago, dazzling students with his signature phrases like “apologetic defenses of the status quo,” uttered in his unmistakable deep tenor voice, and making seemingly esoteric subjects like legal realism seem like things about which every educated lawyer should feel passionately.

Kenneth W. Mack ’91 is a professor at Harvard Law School and author of “Representing the Race: The Creation of the Civil Rights Lawyer.”

A Self-Advocate Is Now Also a Legal Advocate

LAUNCHING A CAREER *at the intersection of law, education and civil rights*



Haben Girma
with her guide
dog, Maxine

When Haben Girma '13 was in college at Lewis & Clark, she had to solve a problem that few other students have faced. As a deaf-blind student with very limited sight and hearing, she had a hard time figuring out the food stations in her school's cafeteria. As she explained in a speech on

Jan. 16, 2012, at the Perkins School for the Blind, she came up with a plan where she would be emailed the menu each day for each station and could pick her destination accordingly, instead of just taking whatever was put on her plate. But the manager sent the email only about half the time. When she wrote to him to complain, he responded, as she described in her speech, "that the cafeteria was very busy, that they

were doing me a big favor, and that I should stop complaining and be more appreciative." At that point, Girma turned to the law: "I explained that Title III of the ADA requires businesses to make reasonable accommodations for persons with disabilities; if the cafeteria refused to do this, I would sue." The manager found her during mealtime the next day and apologized, and from then on she received the menus as promised.

For Girma, the story is a good illustration of the types of issues people in the disabled community often deal with. You must be a self-advocate and come up with creative solutions to the problems you face, she says. If that fails, then the law can be a strong ally. “The legal system is a last resort,” she says. A lot of people just need to be “educated about the best techniques for making something accessible. But if you get into a situation where someone is not willing to make something accessible, then the legal system is there to make sure that you’re treated as a full and equal person.”

Girma’s parents and teachers taught her from an early age that her life need not be limited by her disabilities—that each problem had a solution. “My parents tried very hard to make sure I had access to everything, and consequently I grew up thinking I *could* have access to everything,” she says. At her local public school in Oakland, Calif., she learned sign language and Braille. She tried rock climbing, kayaking, skiing, biking and dance. Yet her parents initially balked when, during high school, Girma told them she wanted to volunteer in Mali with a group building schools. “I was 15 and I was traveling outside the country without family, without anyone I knew very well, really,” she says. “And it was amazing. It really helped develop my confidence. If I can go build a school in West Africa, I can go to law school.”

At HLS, Girma continued her undaunted ways. With her guide dog, Maxine, she made her way around Cambridge from her off-campus apartment to classes, restaurants, and, sometimes, salsa dances, and traveled by public transportation into Boston. She recently returned from a trip to China, organized by the Harvard Law School Project on Disability and Renmin Law School, where she met with members of the disability law and education community in Beijing, including the principal of the Beijing

School for the Blind (the sole school of its kind in a city of 20 million people). She talked with him about the fact that deaf-blind children receive no education in China, and showed him how deaf-blind students can be taught sign language through touching the signer’s hands. (During the trip, she also climbed the Great Wall, felt some of the architectural features of the Summer Palace and took in what she called the “ultimate travel experience that requires neither sight nor hearing”: Beijing’s thick smog.)

Girma, as the first deaf-blind student to attend HLS, developed some of her own strategies to do the reading, take the classes and participate in public events. She received all readings in a digital format and either listened to them on her computer or read them on a Braille display. For classes, Girma came up with the idea of having voice transliterators in the back of the room who would narrate the discussion for her, and their voices would transmit from their microphones into her earphones. Girma called this system “absolutely critical,” especially for capturing the quick back and forth of the Socratic method. In quiet situations she can converse with people by listening to them with an amplification set. She used to try to avoid noisy situations—until she thought of pairing a Bluetooth keyboard with her Braille display. People can type in sentences, and the words pop up in Braille for Girma to read. “This system has let me communicate everywhere,” she says, “from the loudest dance club to HLS receptions.” At an HLS professional networking event, Jody Steiner, Harvard’s coordinator of services for deaf and hard of hearing individuals, served as Girma’s interpreter and invited attorneys over to talk with her via the keyboard setup. Girma also used the Bluetooth setup at a recent White House reception, where she chatted via typing and Braille with Stevie Wonder about his work and

**A LAWYER IS
AN EDUCATOR
WHO CAN FILE
A COMPLAINT.**

hers, and the cause of their vision loss—for both, damage to their optic nerves. (Girma was recognized by the White House as a “champion of change” in the field of education.)

This technology and others made Girma’s experience at the law school more seamless than it otherwise would have been. And she points out that the issue of technology—and whether or not schools make it easily available to disabled students—is at the legal frontier of disability rights. “Schools are using more and more technology, which is great,” she says. “The problem is, sometimes they’re not thinking about access for students with disabilities. Accessibility is not the cherry on top of the sundae—it should really be something you think about from the start.”

This intersection of law, education and civil rights is exactly where Girma wants to build her career. Her favorite class at the law school was Robert Mnookin’s (’68) Negotiation Workshop, because it helped prepare her for her future work of talking with schools—and nudging them when necessary—about making their programs more accessible for people with disabilities. She spent a summer working for the U.S. Department of Education’s Office for Civil Rights in Boston, examining cases on a variety of issues, from special education to bullying to English language learners. For the next two years, funded by a Skadden Fellowship, she will be working at Disability Rights Advocates in Berkeley, Calif., where she will focus on making digital instructional materials more accessible for disabled students at the college level. She is passionate about the power of both education and law to make a positive impact, and sees a natural connection between the two disciplines. “A lawyer’s job is always an educator, an educator who has the potential to file complaints if people refuse to learn.”—*Katie Bacon*

→ To read the story of a blind student who navigated HLS some 60 years ago, go to Page 44.

Lawyers as Advisers

A joint-degree program seminar bridges LAW AND PUBLIC POLICY



Josh Stein, North Carolina state senator (right), helps teach a session of the bridge seminar for students in the Harvard law and government joint-degree program. The program is led by HLS's David Barron (center), HKS's Archon Fung (left) and HKS's Sarah Wald (not pictured).

SINCE THE FIRST meeting of the seminar taught by David Barron '94 of Harvard Law School and Archon Fung of Harvard Kennedy School, students had been using case studies co-written by the two professors that put them in the situation room with advisers on real-world problems at the intersection of law and policy.

But during a session of Public Problems: Advice, Strategy and Analysis in November, a player in the case they were discussing sat at the table with them: Josh Stein J.D./M.P.P. '95, North Carolina state senator and Democratic minority whip, who had firsthand experience with an innovative but contentious

piece of legislation—the North Carolina Racial Justice Act.

Passed in 2009, the act allowed prisoners on death row to challenge their sentences “on the basis of race” and to draw on broad statistical evidence of bias. By early 2012, a judge had commuted the sentence of one of the state’s death-row inmates to life without parole (the act’s remedy), and nearly all other North Carolina death-row prisoners had filed challenges. But in June 2012, the Republican-dominated state Legislature radically narrowed the statute.

The course—the bridge seminar for the Harvard joint-degree program in law

and government (see sidebar)—aims to teach students to give advice on issues that have both legal and policy dimensions but also to understand the stakes for the institutions involved. Stein, who had just been elected to his third term in the North Carolina General Assembly, engaged students in a candid discussion of the twists and turns in the act’s evolution and the legislative

process that led to its passage—and its eventual curtailment.

In a down-to-earth style, he described the complicated dance between the overlapping but not identical interests of the act’s supporters (including anti-death penalty activists and members of the NAACP)

in a state that has been struggling with a legacy of racially flawed prosecutions while remaining strongly pro-capital punishment.

As it emerged that when the act was first drafted, it contained no remedy, the class discussion came to a boil. One student argued that without a remedy, it wasn’t primarily anti-death penalty legislation but had more to do with fairness—like a truth and reconciliation commission. Another student said that wouldn’t do much for those on death row: “If it’s a statement, there are better ways to make it.” Others speculated that activists must have hoped the legislation would make it through without a remedy, to allow leeway for resentencing and possible eventual release.

Stein replied frankly, describing the reality of state politics in general and North Carolina’s in particular. When he was



Skawennii Barnes J.D./M.P.P. '14 and Greg Schmidt '14

elected to the Senate in 2008, he was one of 30 Democrats and 20 Republicans. By 2010, he became the Democratic Senate minority whip after his party lost 11 seats in that chamber. Barron passed around a copy of a mailer that targeted a politician who had supported the act.

For Ruthzee Louijeune J.D./M.P.P. '14, Stein's perspective was sobering, "but really good information to have about what it's like to work in the political framework to advance a cause when you are in the minority."

Other guests to the class have included Professor Daniel Meltzer '75, former principal deputy White House counsel, who taught a case on the Defense of Marriage Act, and Mary DeRosa, National Security Council legal adviser to President Obama, who led a case on the executive order to close Guantánamo.

Barron himself served in the Obama administration as acting head of the Justice Department's Office of Legal Counsel. He said it was that experience that made him want to teach this seminar.

"Nothing convinces you more of the need to have people give you good legal advice than having to make decisions," he said. "You realize how dependent you are on people who are advising you. I wanted to make sure our students focus attention on what it means to provide advice in these complex public settings."

In addition to the joint-degree candidates, the class also included students from

both schools who have done related work, such as the LL.M. candidate who is an adviser to the deputy prime minister in Australia or the Kennedy School student who was a political consultant to the Mexican government.

Matt Ivey LL.M. '13, an active-duty Navy JAG officer, praised the applicability of the course to his experience in the military and the lawyering he hopes to do in the future. "A lot of law school classes are from the 5,000-foot level," he said. "This class brings us back down to the ground to where most of us will probably start or continue our practice."

Ryan Rippel '12, who took the class last year, said he often applies its lessons in his job at the Bill & Melinda Gates Foundation. Rippel is now focused on "participatory slum upgrading in five cities in Africa," trying to get the cities to be more responsive to the needs of the urban poor and to help those living in slums organize themselves to have a voice in local decision-making to secure domestic resources.

"A lot of my work begins with looking at law," he said, "but what the class made very clear is that you need to understand the context in which the law is operating. That requires some sense of politics, the economy and the markets. But more than anything, it requires a sense of the personality of the decision-makers and the various constituencies you are trying to partner with."

—Emily Newburger

WHERE LAW AND PUBLIC POLICY MEET

The HLS/HKS Connection



Ruthzee Louijeune (above, right) is now in her third year in the Harvard joint-degree program in law and government. She says she "wanted both the structure of law school—the experience of learning how to read the law and interpret it and be a critical thinker—but also the scope that the Kennedy School offers, the management and policy analysis."

Students in the program pursue a J.D. at Harvard Law and either an M.P.P. (master in public policy) or an M.P.A.-I.D. (master in public administration in international development) at the Kennedy School, finishing both degrees in four academic years after completing a final project involving law and policy.

Although students at Harvard have been pursuing degrees from the two schools simultaneously for decades, the joint-degree program established in 2006 streamlines the process. Changes to the program introduced recently are intended to further enrich the student experience, says David Barron.

Last year, Barron and Archon Fung introduced the public problems seminar for all third-year students. The program also now gives participants the opportunity from the beginning to meet with a range of alumni who talk candidly about their careers and how they've made use of their dual training. Visitors have included Bryan Stevenson J.D./M.P.P. '85, founder and executive director of the Equal Justice Initiative; Robert Zoellick J.D./M.P.P. '81, former president of the World Bank; economist Larry Bacow J.D./M.P.P. '76, former president of Tufts; and David Chiu J.D./M.P.P. '95, president of the San Francisco Board of Supervisors.

So far, Louijeune has been focused on issues related to education: "making sure we are doing the best we can to educate our citizens to be involved in the democratic process," she says. Appointed by Boston Mayor Thomas M. Menino, she participated in an advisory committee that issued recommendations this year on changing the way the city assigns students to public schools. And although it's too soon to know where she will land when she graduates from the HLS/HKS program, she says, "I think the two schools really balance each other out in terms of what they offer to someone who is interested in delving deeply into the pressing public problems of our nation and our time."

A Pre-eminent Influence

HLS FACULTY PLAY HISTORIC ROLE in organization that synthesizes and *shapes U.S. law*

When Harvard Law Professor Daniel Meltzer '75 was named director of the American Law Institute in January, he joined a long line of members of the HLS community who have helped shape the direction of the law from inside the ALI.

Founded in 1923, the organization produces scholarly publications whose titles may seem dry, but which have proved enormously influential in U.S. courts and legislatures, as well as in legal scholarship. Among the most high-profile of its publications are its restatements.

"If you're a busy judge and ... you get an issue in which the law of your state isn't all that well developed, or in which the opinions aren't all that comprehensive or, frankly, all that good," Meltzer said, "I think it's enormously useful to be able to pull a restatement off the shelf and get a very well-thought-out explanation of what the law of torts should be in this area, with illustrations about how it applies in different fact patterns. And so I think, for that reason, judges have relied on them heavily."

The first sets of restatements were written between 1923 and 1944, with many Harvard Law School professors involved in producing these go-to sources for judges and lawyers. Over the years, the original restatements have undergone revisions, and more have proliferated, often under the guidance of HLS faculty. When Meltzer was a law student at the school in the early 1970s, he recalls, three of his five professors had been or were about to be reporters in the ALI.

The ALI has also expanded its reach beyond restatements into principles projects, which articulate ideal principles in less well-developed areas of law, model statutory codes, and other studies and research projects. Many of these projects have also turned out to be instrumental in influencing the direction of the law.

One such project—the Model Penal Code—was promulgated in 1962. It did not purport to restate what the law was but rather was an effort to

More reporting on reporters (and other ALI participants)

HLS faculty members first figured prominently in the ALI in 1928, when **WARREN SEAVEY (LL.B. 1904)** served as a reporter for the restatement of agency. Other faculty reporters on restatements followed, including **AUSTIN SCOTT (LL.B. 1909)** for conflict of laws, **SAMUEL WILLISTON (LL.B. 1888)** for contracts and **EDWARD THURSTON (LL.B. 1901)** for torts. Today, numerous Harvard Law professors are involved in ALI projects, including **JOHN GOLDBERG** on torts; **JACK GOLDSMITH** and **GERALD NEUMAN '80** on the foreign relations law of the U.S.; **CHARLES FRIED** and **MARK TUSHNET** on government ethics; and **DANIEL HALPERIN '61** and **ROBERT SITKOFF** on the law of charitable nonprofit organizations. In addition, **SITKOFF** and Senior Research Fellow and Lecturer on Law **MARGARET MARSHALL** are members of the ALI Council, the organization's governing body.

create a model criminal code that in numerous ways departed from the law in many jurisdictions. It became an enormously influential document, said Nancy Gertner, HLS professor of practice, former federal District Court judge and ALI member.

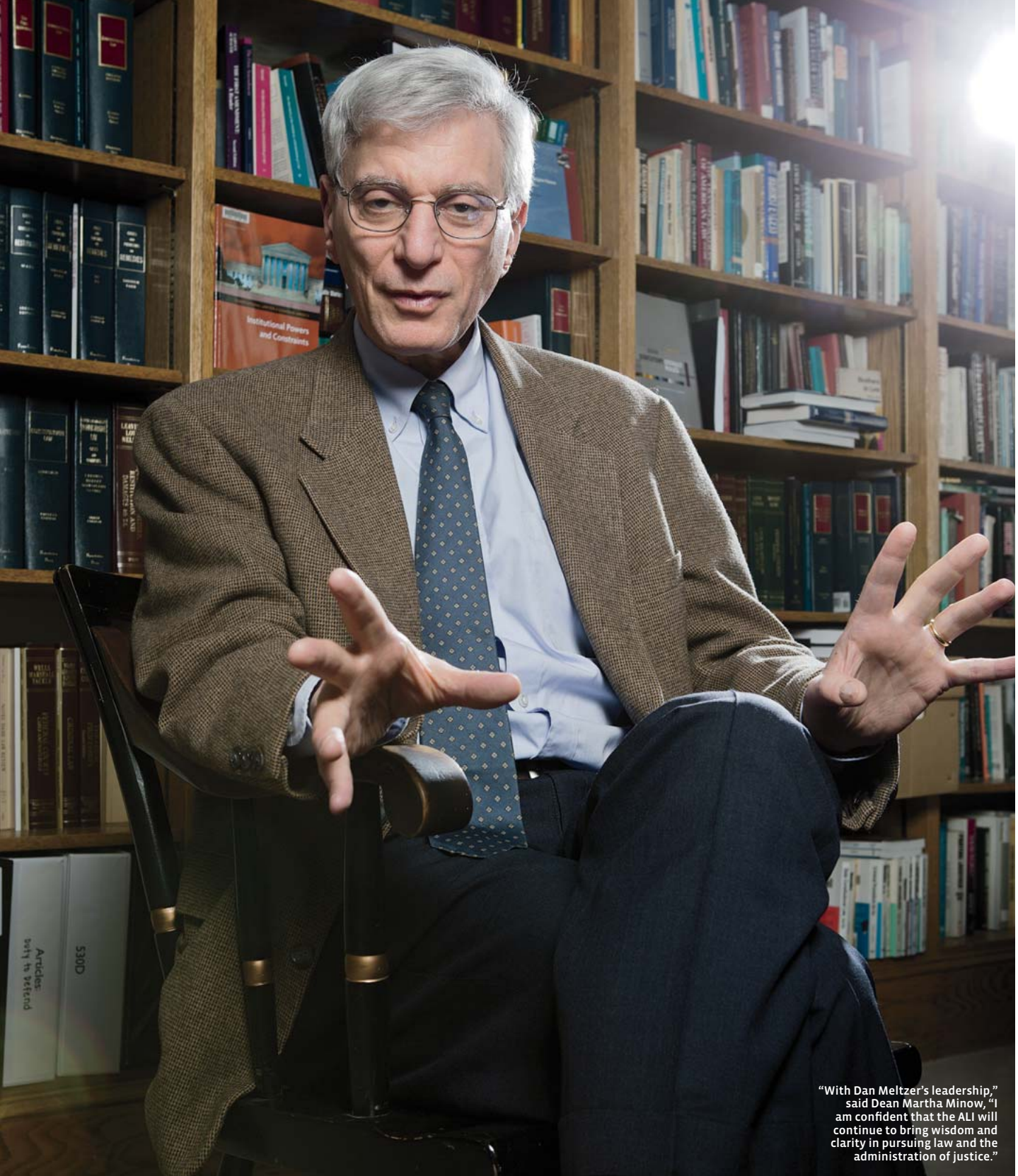
"It proposed doing what no other organization or, indeed, legislative body had done, which is to systematize substantive criminal law," Gertner said. "Any criminal law student knows the chaotic situation that predated the code—multiple common-law definitions of crime, differences across the country."

Now, two-thirds of American states follow the basic structure and vocabulary of the MPC in their own criminal codes. Where it has not been adopted, Gertner said, it often serves as a template for interpreting existing law.

Unlike many restatements, the MPC has never undergone a full revision. So, over the last few years, the ALI has initiated three projects to update certain sections. One of these—on capital punishment—was called a "tectonic shift in legal theory" in *The New York Times* and was helmed by an HLS professor, Carol Steiker '86, and her brother University of Texas School of Law Professor Jordan Steiker '88.

After a lengthy inquiry, the ALI concluded that it was no longer confident that capital punishment could be fairly administered and it withdrew the model statute. "It was very significant that an organization like the American Law Institute, which commands a great deal of respect in the profession, and is not viewed as a radical group, was no longer prepared to stand behind capital punishment," Meltzer said.

Two other MPC projects are underway and retain several HLS faculty members as advisers. One, which Meltzer and Gertner are working on, aims to provide better recommendations to sentencing commissions. Another project—involving Meltzer, Carol Steiker, and Professors Jeannie Suk '02 and Ronald Sullivan '94, director of the Harvard Criminal Justice Institute—will revise the MPC's treatment of sexual assault.



"With Dan Meltzer's leadership," said Dean Martha Minow, "I am confident that the ALI will continue to bring wisdom and clarity in pursuing law and the administration of justice."

States vary enormously in how they treat such crimes, and the MPC's recommendations are no longer appropriate, Meltzer said. The new study provides an opportunity for the ALI to sensibly define these crimes in line with current norms.

"One of the continuing challenges for the ALI is to identify projects in a changing legal

**RESTATEMENTS
(AND THE
OCCASIONAL
TECTONIC
SHIFT)**

environment—one in which, for example, statutes now dominate the common law, and in which more and more legal problems have transnational implications," Meltzer said. "I hope to continue the ongoing work to bring our distinctive expertise and processes to bear on an evolving legal terrain." —*Divya Subrahmanyam '15*



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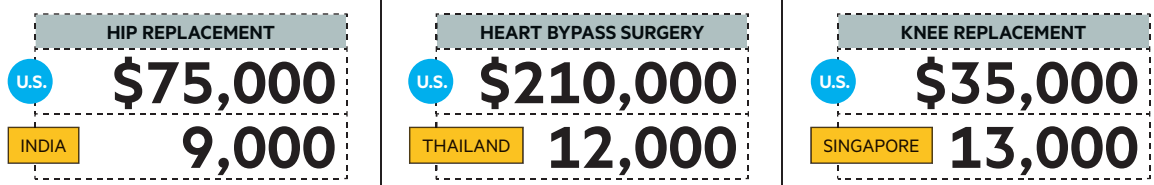
BY ELAINE
MCARDLE

As
Americans
travel
to other
countries
for medical
care, I. Glenn
Cohen
looks at the
implications
at home and
abroad

A desperately ill Minnesota man flies to Bangladesh to buy a kidney from a willing seller, rather than waiting for a donor and surgery at his local hospital. A parent in New York takes her severely autistic child to China for an unproven, even dangerous, experimental stem cell treatment that's not offered in the United States. A dying woman in Maine flies to Switzerland, where a suicide clinic helps her end her life. An infertile couple in Florida have their sperm and eggs implanted in a woman in India whom they pay \$4,000, a fraction of the price of surrogacy in the U.S. And a health

→ Comparison Shopping for Medical Care

According to some estimates, 2 million Americans a year are traveling overseas for major health procedures. Cost is the driving factor.



More than 200 hospitals in China offer stem cell therapies to foreign patients, with the largest provider, Beike Biotechnology, charging \$30,000 per treatment.

insurance company urges its American customers to travel to Malaysia for cardiac bypass surgery, offering all kinds of incentives, including free airfare and hotel for them and a travel companion.

Medical tourism—patients traveling from their home countries to another destination for medical care—is completely transforming the health care industry as we know it. Once the province of the uber-wealthy seeking radical cosmetic surgeries or treatments unavailable in the U.S., medical tourism has become an attractive option for many, especially the uninsured, since the cost savings are so dramatic. According to some estimates, about 2 million Americans a year are traveling overseas for major health procedures, from knee replacements to neurosurgery, with the number growing rapidly. And with the advent of the Affordable Care Act, better known as Obamacare, medical tourism will increase as insurance companies look to cut costs, predicts I. Glenn Cohen '03, a Harvard Law professor and one of the world's leading experts on medical tourism.

The four largest commercial health insurance companies in the U.S. have already launched or are considering medical tourism programs. It's possible that in a few years, a significant

number of Americans will travel abroad for their medical needs, a prospect inconceivable a decade ago, when U.S. medical care was perceived as the gold standard, and the thought of surgery in Mexico or Brazil seemed dangerous and strange.


For Americans, this new willingness to go abroad for care is driven primarily by cost. By one set of estimates, the out-of-pocket price of a hip replacement in the U.S. is \$75,000, compared with \$9,000 in India; heart bypass surgery costs \$210,000 here versus \$12,000 in Thailand. Those tenfold or more cost savings may be impossible to resist. Insurance companies are eyeing foreign health care as a way to save money, with self-insured employers, and even state and local governments, also exploring this option. A knee replacement that costs an insurance company \$35,000 in the U.S. runs just \$13,000 in Singapore; even with the added expense of airfare and a hotel for the patient and a traveling companion, it's a huge cost savings.

But money isn't the only factor. Other nations may offer treatments or procedures illegal or unavailable in the U.S., such as assisted suicide, experimental procedures or new drugs that don't have FDA approval. Stem cell therapy—unavailable in the U.S. but

offered elsewhere—is a prime example of what Cohen calls “circumvention tourism,” or people traveling to other countries for treatments banned here. More than 200 hospitals in China offer stem cell therapies to foreign patients, with the largest provider, Beike Biotechnology, charging \$30,000 per treatment.

With so much money to be made from all forms of medical tourism, it's no surprise that countries around the globe are looking to get involved. “I think most people underestimate the size of the industry and how sophisticated and business-oriented it is. There's a huge amount of money flowing through the system, and everyone wants a piece of it,” says Cohen, who recently returned from a conference in Malaysia, and has been contacted by government officials in Fiji for advice on jump-starting a medical tourism industry. “With the combination of a strong tourism trade plus low health care costs and existing hospitals, a lot of countries see an opportunity to make money,” he says. “India is able to charge [Americans] considerably more than what they do to their domestic population, but it's one-eighth of what the charge is in the U.S.”

However, the growth of medical tourism is raising a host of ethical and legal concerns,

A man with a beard and red-rimmed glasses, wearing a grey pinstriped suit, white shirt, and patterned tie, stands with his arms crossed in front of a classical building. The building features large, ornate columns with intricate carvings. The man is smiling slightly. The background is a blurred view of the building's facade.

“People underestimate the size of the [medical tourism] industry. ... There’s a huge amount of money flowing through the system, and everyone wants a piece of it.”

**I. GLENN
COHEN '03**



“The space Glenn writes in is new territory, where things are happening but regulations and laws may not have caught up,” says Katie Kraschel '12, a former student of Cohen's who practices in the health care field.

Ethical Issues” (Oxford University Press), edited by Cohen, author Leigh Turner examines media accounts and finds 27 reported deaths of patients who traveled overseas for bariatric and cosmetic surgeries; but it's unknown how many successful surgeries there were.

“So the biggest problem is that we don't know much about the quality of care,” Cohen says. “We like to think the U.S. is the very best, but it turns out there's a huge gap in

from a fear of substandard care in foreign medical centers to the potential exploitation of the poor who sell their organs or rent their wombs. If wealthy Westerners travel to poorer countries for health care at high-end clinics that employ the best physicians, where does that leave the local population for its medical needs? And why are health costs so low elsewhere? Are health care workers exploited with low wages or unconscionable working conditions?

Determining the best way to approach these issues is the province of Cohen, who this year was promoted to a tenured professorship at HLS, effective July 1. He explores them in his writing but also in courses, such as the Health Law and Policy Workshop and his seminar on Reproductive Technology and Genetics: Legal and Ethical Issues. He is also in high demand by governments, private companies, medical centers, and others, as they look to legal and other problems related to this growing industry.

“The space Glenn writes in is new territory, where things are happening but regulations and laws may not have caught up,” says Katie Kraschel '12, an associate in the health

care industry team at Foley & Lardner in Boston, one of the top health care law firms in the country, and a former student fellow at the HLS Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics, where Cohen is co-director. “We weren't looking at current policies and asking how we could change them, but rather, in places where there are no policies, we are asking, Should there be one? What would it look like?”

Indeed, in the area of medical tourism, there is little regulation, to date. Cohen believes it would be a mistake to simply ban the practice, since, for many uninsured people, that would cut them off from their only affordable option for nonemergency care.

But there are questions regarding the quality of foreign health care—and the rights of patients who are injured during medical treatment abroad. Right now, there is very little data, Cohen says, although one study found that the morbidity and mortality rates for cardiac surgeries at two hospitals in Thailand and India were comparable to those of the best hospitals in the U.S. In the just-released “The Globalization of Health Care: Legal and

mortality and morbidity from one hospital to another, and one region to another, in the U.S. So even if a [foreign clinic] isn't as good as the best U.S. hospitals, how is it compared to the average U.S. hospital?”

If a medical tourist gets a bad knee replacement or comes down with a serious infection following bypass surgery, she'll have a very difficult time getting compensation for her injuries. For various jurisdictional reasons, the medical malpractice laws in the U.S. only rarely apply to foreign defendants; even if they do, the amount of damages is likely to be quite low. Jumping right into this market are new companies offering medical tourism insurance: If you're headed to India for bypass surgery, you can purchase a \$1 million policy for about \$6,000, to protect you if something goes wrong, Cohen notes. And insurance companies sending customers abroad have a strong incentive to see them return healthy, so they don't end up paying for long recovery times or repair surgeries. It's in their interest to “channel” patients to high-quality clinics that meet standards that could be set by an accreditation board, he says. Another possibility is getting



If an American patient seeking care outside the U.S. gets a bad knee replacement or comes down with a serious infection following bypass surgery, she'll have a very difficult time getting compensated.

foreign providers to agree contractually to submit to the jurisdiction of American courts for the purposes of medical malpractice actions, in exchange for referrals.

As for some of the more troubling kinds of medical tourism—such as kidney transplants—there are other concerns. “The bread and butter of kidney sales involves poor people in slums, mostly in Asia but elsewhere, too, selling their kidneys in a gray market,” says Cohen, whose article “Transplant Tourism: The Ethics and Regulation of International Markets for Organs” appears in the Spring 2013 issue of the peer-reviewed *Journal of Law, Medicine & Ethics*.

He will also discuss these issues (along with all other aspects of medical tourism) in the new book he is working on, “Patients with Passports,” due out next year from Oxford University Press. As he writes: In Baseco, a slum in Manila, in the Philippines, 3,000 of its 100,000 residents have sold a kidney. Kidney transplant tourism is on the rise primarily because of the widespread availability of cyclosporine, an immune-suppressive drug which has greatly enlarged the potential community of kidney donors; increased demand in the developed world; and the failure to mobilize enough kidney donation to make up the gap. Buyers are willing to travel to India or the Philippines because they can simply purchase an organ rather than wait for a donated kidney back home, which they may never get. There are disturbing aspects, including that many kidney sellers, who are promised around \$2,000 to \$4,000, don’t get their full fee, and often complain of lingering health problems. Still,

as Cohen writes, it remains unclear whether banning this practice is superior to attempts at regulation; many kidney sellers may believe they are better off, all things considered. And an outright prohibition would drive the practice into a full-on black market, far more dangerous to buyers and sellers. “I don’t think we can eradicate these markets altogether,” he says. “While many regret having done it, after the fact, others feel they benefited.”

Stanley Chen ’14, who holds a Ph.D. in philosophy, is working with Cohen on his medical tourism research and appreciates his approach, which gets at “the really complicated questions related to normative arguments,” says Chen. “For instance, why exactly do we think organ selling is particularly egregious? And if you do think it’s a bad thing, how do you structure regulations to deal with it?” He adds, “As philosophers, we generally deal with conceptual questions. One thing I like about Professor Cohen is he tries to do both. He cares a lot about practical ethics.”

Among the questions is the potential exploitative effects of Westerners purchasing their health care in other countries. “Like any type of outsourcing, we have a social responsibility to think about the effects that this outsourcing has on citizens of other countries,” says Kraschel, who has written about fertility tourism, a subject also covered in Cohen’s work. In particular, she studied the issue of American couples choosing women in other countries, such as India, to be gestational surrogates, since the cost is about \$4,000 versus \$25,000 or \$30,000 in the U.S. Sometimes, the women receive even less than they were promised, and Kraschel sees great value

in regulation of the agencies facilitating these transactions.

Another area that is troubling involves the stem cell industry. While there’s no scientific evidence that stem cell therapy is effective except in treating a few blood disorders, says Cohen, doctors abroad attempt to use it to treat conditions including spinal cord injuries, multiple sclerosis and Down syndrome. And there are documented instances where it has induced dangerous tumors. A recent study on stem cell tourism found that 45 percent of patients are under the age of 18, which Cohen finds particularly disturbing. “These parents are desperate, and their children have serious disorders, but at the same time, the risks abroad are really great,” he says.

“How should physicians deal with a parent who wants to take the child abroad? Should they consider reporting these parents to the authorities because there is precedent for treating this as child abuse? Is that a good option here?”

Cohen believes that taking thoughtful approaches to keeping medical tourism safe makes far more sense than driving it underground with unrealistic regulation that consumers will ignore. Accreditation of foreign medical providers is one important step. And American authorities should pursue consumer-law actions against clinics making false claims, he suggests, although it may be impossible to get personal jurisdiction over them unless they have a U.S. office. New issues and concerns will arise as medical tourism continues to grow; Cohen, and his students, will be ahead of them.

Elaine McArdle, based in Albuquerque, N.M., is a regular contributor to the Bulletin.



Buyers are willing to travel to India or the Philippines because they can simply purchase an organ rather than wait for a donated kidney back home.

There are questions about banning organ selling outright: “While many [kidney sellers] regret having done it,” according to Cohen, “others feel they benefited.”

In 1981, Cass R. Sunstein—now a University Professor at Harvard Law School—was a young lawyer with the Department of Justice. He helped advise on the executive order on cost-benefit analysis for the White House Office of Information and Regulatory Affairs, then barely a year old—“a little office with a big impact,” Sunstein later called it. It was still finding its way as a filtering mechanism for federal regulations.

By that time, Sunstein had already graduated from both Harvard College (1975) and Harvard Law School (1978). He had clerked for Supreme Court Justice Thurgood Marshall, and he was to go on to teach law at the University of Chicago before joining the HLS faculty. Along the way, Sunstein wrote dozens of books and hundreds of academic publications, along with countless → 31

By Corydon Ireland

Mr. Sunstein

And brought

lessons back

to Harvard

Went to Washington



Obamacare's Point Guard

A PARLEY WITH DEPARLE

NANCY-ANN DEPARLE '83, whose nearly four years in the Obama White House included serving as deputy chief of staff for policy until this past January, is best known for her role in the passage of the Patient Protection and Affordable Care Act, better known as Obamacare. As director of the White House Office of Health Reform from 2009 to 2011, DeParle was instrumental in the enactment and implementation of that historic legislation.

During the spring semester, DeParle, a health policy expert who previously served in the Clinton administration, was a lecturer in law at HLS, co-teaching with Cass Sunstein the seminar Selected Problems in Regulatory Policy. She is also a guest scholar in economic studies at the Brookings Institution in Washington, D.C.



Nancy-Ann DeParle, a lecturer at HLS this spring, taught a seminar with Cass Sunstein on regulatory policy.

JON CHASE

BULLETIN: Do you see the passage of the Affordable Care Act as a pivotal moment in American history?

DEPARLE: I do—this is something that presidents of both parties, going back to President Theodore Roosevelt, have tried to achieve for our country. It fills a gaping hole in our social safety net by providing universal access to affordable health coverage, and it does it in a uniquely American way: requiring personal responsibility and building on private and employer-based markets. Now, all Americans will have health security, even if they lose their jobs or get sick.

What do you hope it will mean for the country?

The Affordable Care Act will achieve President Obama's vision of ensuring that all Americans have access to affordable health care. Affordable is a key word: The president is committed to bringing down the cost of care and improving the quality so that we are getting our money's worth. And getting everyone in the system means we can almost eliminate the "hidden tax" that families with coverage were paying to cover the emergency room costs of people without insurance who got sick. We'll also get rid of some of the worst insurance practices like pre-existing condition exclusions, which essentially made it impossible for people who are sick to afford health insurance.

What is the biggest misunderstanding about the ACA that you encounter?

There are lots of misunderstandings! One big one is that the legislation was not bipartisan. In fact, although none of the Republicans in Congress chose to vote for final passage, there were many Republican ideas included—including the principle that everyone has a responsibility to get health insurance if they can afford it, the so-called “individual mandate.” There are dozens and dozens of policies that were included in the law that came from Republicans in Congress.

Another big misconception has to do with costs. You often hear critics saying that the law will increase the costs of health care and “explode the deficit.” That is just plain wrong. The nonpartisan experts who “score” the cost of all legislation, the Congressional Budget Office, concluded that it will slow the rate of growth of health care costs over the coming decades and reduce the deficit. Yes, providing tax credits that help 30 million more Americans afford coverage will cost billions of dollars, but we are also saving billions of dollars through reforms to Medicare and changes to the health care delivery system that put more focus on outcomes and value. And we have already begun to see results in record-low growth in health care spending. For the period from 2009 to 2011, health care spending grew at the lowest rate in the 51-year history of record keeping on health care spending.

And how are those savings attributable to the ACA?

The recession probably started the slowdown in health care spending, but it has continued into the recovery, and there’s reason to believe that early responses to the Affordable Care Act are responsible for reinforcing this trend. For example, under the law, insurers that want to raise rates by 10 percent or more must submit them for state review to determine whether they are “reasonable.” This policy has resulted in rates that were on average 20 percent lower than originally requested. And the law’s requirement that insurers spend 80 percent of premium dollars on health care services, or pay a rebate, resulted in more than \$1 billion in rebates to consumers in 2012. Finally, the law includes policies that incentivize hospitals to lower preventable readmissions; these incentives were introduced in October 2012 and have already caused the hospital readmission rate to decline.

What role, exactly, did you play in the ACA?

I was counselor to the president and director of the White House Office of Health Reform. The president says I was his “point guard,” and I like that position! But passing the Affordable Care Act was the ultimate team sport—and our team included not only my colleagues at the White House and [Health and Human Services], but Senate Majority Leader [Harry] Reid and his colleagues and then House Speaker Nancy Pelosi. —ELAINE McARDLE

newspaper and magazine articles. But all the while, he hewed to that moment—more than three decades ago now—when he glimpsed the early workings of OIRA. For years he dreamed of returning there, to what he called “the cockpit of the regulatory state.”

Dreams do come true. In the fall of 2009, Sunstein left Harvard to serve for three years as the administrator at the helm of OIRA. Appointed by President Barack Obama ’91 and confirmed by the Senate, he joined a humming warren of executive branch experts in trade, health, economics, science and other specialties. “The sheer diversity and range were inspiring and illuminating to me,” he said. Sunstein returned to Harvard in August 2012, eager to bridge the traditional divide between the academy’s world of ideas and the government’s realm of practicality.

During his White House service, Sunstein wrote only in his official capacity. But in March, when he met with a reporter at HLS, it was clear that he had lost no time in discharging several years’ worth of pent-up academic energy. In his office in Areeda, atop his commodious hardwood desk, books and journals sprawled—all of them open, underlined and dog-eared, the grist of his 12-hour days. He had three books underway, class notes to prepare, papers to deliver and two conferences to organize in the coming months. All of his projects are influenced by his White House experience, which reinforced his belief in the importance of federal regulations that are transparent, well-written, and evidence-based, and have the potential to save lives—all without excessive cost or red tape. “The president instructed me to keep the numbers and cost of rules down, and we did that,” said Sunstein. The Obama administration, he added, issued fewer rules in its first four years than any other recent administration over the same period.

Sunstein points to rules to ensure food safety, highway safety and cleaner air that were finalized during his tenure and will result in “thousands of lives saved and accidents or illnesses prevented.” He points to official estimates that a 2009 salmonella-related rule from the Food and Drug Administration, for example, will prevent dozens of deaths a year, along with up to 79,000 illnesses.

He mentions other rules vetted under his direction that will have multiple beneficial effects, such as the one increasing the fuel economy of the U.S. automotive fleet to more than 50 miles per gallon by 2025. “It’s going to save lives because of reduced air pollution. It’s going to save money because people will pay less at the pump. And it’s



PETE SOUZA/THE WHITE HOUSE

September 2009: President Obama with Cass Sunstein, the newly minted administrator for the White House Office of Information and Regulatory Affairs

going to increase our energy security,” he said.

OIRA has always been charged with balancing a new rule’s costs and benefits. But during Sunstein’s tenure, President Obama called for federal regulations to account for hard-to-measure impacts on fairness, equity and human dignity—factors that in “Simpler: The Future of Government,” Sunstein’s most recent book, are called “nonquantifiable.” In his HLS office, Sunstein named a favorite example of a rule influenced by impacts that are hard to measure in numbers. In 2009, the Centers for Disease Control and Prevention broke a longtime ban and allowed HIV-positive people entry into the United States. The agency noted that humanitarian, distributional and international benefits are hard to express in monetary terms. “There are rules not just involving safety and health, but

civil rights,” he said. “That’s an example.”

Under Sunstein’s direction, OIRA worked with agencies to ensure that rules were written clearly. OIRA also had to work with many other officials to ensure that each rule was informed by a workable consensus on the relevant issues. That consensus came first from within a constellation of federal agencies that might have expertise on a proposed rule, with Sunstein’s agency acting as a convener and an “information aggregator.” Professor Daniel Meltzer ’75, who was principal deputy counsel in the Office of White House Counsel during some of the time his HLS colleague served in the Obama administration, praised Sunstein’s ability to quickly master the details of one complex regulatory program after another. “And in an environment where there are always political forces circling,” Meltzer added, “Cass had a sharp focus on trying to get things right on the merits.”

At OIRA, part of getting things right, the final tempering of a rule, came from shaping it on the anvil of public comment. In the academic world, public comments are seen as being “like Kabuki theater,” Sunstein said—a form of ritual drama. But when it comes to actual practice within the Obama

administration, public input is taken very seriously.

He points to Jan. 18, 2011, as “a crucial day,” when President Obama signed an executive order calling for cost-benefit analysis, flexible approaches, scientific integrity, and a “lookback” at regulation on the books, and strengthened public participation in finalizing regulations. “It brought rulemaking into the electronic age,” said Sunstein, providing a way to check proposed rules against the wisdom of the crowd. Through improved federal websites, comments can be transmitted electronically and commentators can be in dialogue with one another.

The best public comments, whether transmitted online or on paper, are those that are not just opinions or intuitions, said Sunstein.

Instead, they contain facts and evidence, and are constructed around an argument. He calls facts and human consequences (measured with the help of cost-benefit analysis) his “lodestar” in the regulatory realm.

In “Simpler,” he describes his attempts to bring decisions about regulation out of the realm of intuition and anecdote and into the realm of data and statistical analysis based on the way people actually behave.

“We know people are prone, in some cases, to excessive optimism—that they can be impulsive, they can be impatient, they can be reckless. The human animal sometimes behaves in surprising ways. So if we’re thinking about policy, we ought to have a realistic rather than a fanciful conception of what people are like,” he said.

Impulse-driven behavior can lead to costly social consequences, including obesity, low savings rates or wasted energy. Sunstein hopes that the government of the future, as imagined in “Simpler,” can use the empiricism of behavioral economics to nudge Americans into better choices—an approach he calls “choice architecture.” In the federal regulatory realm, he offers the 2011 example of the Department of Agriculture’s switching from the traditional food pyramid (an image with little clarity) to the food plate (which offers direct guidance).

Sunstein has now started a new interdisciplinary research program at Harvard to study the role behavioral economics could play in shaping regulations. The university has all the experts needed, he said, from economists and psychologists to lawyers and brain scientists.

Sunstein’s public service also informs his writing projects. Several publications, he said, “are directly based on what I learned.” The book, “Simpler,” which appeared from Simon & Schuster in April, reimagines government as user-friendly as an iPad, with rules based on empirical evidence, and with built-in “nudges” that maintain personal freedom but encourage good choices. And an article, “The Office of Information and Regulatory Affairs: Myths and Realities,” published in the May Harvard Law Review, is intended “to capture accurately what the process is like,” he said. “It says what I wish I had known before I started.”

Sunstein’s real-world lessons from D.C. have made their way into courses he has offered since his return, including a regulation policy seminar, an administrative law course, and a joint law and economics seminar called Selected Problems in Regulatory Policy, co-taught with

Nancy-Ann DeParle ’83, another very recent White House staff veteran, who was central to the implementation of the Affordable Care Act. To students, he hopes to bring “a real sense of where the open questions are,” including how to improve cost-benefit analysis, how to put a value on public health, and how to rethink the relationship between the executive branch and the judiciary.

Sunstein also returned from Washington with a new appreciation for the traditional divide between academic and government work. “I think that’s very healthy, and here’s why: People in government are involved in today, tomorrow, next week, and maybe next month, and sometimes the future,” he said. “People in academic life are often thinking of things that are more long-term. In academic life, you don’t think, Is this feasible? You think, Is this right?” Sunstein sees great value in a lot of scholarship that “doesn’t have an obvious or immediate consequence for what government should do,” he said—perhaps because it’s just floating an idea. As the former regulatory czar (a title he called “a wild overstatement” in “Simpler”), he knows very well how floated ideas can sometimes sink in the world of Capitol Hill, hitting their authors in the head. In advance of his September 2009 confirmation hearings, Sunstein was lambasted by some in the press for ideas that he had put forward—the notion, for instance, that abused animals might deserve representation in court. One critic even called him “the most dangerous man in America.”

So now, almost a year after his government service, Sunstein has added another book to his list of post-Washington projects. “Conspiracy Theories and Other Dangerous Ideas” (projected for publication by Simon & Schuster within a year) “consists of some of the most controversial essays I did before I went into government,” he said, “some of which, let’s say, were not helpful for my confirmation by the United States Senate.”

Sunstein has now returned to being an actor in the realm of big ideas. The one he is the most excited about is also the most speculative (and the subject of a Harvard conference this fall): Can emerging science on the workings of the brain someday inform regulatory policy? “This is a very early area of research, but I am keenly interested in it,” said Sunstein, who is prepared to be the most dangerous man in America again.

→ See Page 55 for the profile of a graduate who approaches regulation from another angle.

Corydon Ireland is a staff writer for the Harvard Gazette. His profile of Sadakat Kadri LL.M. ’89 appeared in the Fall 2012 Bulletin.

By Daniel Doktori '13

BACKING

Not surprisingly, it hadn't been easy to get a half-hour on the schedule of the president and CEO of Fortune magazine's 88th largest corporation in the U.S. But when Roger Ferguson '79, chief of the financial services giant TIAA-CREF and former vice chair of the board of governors of the Federal Reserve, sat down for an interview in the company's midtown Manhattan offices, his most salient characteristic seemed his humility. When I thanked him for sharing some helpful career insights, he responded, with a smile, "I live to serve." After I promised some "whimsical questions," he pre-empted, "As long as you don't mind dull aging baby boomer answers." The office reflected the man. No treadmill desk. No granite appointments. No flat-screen televisions. The highlight of the upcoming weekend? His son's lacrosse game (Yale beat Brown 11-8, to Dad's dismay). Hoping to live vicariously, I inquired as to the best perk of being

THE

The economist and lawyer Roger Ferguson '79 talks about his dreams—and the reality of helping others realize theirs

FUTURE



CEO of a \$400 billion company. “We have no perks,” he deadpanned. “Every penny that we save goes back to somebody’s retirement. And it’s a \$500 billion company.” Facts are facts.

Ferguson traces the beginnings of his career path to the particular fact of President Lyndon Johnson’s appointing Andrew Brimmer as the first-ever black governor of the Federal Reserve in 1966. The appointment combined with the emphasis his parents (a public school teacher and an Army cartographer) had placed on financial literacy to spark an enduring interest in the Fed and monetary policy. In addition to an A.B. and J.D., Ferguson went on to obtain a Ph.D. in economics from Harvard. After three years at Davis Polk & Wardwell and 13 at McKinsey & Co., he got the call that would make his Federal Reserve dream come true. On the line was his former study group partner from graduate school at Harvard, then Deputy Treasury Secretary Larry Summers. Soon afterward, in 1997, President Clinton appointed Ferguson as a governor of the Federal Reserve board, where he rose to the rank of vice chair. Ferguson left the Federal Reserve to join Swiss Re (the world’s second largest reinsurance company) as chair in 2006 and became CEO of TIAA-CREF in 2008. He described himself as “the internal and external brand ambassador” of the “mission-driven” company that is “the most trusted name out there in financial services.” He discussed his personal history, his philosophy of leadership, his vision for Harvard and the nation—and some retirement advice for a graduating 3L.

“I never aspired to be CEO of a company,” he explained, analogizing his career to “a climbing wall, as opposed to a career ladder.” His more traditional start at Davis Polk following graduation first exposed him to

“SO MUCH IN BUSINESS, AND SO MUCH IN LIFE, IS PRESENTING A COMPELLING STORY.”

something he liked—being in a service profession. He acquired a lawyer’s fundamentals, namely “the ability to be able to distinguish one fact pattern from another and the ability to communicate in a logical fashion.” And it was at the firm that he met his wife (former SEC Commissioner Annette Nazareth, with whom he has two children), “so obviously it was the best step I could have taken,” he said. But after three years, he decided that he wanted to solve “not just legal problems, but bigger business problems.”

For recent graduates, he advised: “Always be looking at that first job as effectively a continuation of a very, very steep learning curve. The world a 28-year-old is going to live in, working for the next 40 years, by definition is unknowable today. The one thing

that you will know is that the skill set you have today is just the baseline for what you’ll need going forward.” For Ferguson, success is “all about the ability to keep learning and to figure out what it is that really motivates you.”

In describing the transition from learner to leader, Ferguson drew on his years as a management consultant at McKinsey, neatly bucketing the four key components of leadership: “First, you have to have expertise. People don’t want to follow individuals who don’t have the core technical skills that are necessary, because you’ll lead them to the wrong place.” Second, leaders require empathy. “People want to follow leaders who understand them, who treat them as individuals, who are empathetic.” Third, leaders must be able to communicate. “So much in business, and so much in life, is presenting a compelling story,” he said. “Learning





evolve to a much broader sense of all the things that a lawyer might do in the world.” He’s impressed with the increased diversity of the education provided at today’s HLS. “The range of interest among the faculty now appears to me very broad,” he said, citing increased emphasis on intellectual property, Internet-related legal fields and corporate governance. “When I

Ferguson served at the Federal Reserve under Alan Greenspan, who called him one of the agency’s most effective vice chairs.

was there, Harvard Law School was in the lead in doing law and economics work.”

Ferguson extolled the virtues of an applied education in training leaders.

“Why learn out of a textbook or out of a case study exclusively, when you can [also] have a real-world experience and bring that into the classroom? Think about science: A great scientific education includes experimentation in the lab. It’s not just reading about it—it’s doing it.” Ferguson also welcomed Harvard’s recent push to promote entrepreneurship on campus through the newly created innovation lab and schoolwide competitions such as the President’s Challenge for Social Entrepreneurship. “There’s a technical side to [entrepreneurship],” he said. “You need some training to do it. It’s not just about the great vision that a young person might have. I think the law school can help visionaries figure out how to turn their vision into reality.”

And while he embraces Harvard’s investment in education for risk-loving entrepreneurs, Ferguson advised financial prudence for individuals and the U.S. government alike (he serves on President Obama’s Council on Jobs and Competitiveness). “Young people, with all the other things they have to worry about, have got to get in the habit of saving some money for their retirement.” The same goes

for the nation: “America needs to figure out how to do much more saving and investing.” In the short term, that means “getting monetary policy and fiscal policy right.” In the intermediate term, it’s “dealing with the demographic aging population and shoring up the three legs of the retirement stool [pensions, Social Security and personal savings].” With regard to the Social Security leg, Ferguson allayed concerns about its imminent demise. The reality, he said, is that Social Security is probably going to pay what it owes for the next 20 years. And even if the payout is then reduced, he added, it’s likely to be close to 75 percent. “So get rid of the shibboleth that there is no Social Security. It will be there.”

For the graduating class of 2013, he offered some practical and familiar advice that so many people ignore. “You want to have a process in which you start to save for retirement immediately. So enroll in whatever the defined contribution option that your employer offers. Take the match; save the max.” (Note to self: Follow Roger’s advice!)

He closed with a view toward the long term. “Folks your age, with the education that you have and the socioeconomic outcome you’re likely to have, many of them—many more than you imagine—are likely to live to be 100. That’s a fairly long time. And you have to plan for that.”

Understatement, if not a perk, is clearly another part of the job.

how to present it in a logical fashion so that the audience can follow along, whether it be in giving a speech about the economy, or testifying before Congress, or doing a town hall in front of 5,000 people, that’s a skill—and that’s a skill that one can learn in law school.” Finally, Ferguson highlighted the importance of vision. “You’ve got to have a sense of where you’re headed. You can’t lead if you don’t have a direction that you think is—and that others think is—compelling and exciting.”

Ferguson (who was president of the Harvard Board of Overseers) sees the university’s primary responsibility as training future leaders. “Harvard continues to be the beacon of the upper end of higher education globally, and that hasn’t changed in many, many years.” At the law school, he believes the curriculum has to “continue to

Daniel Doktor ’13 is a co-founder of the Harvard Law Entrepreneurship Project. Before attending law school, he served as director of higher education for the New York state governor’s office and headed a gubernatorial task force on industry-higher education partnerships. In the fall he will be an associate at WilmerHale, joining its corporate practice with an emphasis on representing startup companies.



{CAMBRIDGE, MASSACHUSETTS}

The 'X' Factor

CHARTING A NEW COURSE IN
ONLINE EDUCATION

BY JERI ZEDER



{SAN SALVADOR, EL SALVADOR}

EMILIO VELIS WAS ONE OF 500 PEOPLE AROUND THE WORLD ENROLLED IN COPYRIGHTX, THE FREE, ONLINE COURSE TAUGHT BY INTELLECTUAL PROPERTY EXPERT TERRY FISHER AND 20 OF HIS HARVARD LAW STUDENTS.

The 'X' Factor

SURE, LASSIE RESCUED Timmy. Rin Tin Tin tamed the Wild West. But could these canine heroes teach copyright law?

Well, Meatball can.

Meatball, Heather Whitney's irresistible French bulldog puppy, starred in hypotheticals that provoked lively discussions of copyright law among the students that Whitney '13 guided as a Harvard Law School teaching fellow (see sidebar below).

Besides digging up bones of contention among Whitney's students, Meatball helped create a community founded on academic rigor and good-natured ribbing. "The back and forth in my section has been quite fun," she reports. "We all feel pretty comfortable with each other."

The intellectual rapport that Whitney describes

developed not in a classroom, but virtually, online. It flourished among a small group of strangers dispersed across many continents, whose life experiences were as disparate as those of a Brazilian judge and a U.S. high school student. It happened because a new, experimental, Web-based Harvard Law School course prioritized the human dimension of online teaching. The course is the brainchild of Professor William W. "Terry" Fisher III '82.

Fisher, an intellectual property law professor and the director of HLS's Berkman Center for Internet & Society, is committed to what he calls the democratization of higher education. "Education, and higher education in particular, should be as widely available as possible," Fisher asserts. "It's essential to human flourishing,

and it's immoral to confine access to something so valuable to a tiny group of people."

Practicing what he preaches, Fisher posts all his course materials, scholarship and lectures on his personal website, tfisher.org, making them accessible to anyone, anywhere, with an Internet connection. Now, he has created CopyrightX, a free, online, noncredit course for which students may receive a certificate of completion. It was offered this spring through edX, a Harvard and M.I.T. initiative that now has additional university partners. EdX

provides MOOCs—massive open online courses—to millions of people across the globe.

MOOCs typically feature open enrollment—attracting as many as 150,000 registrants—without the sort of expertly guided, real-time discussion you would experience in a small classroom seminar. Attrition rates can soar to upwards of 90 percent. For CopyrightX, Fisher wanted to maintain the advantages of a MOOC while introducing new, educationally dynamic elements. So, he did some tinkering. He made online discussion a centerpiece, and brought attrition down to around 40 percent by limiting enrollment and implementing a formal application process. He recruited 20 Harvard Law School copyright students as teaching fellows. Of 4,100 people from around the world who applied during a two-week period, 500 were accepted—just the right number to distribute among 20 sections of 25 students, each led by a teaching fellow.

Fisher taught CopyrightX concurrently with his on-campus copyright law course, allowing some interesting overlaps. "The idea was not only to make the course available to the world at large, but also to enrich the educational experience of the Harvard Law School students," he says. That enrichment occurred through the CopyrightX teaching fellowship program, and through special guest-lecture events where HLS students were privy, in real time, to the perspectives of the enormously diverse edX students (see demographic sidebar).

Ana Enriquez, a visiting 3L from Berkeley Law, believes that being a teaching fellow has improved her ability to explain copyright law to nonlawyers. "That's a really important skill for a law student to develop," she says.

The HLS and edX copyright courses differed in important ways. Both the HLS and the edX students watched, online, Fisher's weekly prerecorded lectures. But while the HLS students met face to face with Fisher himself twice a week, the edX students met online once a week with their teaching fellows.

In addition to watching Fisher's lectures, teaching fellows prepared by posting questions about assigned readings online for their students to consider and discuss in advance of their weekly seminars; by attending Fisher's on-campus classes; by meeting occasionally with the professor one-on-one; and by attending weekly lesson planning meetings with him and his team.

During seminars, teaching fellows took quick minipolls to gauge students' understanding of the material. They then introduced concepts and case studies and started class discussion. The software, Adobe Connect, has functions that enable visual and audio presentations and that let students "raise their hands," see and speak to each other, and "chat." Each seminar lasted 80 minutes.

Abtin Kronold, 28, one of the few lawyers enrolled in CopyrightX, is a Swedish Iranian living in Brussels. He works for Facebook and speaks eight languages. What stands out for him is the richness of seminar discussions. "The benefits?" he wrote via email. "They are just too many

THE MEATBALL HYPOTHETICAL

Heather posts on Facebook a photo of her French bulldog in an argyle sweater. It goes viral, and a huge international pet store wants to use the photo of Meatball in its next dog ad. But it was Chris—the pet's co-guardian—who suggested the sweater and hounded Heather to follow through. For copyright purposes, is Chris the author? Sole? Joint? Work for hire? Nothing? Discuss.



to count—but how about access to knowledge that was not available before and suddenly is, to everyone! It is amazing. It's the next Wikipedia.”

Kronold's excitement is testimony to the quality of education being delivered by the teaching fellows, who banded together in a way that Fisher did not anticipate but

ONLINE

Fisher's copyright lectures are available at bit.ly/CopyrightX2013.

Six CopyrightX guest-lectures, featuring speakers such as artist Shepard Fairey, novelist William Landay and HLS Professor Jeannie Suk '02, are available online at bit.ly/CopyrightXspecial.

was pleased to see. They shared the case studies that they wrote for their seminars and brainstormed solutions to teaching challenges they encountered. “They have a lot of responsibility and authority in organizing their sessions, and they have seized that responsibility and run with it,” Fisher says.

More than that, the teaching fellows reported benefiting from exposure to new angles on the law. “Hearing the perspectives

of non-Americans makes you realize that more things are contingent than you would otherwise think about when you are just living in your own country with your own law,” says teaching fellow Heather Whitney.

CopyrightX student Margaret Waters agrees. Interacting in virtual seminars with her classmates, she says, allowed her to view the issues from beyond her own experience. Also, for her, engaging in in-depth class discussions was essential. “You're not a sea of 500 people in a lecture dispersed all over the world,” says Waters, a writer for high-tech companies who lives in the Boston suburb of Belmont, Mass., with her husband and two children.

The first edX course offered by a Harvard Law School professor, CopyrightX has the potential to bring the latest generation of online education to another level. “When I began, with the help of this whole team, to plan my course last fall,” Fisher says, “I definitely did not take the edX-available technologies or approach as given and accommodate my course to it, but the opposite. I think the right way to engage in online education is to be very clear from the beginning what you want to achieve and then, to the extent possible, to develop technologies and structures that will advance it. That has required adding to or adapting the edX technology in many ways, to make it work for what I want to achieve.” The ability to deploy such technologies as Adobe Connect in the edX platform has been an important contribution of the Berkman Center.

EdX is not without controversy. Critics wonder whether free, universal access to Harvard courses will devalue on-campus education. Fisher himself doesn't see the threat. For him, the irreplaceable value he sees in the ways people interact “in real space” coexists with the necessity of making higher education more accessible.

Fisher is also interested in the research mission of edX to

explore and improve education both online and in university classrooms. MOOCs, by their nature, provide unprecedented access to massive amounts of data on how students learn. In that spirit, Fisher has embedded pedagogical experiments into CopyrightX. Some sections used the case method, focusing on U.S. law; others have an international scope. Some sections used traditional online discussion tools only, while others employed NB, a new technology developed by M.I.T. Professor David Karger, which permits readers jointly to annotate shared materials posted in PDFs online. Fisher is tracking the results with his core team: Berkman fellow Nathaniel Levy, head teaching fellow Kendra Albert and Berkman staff member Ed Popko.

It's too early to glean the results of these experiments. But there are already some questions at play: Does the use of annotative technology like NB facilitate more and better textual analysis? Will the analytical skills of the students who used the global curriculum differ from those of the students who studied the case law method, and if so, what are the implications for teaching international law? How will the teaching fellows be affected by their experience, and how will that resonate throughout the law school?

More broadly, CopyrightX and other online courses represent a new frontier—and that's part of what makes them exciting. Simply telling the story of the challenges and rewards of making CopyrightX work will be illuminating, Berkman fellow Levy believes. “We're definitely, definitely interested in and enthusiastic about distilling some practical recommendations,” he adds.

What will MOOCs and MOOC-derivatives like CopyrightX tell university professors about best teaching practices? As Levy intimates, researchers are only beginning to explore that question. But one thing is clear: EdX and its ilk are here, and their proponents believe that they have enormous, untapped potential. For HLS, expect that CopyrightX is just the beginning.

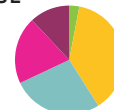
Jeri Zeder contributes regularly to the Harvard Law Bulletin.

COPYRIGHTX DEMOGRAPHICS

Of the 500 people accepted into the class out of 4,100 applicants, only about 30 were lawyers.

Students came from many backgrounds and a wide range of professions. About 300 had undergraduate degrees, 170 had master's degrees and 43 held Ph.D.s. The class was split evenly between men and women.

AGE



- 3% were teens
- 38% were in their 20s
- 27% were in their 30s
- 20% were in their 40s
- 12% were 50 and above

GEOGRAPHY

The course had at least one admitted student from every continent except Antarctica.

- 70 countries represented
- 256 admitted students from the U.S.
- 21 from Canada
- 17 from India
- 16 from the U.K.
- 6 from China

SOCRATIC METHOD MAY DETRACT FROM LEARNING EXPERIENCE

REGARDING THE PIECE in the Fall 2012 issue on why law school graduates become leaders (“From the Dean”): I agree that the ability to think critically about a problem and analyze it from various perspectives is one of the chief benefits of a legal education. I am not so sure, however, that the Socratic method deserves the lion’s share of the credit for this. While use of Socratic questioning may benefit students in some ways, it can also all too easily foster a hostile learning environment rather than a supportive one, obstruct spontaneous reflection through fear of inopportune disconnection, and substitute thoughtful, voluntary dialogue with awkward pauses, nervous vocalizations, and hasty verbalizations. These consequences detract from rather than contribute to the overall learning experience, and may help explain why, nearly a century and a half after its debut in American legal education, the Socratic method remains strongly associated with only that same academic domain, where its application has been tempered over time.

STEVE DARROW ’09
Binghamton, N.Y.

LAW SCHOOL CURRICULA SHOULD CONTINUE TO ENCOURAGE LEADERSHIP

I COULDN’T AGREE more with Dean Minow’s assessment regarding the reasons that law school graduates become leaders. I do hope that our law school curricula will continue to encourage such leadership—particularly among some of the students for whom leadership roles may seem out of reach due to their own personal lack of confidence.

HAZEL-ANN F. MAYERS ’99
New York City

THE LAW AND PUBLIC POLICY CONNECTION

I HAVE TWO different thoughts in response to Dean Minow’s interesting article in the Fall 2012 Harvard Law Bulletin. The first is that she asserts, but does not provide evidence to show, that law school graduates are more often leaders than graduates of other presti-

gious schools at Harvard or elsewhere. I wonder if that is really true. My second thought, however, is that assuming the truth of the proposition, perhaps one additional reason why HLS graduates become leaders is that in our society the law has been the mechanism through which we formulate and put into practice our public policies. With public policies greatly affecting almost everything we do now, lawyers are naturally more likely to emerge as leaders than people with other skills.

KEITH ROBERTS ’68
New York City

WHAT THE WORLD NEEDS NOW

THE WONDERFULLY FOLKSY humorist Sam Levenson (a former high school language instructor, who left that profession because, as he lamented, “teaching was a luxury I couldn’t afford”) once told the story of how he was often asked by students to write references for them for college admission. On every reference form the question was asked, “Is this person a leader?,” to which Levenson, knowing what was expected, invariably replied with an enthusiastic affirmative. After several years of doing this, however, he received a letter from one university admissions officer saying, “Dear Mr. Levenson: Having sent us so many leaders, can you now please send us a few followers?”

In her recent article lionizing leadership, and by implication conferring a self-congratulatory accolade on Harvard Law School and legal education in general, Dean Minow writes: “It is a source of pride for Harvard Law School that two of our graduates are currently competing to serve as president of the United States.” But given the dubious quality of their so-called leadership, I would be inclined to argue the contrary, that she might better have said, a source of embarrassment.

Forget the ’75 graduate. ... Let’s just consider the ’91 graduate, a former president of the Harvard Law Review, no less. Quite apart from his outright betrayal of the principles and promises upon which he based his initial cam-

paign for the U.S. presidency, for which he has been roundly criticized by his constituency, his callous indifference to, and egregious flouting of, the rule of law relating to any number of crucial policy issues—drone warfare, indefinite detentions, military tribunals and the prosecution of whistle-blowers, to mention only a few—have elicited condemnation from a far larger cohort, both here and abroad. And understandably so, as these policies are clearly an offense to anyone endowed with even the slightest sense of decency, let alone familiarity with the law.

It’s troubling that in her article, Dean Minow makes no mention of Ralph Nader [’58], who with considerable justification believes President Obama to be as much of a “war criminal” as was his presidential predecessor. Yet she does mention as “amazing” the “dropout” John Negroponte, whom Human Rights Watch has accused of “having looked the other way when atrocities were committed” during his ambassadorship in Honduras.

Sam Levenson’s apocryphal university might have wanted its fair share of both leaders and followers, but given the almost inevitable mediocrity, if not the outright malevolence and brutality, of the former and the appalling (if understandable) apathy and docility of the latter—a phenomenon not just of our times and our country but one that spans the ages and the world—it would seem that our very real, and very troubled, universe paradoxically needs fewer of both. If the long and dismal history of humankind’s ill-governance is any indication, Dean Minow and her colleagues should instead see as their educational goal the creation of Rosa Parks-like social activists, Thomas Paine-style revolutionaries and other often unsung luminaries, who in a more modest way work to transmit into reality their noble ideals and lofty vision to which they remain unwaveringly true throughout their lives. In those kinds of graduates we could indeed all take pride.

DAVID FINKELSTEIN ’61
New York City

CLASS NOTES

SEND US YOUR NEWS

Alumni updates may be emailed to bulletin@law.harvard.edu.

Deadline for the next issue:

SEPT. 30



"I'm wondering how many of our graduates are still alive, and if there are any craps shooters among them!"

1944 EDWARD BOOMIE MIKRUT ('48) served in the U.S. Navy during World War II in the Aleutian Islands, and in the Naval Magazine in Bangor, Wash. After law school, he was appointed as an assistant U.S. attorney and later as an assistant attorney general for the state of Michigan. In retirement, Mikrut enjoys reading and going to casinos. "After reaching age 95," he writes, "I'm wondering how many of our graduates are still alive, and if there are any craps shooters among them!" He would love to hear from and share memories with anyone in his class.

1953

→ 60th Reunion Oct. 25-27, 2013

1955 In January, **BENNETT S. AISENBERG** was honored with the Colorado Bar Association's Award of Merit, which is given annually to a member for "outstanding service to the association, the legal profession, the administration of justice and the community." A litigation attorney in Denver for 54 years, Aisenberg is currently a solo practitioner specializing in arbitration, mediation and matters involving legal ethics. In addition to serving as president of the CBA in the late 1990s and a member of its ethics committee, he has been president of the Colorado Trial Lawyers Association, president of the Denver Bar Association and a member of Denver's Judicial Nominating Commission. He also has taught at the University of Denver Sturm College of Law and the National Institute for Trial Advocacy.

CLIFFORD BARR writes that for the year 2012 he was nationally ranked in the 80-and-over age group in both squash and 50-meter free-style swimming.

1958

→ 55th Reunion Oct. 25-27, 2013

Last year, **JOSEPH E. BACHELDER III** closed the boutique law firm he founded more than 30 years ago and joined the executive compensation practice at McCarter & English in New York City as special counsel. Bachelder represents prominent CEOs and other senior-level execu-

↓ TRANSPORTED *Harvard Square, 1963*



HLS YEARBOOK 1963

tives of U.S. corporations as well as boards of directors and compensation committees. He writes the "Executive Compensation" column for the New York Law Journal and is a frequent speaker at the American Law Institute/ABA, the Practising Law Institute and The Conference Board. In addition to being a member of the advisory board of the Program on Corporate Governance at HLS, he has lectured at HLS and at several other schools and universities.

1959 W. WILLIAM ANDERSON retired in 2002 after a career in private practice and in Pennsylvania state government. Since retiring, he has written and recently self-published a book titled "Restatement of the New Covenant." Anderson writes: "It is a fictional account of a lawyer's rationale for an alternative explanation of Christ's crucifixion and is an attempt to justify Christianity to conscientious Christians who are skeptical of traditional beliefs. The book is the culmination of religious studies beginning in the early 1970s, when I attended Yale Divinity School

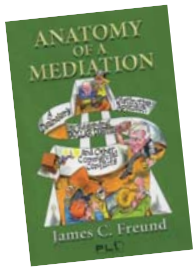
for a year as a research fellow. I will mail a complimentary copy to any classmate who contacts me at wwilland@comcast.net."

"Right-Brained Art of a Left-Brained Lawyer," an exhibit of **NORMAN ROSEN's** watercolors and pastels, was on view at the Waltuch Gallery of the Kaplen JCC on the Palisades in Tenafly, N.J., in February. He writes: "Since retiring from CIT Group Inc. in 1999, I have been taking art classes and painting. My wife said that before that, she did not know that her very left-brained lawyer husband had a creative right side to his brain—thus, the title of the exhibit. I also enjoy being a 'super' in local opera productions (someone who can't sing but is enough of a ham to enjoy being on stage and enjoys being surrounded by beautiful music). I even did a self-portrait of myself as a gypsy in 'Il Trovatore.' To keep my left brain functioning, I serve as an arbitrator and mediator for the American Arbitration Association."

1960 JOE FOOTE, owner of Joseph Foote Associates in East Sandwich,



Watercolors and pastels were on view at the Waltuch Gallery.



"Anatomy of a Mediation" was published last fall.

Mass., has been appointed by the Sandwich Board of Selectmen to the Charter Review Committee. "Every five years, the volunteer citizens committee updates and refreshes this Cape Cod town's basic governing instrument," he writes.

JACOB HEN-TOV LL.M. received the Superior Civilian Service Award last year from the George C. Marshall European Center for Security Studies for 30 years of sustained excellence as a professor of history and government (Eurasian studies). After writing his book "Communism and Zionism in Palestine during the British Mandate" (Transaction Pub-

lishers, 2012), with a preface by the late Isaiah Friedman, he is now in the process of preparing his next book, "The Palestinian Jewry in Support of the Soviet Union: The Story of the League V 1941-1946" (forthcoming this fall).

.....
1961 WILLIAM BLUNT, author of numerous short stories, has now written his debut novel, "A Dangerous Marriage" (iUniverse, 2012). He writes: "[The book] has earned a 5 Star Customer Review Rating on Amazon.com. It is a romantic suspense story (not a 'romance novel') told from the point of view of a

woman in her late 20s. Among other things, it delves into the world of securities fraud and its consequences." Blunt is a former assistant secretary of commerce and lives in Texas.

JEROME J. COHEN has joined the executive compensation practice at McCarter & English in New York City as special counsel. He advises publicly and privately held companies on tax and other legal aspects of their compensation programs. He was formerly of counsel at the Bachelder Law Firm.

In the fall, **R. DOBIE LANGENKAMP**, of Langenkamp & Associates in Tulsa, Okla., wrote that he had just returned from Luanda, Angola, where he had lectured on international petroleum transactions at Agostinho Neto University Law School. A former professor at Tulsa University College of Law and deputy assistant secretary of energy in the Carter and Clinton administrations, Langenkamp has consulted or lectured on international petroleum matters in Argentina, Egypt, Ghana, Uganda, Iraq, Kazakhstan, and Sao Tome and Principe.

BOB O'NEIL has written "Updating Board Bylaws: A Guide for Colleges and Universities" (AGB Press), which was released by the Association of Governing Boards of Universities and Colleges early this year. An AGB senior fellow, O'Neil is a former professor of law and former president of the University of Wisconsin System and the University of Virginia.

.....
1962 JAMES C. FREUND's 10th book, "Anatomy of a Mediation," was published last fall. After many years negotiating M&A and other business deals earlier in his career, he has more recently been using his mediator skills to resolve disputes, especially "dollar disputes over hotly contested issues." In the book, he describes his distinctive problem-solving approach in detail and shows step by step how it could be applied in a range of situations. In January, Freund spoke on Fox's "Good Day New York" about the book.

MICHAEL H. TROTTER, a partner at Taylor English Duma in Atlanta, has written "Declining Prospects: How Extraordinary Competition and Compensation Are Changing America's Major Law Firms" (CreateSpace, 2012). Focusing on firms providing legal services to major business

FRIENDS IN DEED

➤ *Reading the law out loud*

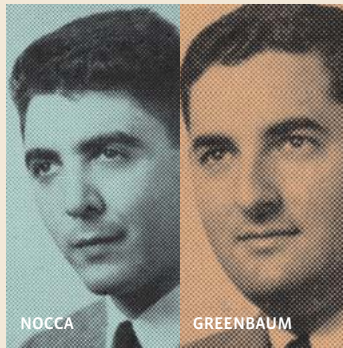
BACK BEFORE STUDENTS could get all their readings in a digital format and listen to them on their computers, **JOSEPH F. NOCCA '55**, legally blind since childhood, found his own way to get through his law school assignments. A friend of his from college who had also enrolled at

Harvard Law, **ARTHUR J. GREENBAUM '55**, offered to take the same classes as Nocca and read all the material to him aloud.

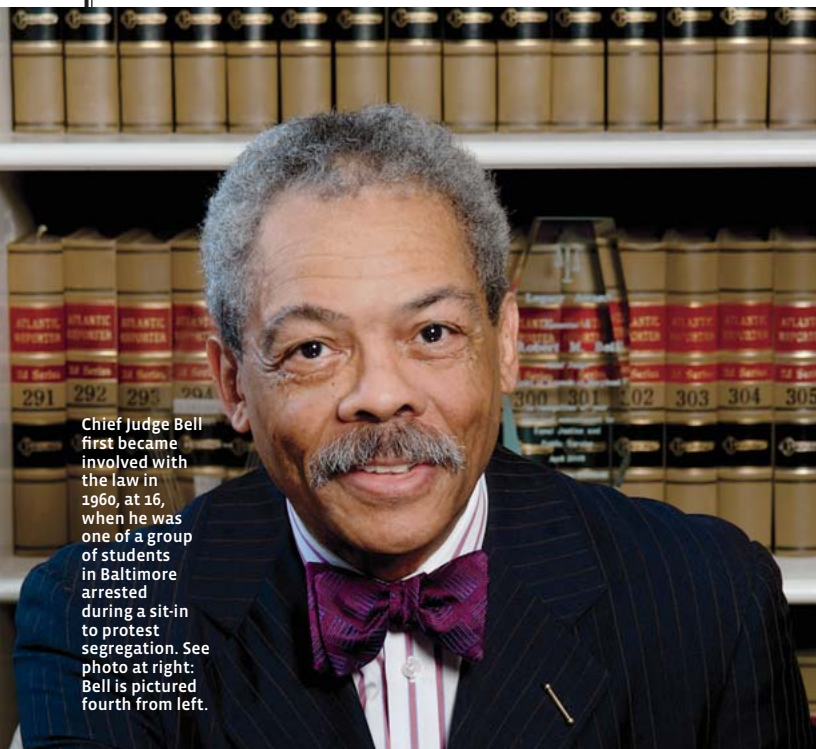
For several hours each day, the two would sit in the living room of their dorm and Nocca would listen to Greenbaum read. As Nocca recalls: "Reading at a conversational pace takes quite a bit of time and patience. He was a gem, an absolute gem." Greenbaum says that he benefited from the arrangement as well. "Joe's a very smart guy, so if I didn't understand something, we could talk about it, and figure out the theory of law together. We would stop the reading to discuss it—you learn it better that way."

After graduation, Nocca founded his own practice in Yonkers, N.Y., focusing on trust and estate law. By that time, a kind of specialty glasses had been invented that magnified text without making it blurry—so he could read his own cases, albeit slowly. In 1989, he was elected a judge in the criminal division of the Yonkers City Court. There, "[i]t was a breeze," he says. Two legal secretaries would read his cases to him, and he would dictate his decisions.

Greenbaum eventually became a partner and trademark law expert at the firm Cowan, Liebowitz & Latman in New York City. Now retired, he and Nocca are still friends, and they still think back to their unusual working relationship at HLS. "It was an adventure," says Greenbaum. —KATIE BACON



From Sit-in to Sitting Judge



Chief Judge Bell first became involved with the law in 1960, at 16, when he was one of a group of students in Baltimore arrested during a sit-in to protest segregation. See photo at right: Bell is pictured fourth from left.



AFRICAN AMERICAN NEWSPAPERS

“It painted a picture of a lawyer as being a person who was a helper,” says Bell. “That struck me and stuck with me, so I went to law school with the idea of changing the world.”

He was concerned, however, that he would never get the chance when he saw a question on the HLS application asking whether he had ever been arrested. Yet his explanation of the circumstances actually bolstered his candidacy, he believes. He arrived when the school was beginning to admit more black students, among them the vice president from his Dunbar High class, Reginald Lewis '68, who would go on to be a well-known CEO.

Bell would travel a different career path from that of his friend. Working after graduation for the firm Piper & Marbury in Maryland, he never considered becoming a judge. But members of the black community urged him to apply for a judgeship, seeking to increase minority representation on the bench.

He has been there ever since—first on the District Court, then on the Circuit Court, then on the Court of Special Appeals and finally

NOT MANY JUDGES have served on every court in their home state. And not many have been on the bench for nearly 40 years. But Robert Bell '69 has an even more unusual distinction: He serves on a court that at one time ruled against him.

Only 31 years old in 1975, when he became the youngest judge in Maryland history at the time, Bell was already known in his native Baltimore for a case that stemmed from his actions as a 16-year-old. As student government president of Dunbar High School in Baltimore, he was one of a group of students arrested during a sit-in at a local restaurant to protest segregation in 1960. The convictions were upheld by the Court of Appeals of Maryland—the court he now presides over as chief judge until he retires on July 6 (his 70th birthday). The U.S. Supreme Court in *Bell v. Maryland* sent the case back to the state because of a subsequent change in public accommodation law, and nearly five years after the arrests, the Court of Appeals vacated the convictions.

Though his early experience with the justice system was formative, Bell can't say that it propelled him into the law. His mother, a single parent with a third-grade education, pushed him to achieve in school, to find opportunities beyond inner-city Baltimore. Plus, his love of reading, particularly Perry Mason novels, showed him that the law was a means to do good.

HIS ARREST FOR PROTESTING SEGREGATION WAS UPHELD BY THE COURT WHERE HE NOW PRESIDES.

in his current position, in which he oversees courts throughout the state. In that role, he has advocated for more judicial transparency, including community outreach efforts by judges and webcasts of court proceedings, as well as increased access to justice and alternative dispute resolution.

As a trial judge, Bell presided over some wrenching cases, including one of a 7-year-old accused of murder and another of three middle-schoolers convicted of killing a fellow student over a Georgetown University jacket. More recently, on the appellate level, he was in the minority when the court ruled against same-sex marriage, which the state's voters approved during the last election.

Preparing to step down as chief judge, he supports the mandatory retirement he's subject to: It helps bring fresh ideas and new voices, he says. He particularly appreciates the inclusive attitude of the younger generation, so different from the era when he was arrested at a segregated restaurant. “The young people today can't even imagine it when we talk about the way things were,” says Bell. In many ways, that is exactly what he has worked for. —LEWIS I. RICE

clients, the book also addresses the growing importance of corporate law departments, covering the period from 1996 to the present day. Rather than major firm lawyers and their firms continuing to be at the apex of the profession, Trotter says in the book, corporate general counsel now serve as the conductors of their own legal orchestras and have gained significant influence over the profession. He is also the author of "Profit and the Practice of Law: What's Happened to the Legal Profession," which covered the period 1960 to 1995. In 2012, Trotter talked about "Declining Prospects" in a New York Times DealBook story and discussed the downfall of one of the world's largest law firms, Dewey & LeBoeuf, in DealBook and Businessweek.

1963

→ 50th Reunion Oct. 25-27, 2013

Last year, **RICHARD K. BLANKSTEIN** was elected chair of the board of Lasell College in Newton, Mass., for a two-year term. He joined the board in 2008 and previously served as chair of both its committee on trustees and its institutional advancement

committee. A founding partner of the Boston law firm of Posternak Blankstein & Lund, he is a lecturer on legal topics related to real estate development, environmental law, commercial leasing, software licensing, transitioning ownership in family-owned and closely held businesses, and multijurisdictional practice, and he is currently an adjunct faculty member at Boston University School of Law. He has lived in Newton for more than 40 years, and he and his wife, Beth, have two children and three grandchildren.

PETER WINOGRAD was the first recipient of the Distinguished Service Award given last November by the Liaison Committee on Medical Education, which reviews and awards accreditation status to educational programs leading to the M.D. degree in the United States and Canada. He has been a public member on the LCME since 2007. Winograd is associate dean and emeritus professor of law at the University of New Mexico and has done extensive work focused on improving the law school accreditation process. A member of the board of governors of the ABA, he represents its section of legal edu-

cation and admissions to the bar.

1965 MEREDITH MASON BROWN has collected a series of American artifacts—from the Western novel Dwight Eisenhower was reading while waiting to begin the Normandy Invasion to a letter from George Washington explaining why he would not be able to attend the Constitutional Convention. In his latest book, "Touching America's History: From the Pequot through WWII," published by Indiana University Press, Brown explores the birth and shaping of our nation through these objects and their stories.

MICHAEL M. HORN writes: "I continue to serve as chair of the board of the Federal Home Loan Bank of New York and was recently elected as chair of the Committee of the Council of the 12 Federal Home Loan banks. I continue to practice as a partner in the Newark-based firm of McCarter & English along with **DAN POLLACK**."

1967 JOHN C. "CHIP" GRAY was honored by Legal Services NYC and its supporters and community partners for his longtime dedication to



Elected chair of the board of Lasell College in Newton, Mass.

A PROMISE KEPT → *Paying it forward*

"Even though it is 10 years since **ARNOLD LEVY '35** died, I think about him from time to time," writes **EUGENE R. FIDELL '68**. "We were neither colleagues nor neighbors, but he was the friend of my friend **STEPHEN R. KROLL '71** and a law partner of Steve's father, **MILTON P. KROLL '37** (who himself passed away recently).

"In 1983, I was making a career change, and Milton suggested that I pay a call on Arnold. He'd had a distinguished career in Washington, D.C., hold-

ing important positions on the Hill, at the SEC, and at the Justice and Interior Departments before entering private practice. The purpose was not to interview for a job, but simply to help me clarify my goals. Arnold rose to the occasion and invited me to come over to his office at Freedman, Levy, Kroll & Simonds. We spent an hour or so together, but before getting to the matter at hand, Arnold extracted a promise from me: I was to do for others what he was doing for me. (At the time

I did not know that there is a term for this—'pay it forward'—something I learned only recently from Steve Kroll.) The conversation proceeded, did indeed help clarify my thinking, and within a month or two I was happily working at the firm now known as Feldesman Tucker Leifer Fidell, where I have become of counsel.

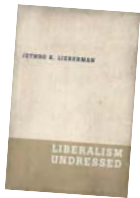
"Over the years, I've been consulted from time to time by younger lawyers facing the same career crossroads Arnold helped me navigate.

Every time, I begin by telling the story of my meeting with Arnold and the promise he extracted from me—and I proceed to extract the same promise from them. I imagine they've followed through. I pass this anecdote along not only as a way of honoring Arnold, but, more practically, as a way of encouraging others who have reached the senior ranks of the profession to do the same thing. Remember Arnold, mentor the young and urge them, as he did, to *pay it forward*."



Received the Medal of Honor of Bucerius Law School in ceremonies held Sept. 12 in Hamburg, Germany

27th book, "Liberalism Undressed," was recently published by Oxford University Press



public service and leadership for the legal services community serving the low-income population of New York. As project director of South Brooklyn Legal Services for 42 years, he led his staff in reforming failing special education programs, increasing accessibility of Metropolitan Transportation Authority buses and subway stations, discharging student loan debts for thousands of people duped by fraudulent trade schools, and strengthening due process rights for recipients of government benefits and housing subsidies. **YUN G. LEE '94**, a current member of the SBLs board, wrote to let HLS know of this honor.

BILL LEVIT writes that he taught a course on international commercial arbitration and mediation last fall at Baikal National University of Economics and Law in Irkutsk, Siberia, Russia, while his wife, Missy, was teaching English at the university. They missed the class's 45th Reunion as they were in New York, where Levit was attending the annual meeting of the fellows of the College of Commercial Arbitrators, but they had an opportunity to see **DAVIS ROBINSON**, who is also a fellow.

JETHRO LIEBERMAN's 27th book, "Liberalism Undressed," was recently published by Oxford University Press. He is a professor at New York Law School.

"With a 45th Reunion in our wake, retirement is the brave new world for many of us," writes **DAVIS ROBINSON**, who, a decade ago, left the global law firm where he was senior partner. "To stay active and remunerative," he continues, "I served as an arbitrator in international trade and investor-state disputes and devoted six years to assisting an old friend and fellow Harvard Law graduate, **RICHARD BREEDEN '75**, former chairman of the SEC, in the 'monitorships' of MCI Worldcom and KPMG and in the investigation of Hollinger International and Conrad Black. From my old law firm, I received a nonqualified pension that was dependent upon the future earnings of the firm and that contained a noncompete requirement. In late May of [last] year, the successor firm went bankrupt and sayonara to the pension. So, what to do at age 72, in the worst law firm environment of our lifetime, and with zero portable business? Back into the market I went, and I am fortunate to have

landed a full-time position as senior counsel at Crowell & Moring in its international dispute resolution practice in Washington. So, in my case, retirement must wait awhile." Robinson welcomes friends who are passing through the capital to call (202-624-2684) or email (drobinson@crowell.com).

1968

→ 45th Reunion Oct. 25-27, 2013

In his new book, "Nuclear Weapons Counterproliferation: A New Grand Bargain" (Oxford University Press), **JACK I. GARVEY** argues that "the legal and institutional tools and political conditions are available, if properly orchestrated, for achieving profoundly greater nuclear security." He worked on a book with former HLS Professor **ABRAM CHAYES '49**, his mentor, years ago and was inspired to write this new book by Chayes' devotion to the same subject during the last years of his life. In addition, Garvey's article "Toward a Reformulation of International Refugee Law," first published by the Harvard Journal of International Law, was republished in the spring in the book "Human Rights and Refugee Law." Garvey is a professor at the University of San Francisco School of Law.

BERNARD PERSKY has joined Robins, Kaplan, Miller & Ciresi as of counsel in the firm's antitrust practice in New York City. He was previously with Labaton Sucharow, where he was the co-chair and founder of the antitrust and competition litigation practice. A member of the advisory board of the American Antitrust Institute and the executive committee of the antitrust section of the New York State Bar Association, Persky also is a regular contributor to legal and business publications and a frequent speaker on antitrust and class-action issues.

CRAIG PINKUS has been appointed for a second time to online news source Law360's intellectual property editorial advisory board. Law360 publishes breaking news and analysis with a focus on litigation and government policy. As an adviser, Pinkus provides an overview on topics, cases or trends that are relevant to intellectual property attorneys to assist the news service in identifying and developing stories. He is a partner in the intellectual property group of Bose McKinney & Evans in

Indianapolis as well as a member of the firm's litigation group and sports, entertainment, and media group.

1969 **COLLINS FITZPATRICK** writes: "I recently completed my fifth trip to the Russian Federation to speak on a number of law- and court-related subjects. I have spoken at seminars and lectured to judges, government officials, and law students in 10 cities from the Ukrainian border to Vladivostok and have regularly hosted Russian judges in Chicago. [In 2012] I was designated as a Fulbright Specialist. I continue as circuit executive of the 7th Circuit federal courts."

Venable corporate partner **JAMES J. HANKS JR. LL.M.** received the Medal of Honor of Bucerius Law School in ceremonies held Sept. 12 in Hamburg, Germany, led by former German Chancellor Helmut Schmidt. Hanks was also honored later that same week by The Daily Record of Maryland at its 12th annual Leadership in Law awards event. The award honored 24 Maryland law professionals, and at the end of the evening, he was voted by his 23 fellow honorees as the Top Leader in Law and one of Maryland's foremost lawyers.

JON G. MARCH, an attorney at Miller Johnson in Grand Rapids, Mich., was named 2013 Grand Rapids Bet-the-Company Litigation Lawyer of the Year by "The Best Lawyers in America." In addition to having handled a wide variety of employment, commercial, construction and general civil litigation, March completed the HLS Mediation Workshop in 1998 and is now an experienced facilitative mediator in many different areas of the law. He is also listed in "Best Lawyers" for Arbitration, Commercial Litigation, Litigation-Labor & Employment, Mediation and Professional Malpractice Law-Defendants. Recognized in "Chambers USA" and named as a Michigan "Super Lawyer" in Employment Litigation: Defense and on the Top 100 list, he is also a fellow of the American Bar Foundation, American College of Trial Lawyers and International Society of Barristers.

1970 **PAUL F. ABRAMS** of Santa Fe, N.M., a longtime member of the board of directors of the New Mexico Trial Lawyers Association and treasurer of New Mexico Legal Aid, was one of two recipients of the 2012 Recognition Award from Equal Access



"I've been trying to practice trial law as Karma Yoga."

to Justice. He was honored for his longtime support of civil legal services in the state. In addition, in the fall Abrams delivered a talk on "Trial Law as Karma Yoga" to Integral Vedanta's national gathering. "After leaving politics and government in 1978 to do 'spiritual practices,'" he writes, "I've been trying to practice trial law as Karma Yoga while representing Davids against Goliath. Enlightenment has not yet arrived."

ALFRED DE ZAYAS, the U.N. independent expert on the promotion of a democratic and equitable international order, wrote an article on freedom of expression with Aurea Roldan Martin, published in 2012 in the Netherlands International Law Review.

1972 LOU ALFELD, now retired from a career in science and technology, has written his first novel, "Starseeds," published as an e-book by BookBaby. This work of science fiction involves eight people brought together by small mysterious objects that connect them to a civilization now long gone.

Fifty years ago, in 1963, **MARILYN J. HOLIFIELD** was one of three students in Tallahassee, Fla., to desegregate the city's Leon High School. Now a partner specializing in business and employment litigation at Holland & Knight in Miami, she has worked at the firm since 1981 and in 1986 became the first black female partner of a major Florida law firm. In April 2012, Holifield was awarded the Gertrude E. Rush Award by the National Bar Association in recognition of her civil rights work. In 2011, the Anti-Defamation League awarded her the Jurisprudence Award for her outstanding contributions to the legal profession and the community at large.

ROBERT D. SLOAN has become a professor at Louisiana State University Law Center and director of the university's Laborde Energy Law Center. He is also a senior fellow at the Energy Policy Institute at the University of Chicago.

GREGORY WARD, a civil and criminal trial attorney who is currently of counsel at McManis Faulkner in San Jose, Calif., was appointed last year to the Commission on Judicial Nominations Evaluation, where he is serving a two-year term that began in February. The JNE Commission is the state bar agency that evaluates candidates

who are under consideration for a judicial appointment by the California governor. Ward is retired from the Santa Clara County Superior Court, where he was a judge for 20 years. Before his bench appointment, he practiced civil litigation, prosecuted major criminal cases as a member of the Organized Crime and Racketeering Section of the U.S. Department of Justice, and served as the attorney-in-charge of the San Jose branch of the U.S. attorney's office.

1973

→ 40th Reunion Oct. 25-27, 2013

JOHN F. WOODS has been appointed general counsel of EngagePoint in Calverton, Md., a provider of health care software and IT services to governments and to commercial and administrative insurance payers.

1974 JOHN W. DANIELS JR., chair of Quarles & Brady in Milwaukee since 2007, received the Presidential Legacy Award from the National Bar Association at its inaugural gala in January at Washington, D.C.'s Air and Space Museum. The award is bestowed upon individuals who "have been or are engaged in civic, entrepreneurial, and professional endeavors that advance and preserve the heritage of African-Americans." Daniels has also recently been named to Midwest Real Estate News magazine's 2012 class of Midwest Commercial Real Estate Hall of Fame and to the board of the Leadership Council on Legal Diversity. Daniels serves as national real estate counsel for Philip Morris Capital Corp. and has also represented a number of major corporations on their real estate developments throughout the U.S.

ROBERT G. FLANDERS JR. recently gave the keynote address at a University of Notre Dame Law School symposium titled "When Cities Go Broke: Is Chapter 9 Bankruptcy a Solution to Municipal Insolvency?" A former Rhode Island Supreme Court justice, in 2011 he was appointed state receiver for Central Falls, R.I., and led the city through a Chapter 9 bankruptcy reorganization that eliminated a \$6 million annual operating deficit and is projected to save the city more than \$36 million. Flanders is now a partner at Hinckley, Allen & Snyder, where he chairs the municipal restructuring and litigation practice groups.

ROSSI "R.A." RUSSELL is the author of "Raising Redemption: A Novel of Shame, Secrets, Sacrifice, and Struggle," published by Langdon Street Press this spring. From a three-room shanty on the Chesapeake Bay to the halls of academe, the book chronicles the hardships and triumphs of four generations of an African-American family. Other information can be found at www.raisingredemption.com. Russell is a principal at the Law Offices of Rossi A. Russell in Los Angeles.

After 38 years as a corporate attorney, **WENDELL P. RUSSELL JR.** recently accepted his first government job as counsel to the state of New York's Industrial Board of Appeals. He is chief lawyer to the board and heads the Albany office. He writes: "My wife and I are very happy to be back in New York after 12 years of living in Michigan. We are enjoying getting to know the Albany area and adjusting to being 'empty nesters.' Our youngest son is a student at Michigan State, and our daughter is a military intelligence specialist working overseas. Our oldest son is getting married in March [2013], so all is well with our family."

1975 DAVID J. FREEMAN was unanimously re-elected to a second term as president of the New York City Brownfield Partnership, a public/private nonprofit organization dedicated to promoting the cleanup and redevelopment of brownfields in New York City. A director in the real property and environmental department of Gibbons, Freeman joined the firm last year. He represents buyers, sellers and developers of properties in all environmental law areas, litigating matters related to remediation, cost recovery, property damage and exposure to toxic substances. An author and frequent speaker on environmental law topics, he received a 2012 Burton Award for Legal Achievement for his work as "an outstanding law firm author." In addition to his role with the Brownfield partnership, Freeman serves as vice chair of the New York League of Conservation Voters Education Fund and as co-chair of both the Committee on Hazardous Waste/Site Remediation and the Brownfield Task Force of the New York State Bar Association's environmental law section.

PAUL D. GUTIERREZ has been appointed to a two-year term as



Adjusting to being "empty nesters"

northern California state chair of the American College of Trial Lawyers. Previously state vice chair of northern California for two years, he now assists in vetting potential nominees for fellowship in the college and represents the region's fellows in their college activities. Gutierrez is the founder and principal of Gutierrez & Associates, an ADR firm based in San Francisco, and a member of the American Board of Trial Advocates.

JAMES F. PEDERSON has retired as a partner at Dorsey & Whitney, based in Minneapolis, and is now senior vice president and general counsel at Opportunity International Inc. in Oak Brook, Ill., a global microfinance nonprofit.

After eight years as executive vice president and general counsel of Intelsat, **PHILLIP SPECTOR** has left the company's management and joined its board of directors. "Intelsat is the world's largest communications satellite company," he writes, "with offices in Washington, D.C., and Luxembourg." Prior to joining Intelsat, Spector was the managing partner of the Washington office of Paul, Weiss, Rifkind, Wharton & Garrison and chair of the firm's communications and technology group.

1976 CHARLES "CHUCK" BEAUDROT was appointed by Gov. Nathan Deal as administrative law judge for the Georgia Tax Tribunal, a newly established state tax court, and his four-year term began Jan. 1. He was previously a senior partner in the tax practice of Morris, Manning & Martin in Atlanta, where he also worked in the real estate capital markets practice. Beaudrot frequently speaks on tax, partnership, and corporate topics for groups including the Georgia Society of Certified Public Accountants, the Institute of Continuing Legal Education in Georgia and the Georgia Real Estate Tax Conference.

MICHAEL BOWEN, who writes under the pen name Hillary Bell Locke, is author of the mystery "Jail Coach" (Poisoned Pen Press, 2012). A former New York City lawyer, Bowen is now a partner at Foley & Lardner in Milwaukee and has published more than a dozen works of book-length fiction and nonfiction.

SCOTT BLAKE HARRIS was recently honored as a "visionary" by the Legal Times for his work in both the government and the private sec-

tor. He is the senior vice president and general counsel of Neustar Inc., a publicly traded telecommunications, Internet and information services company with headquarters in northern Virginia. He is responsible for the company's legal, public policy, communications, marketing and corporate social responsibility functions. Prior to joining Neustar, Harris served as general counsel of the U.S. Department of Energy.

Federal District Court Chief Judge **PATTI SARIS**; Massachusetts Supreme Judicial Court attorney **BARBARA (FISCHBEIN) BERENSON '84**; and Margot Botsford, Massachusetts Supreme Judicial Court associate justice, are contributors to and the editors of a new book, "Breaking Barriers: The Unfinished Story of Women Lawyers and Judges in Massachusetts" (MCLE). The book traces the journey of women in the Massachusetts legal profession since 1882, telling the stories of those who have faced and broken professional, societal, racial, economic and educational barriers. Among the 100 women who contributed essays or are interviewed within its pages are HLS Dean Martha Minow, several HLS faculty and many alumnae. It also covers some of the commonwealth's earliest female lawyers and includes a multitude of images and more than a few surprising details. For example, we learn from this volume that it was a lawyer, Elizabeth Marston (admitted to the bar in 1918), who was the inspiration for the comic book heroine Wonder Woman.

Last year, **JEFFREY G. WEIL** was honored along with law firm Cozen O'Connor's litigation department as a finalist for The Legal Intelligencer's Pennsylvania Litigation Departments of the Year award. The department was selected for handling the case *In Re the City of Harrisburg*, as well as other litigation matters, and Weil, co-chair of the firm's litigation department, represented Pennsylvania in litigation involving the Harrisburg bankruptcy and the appointment of a receiver to oversee the city's finances.

1977 HERVÉ GOURAIGE, a member of the Sills Cummis & Gross litigation practice group in Newark, N.J., was formally inducted into the Litigation Counsel of America at the LCA's 2012 Fall Conference & Induction of Fellows, held in Palm

Beach, Fla. Practicing in the areas of health care fraud litigation, general commercial litigation, white-collar criminal defense and internal corporate investigations, Gouraige has represented corporate and individual clients in civil and criminal matters in federal and state courts throughout the country. He served as an assistant U.S. attorney in the Southern District of New York under former U.S. Attorney Rudolph Giuliani.

1978

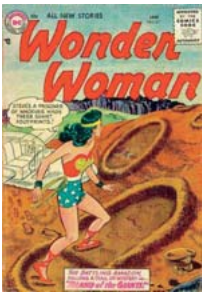
→ 35th Reunion Oct. 25-27, 2013

DAVID HUNTER writes that he has been CEO of the Quest Scholars Program, an educational nonprofit organization, since 2009. Based in Palo Alto, Calif., Quest operates two programs, QuestBridge and the Quest Scholars Network. QuestBridge links talented low-income students with scholarships to 35 of America's most selective colleges and universities, and the Quest Scholars Network supports these students on campus and beyond.

CAROL J. KARR, an attorney at Miller Johnson in Grand Rapids, Mich., was named 2013 Grand Rapids Closely Held Companies and Family Business Law Lawyer of the Year by "The Best Lawyers in America." Chair of the firm's probate and estate planning practice group, she specializes in estate planning, probate, and estate gift and fiduciary taxation. She is also named in "Best Lawyers" for Tax Law and Trusts and Estates. She has been recognized by Michigan Lawyers Weekly in its list of Women in the Law and by the Grand Rapids Business Journal as one of the 50 Most Influential Women in West Michigan. She is a Michigan Super Lawyer for Estate Planning and Probate and is on the Top 50 Women List.

RANDOLPH M. MCLAUGHLIN and his wife, Debra S. Cohen, are co-chairs of the civil rights practice group at Newman Ferrara, a New York City-based litigation firm. They handle cases involving employment discrimination, voting rights, police misconduct, fair housing and marriage equality. McLaughlin is also a tenured professor at Pace Law School, and Cohen is an adjunct professor there.

ZDZISLAW "ZEE" WIECKOWSKI has joined the corporate, finance and capital markets practice at Stevens



Was the inspiration for the comic book heroine Wonder Woman



Recently honored as a "visionary" by the Legal Times



► An Evening of Justices

"I ask my Louisiana students to identify your portrait and—by Jove!—they flunk," says the narrator of the play by **PAUL BAIER '69**, addressing Edward Douglass White, a native of Louisiana and the ninth chief justice of the United States. "They remember Mr. Justice Holmes of Massachusetts all right!" he continues.

The relationship between the two Supreme Court justices is central to "Father Chief Justice: Edward Douglass White and the Constitution."

In the fall, an act from the play was staged at Boston's Social Law Library. Four members of the Massachusetts Supreme Judicial Court participated, including Justice **ROBERT CORDY '74**, who played Justice **OLIVER WENDELL HOLMES JR. LL.B. 1866**, and Justice **RALPH GANTS '80**, who played Justice White. The narrator, Professor Richard Henry Jesse, was played by Baier, who is himself a professor at Louisiana State University Law Center.

The Boston premiere of "Father Chief Justice" follows performances at the Library of Congress and the Louisiana Supreme Court.

& Lee in New York City. Wieckowski spent 17 years abroad working for an international law firm and now represents clients domestically and internationally with an emphasis on Central and Eastern European and other emerging markets. His practice focuses on private equity and venture capital investments, mergers and acquisitions, leveraged acquisitions, public company takeovers, and public-to-private transactions. Fluent in Polish, for 15 years he taught courses on mergers and acquisitions, private equity investments, and debt financings in the Warsaw University of Technology's M.B.A. program.

1979 KENNETH I. JUSTER, a partner and managing director at the global private equity firm Warburg Pincus in New York City, has been elected to membership in the Trilateral Commission and the American Academy of Diplomacy.

GEORGE W. SOULE, a member of White Earth Nation, Minnesota's largest and most populous reservation, was appointed a judge of the White Earth Nation Court of Appeals and will sit on panels to hear appeals from White Earth Tribal Court. He is a past president of the Minnesota American Indian Bar Association. Soule will continue as a partner at Bowman and Brooke in Minneapolis, where he represents companies in major litigation nationally.

1980 DAVID J. GASS, a partner at Miller Johnson in Grand Rapids, Mich., was inducted as a fellow of the American College of Trial Lawyers at a black-tie affair held at The Waldorf Astoria in New York City Oct. 20. He is a trial lawyer who represents clients in a wide variety of complex commercial and general civil litigation in state and federal courts.

CORBETT GORDON, founder and former senior counsel in the Portland, Ore., office of Fisher & Phillips, has joined the labor and employment practice of Tonkon Torp, also in Portland. She has tried cases before juries in state and federal courts in Oregon and Washington and successfully prevailed in client appeals in state and federal courts as well as before the U.S. Supreme Court. In addition to providing counsel on all aspects of labor and employment law, drawing on her background in teaching, Gordon works with Tonkon Torp clients to present employment poli-

cies and practices as well as management training to employees. She also works with management and employees in gender identity matters to ensure a welcoming workplace when an employee is in transition.

In her third psychological mystery, "Turnabout," **HOPE REISMAN SHEFFIELD** continues the "investigative and personal adventures of North Shore lawyer/mother/divorcee Meredith Bennett," she writes. "Turnabout refers to a New Trier [Ill.] High School dance, and also to notions of revenge, empathy and karma."

California Western School of Law Professor **JAN STIGLITZ LL.M.** was named Attorney of the Year by California Lawyer magazine. Stiglitz, co-director of the California Innocence Project, was recognized for helping to exonerate Brian Banks after he served more than five years in prison for a wrongful conviction. Banks is the former Long Beach high school football standout who was falsely accused of the rape and kidnapping of a classmate.

1981 PETER M. HOSINSKI has become a name partner in his law firm, which as of July 1, 2012, has been known as Becker, Glynn, Muffly, Chassin & Hosinski. The firm, located in New York City, continues its general corporate and litigation practice, serving both domestic and foreign clients with a focus on international matters. His practice centers on cross-border transactions and finance, with particular emphasis on representing international development finance institutions making investments in emerging markets.

1982 RAYMOND ANGELO BELLIOTTI, Distinguished Teaching Professor of Philosophy at SUNY Fredonia, is the author of "Jesus or Nietzsche: How Should We Live Our Lives?" and "Shakespeare and Philosophy: Lust, Love, and Law," both published in the past year by Rodopi Editions. He has written 12 other books addressing issues in jurisprudence, sexual ethics, posthumous harm, human happiness and baseball, among other topics.

BENNE C. HUTSON has been appointed by the speaker of the North Carolina House of Representatives to the North Carolina Environmental Management Commission, which is responsible for adopting rules for

the protection, preservation, and enhancement of the state's air and water resources. The commission also oversees several divisions of the state's Department of Environment and Natural Resources, including the divisions of Air Quality, Land Resources, Water Quality and Water Resources. Hutson has been practicing environmental law for the last 30 years and is a partner in the Charlotte office of McGuireWoods.

NICKY SHEATS, director of the Center for the Urban Environment at the John S. Watson Institute for Public Policy of Thomas Edison State College in Trenton, N.J., is serving a three-year term as a member of the U.S. Environmental Protection Agency's National Environmental Justice Advisory Council. The NEJAC is a federal advisory committee to the EPA, and its members provide advice and recommendations about issues related to environmental justice. Sheats, who was a public interest attorney for about eight years after graduating from HLS, also holds a Ph.D. from the Department of Earth & Planetary Sciences at Harvard University, where his field of study was biological oceanography.

1983 "Nothing could be finer," writes **ISAAC BORENSTEIN LL.M.** of the current phase of his career. He has left client advocacy to do more work as mediator and arbitrator at The Mediation Group in Brookline, Mass.—with other Harvard Law alumni—and to teach law and alternative dispute resolution. After 22 years as a judge in Massachusetts, 16 at the Superior Court and, before that, six at the Lawrence District Court, he left the bench in 2008 for other activities, including teaching Constitutional Law Evidence and Criminal Procedure as a lecturer in law at Northeastern University. Now he will continue at Northeastern but also, in 2013-2014, serve as visiting lecturer in law at Suffolk University, where he will teach Evidence and Criminal Procedure. Borenstein's wife, Devorah, is "blazing a trail as a practitioner helping people with mental health challenges, elder law, guardianship, etc." His son, Simon, received his B.F.A. in drama from Carnegie Mellon University and "is doing music, acting, and auditioning, while making money at restaurants and other gigs in Brooklyn." And his stepdaughter is going to Princeton

Extra Large Mushroom—with an Ownership Share

ALTHOUGH LAWYERS MIGHT scarf down a lot of pizza while working late nights, they don't often sell it. But Shannon Liss-Riordan '96 is planning to do just that from a Harvard Square pizzeria, where she is hoping to turn an infamous case accusing a pizza chain of stealing workers' wages into an example of how giving employees a voice can be both fulfilling and profitable.

A partner at Boston-based plaintiffs'-side employment and labor law firm Lichten & Liss-Riordan, she will open The Just Crust pizzeria on Brattle Street in Cambridge, just down the block from where she lived with her now husband, Kevin, while she was in law school.

The Just Crust will occupy a space once owned by The Upper Crust Pizzeria, a chain targeted by Liss-Riordan in a class-action lawsuit she described as the most egregious case she's ever worked on. The suit accused the company of forcing employees to pay back \$340,000 in back wages that the U.S. Department of Labor had required the chain to pay after a 2009 investigation. According to the lawsuit, upper-level managers told employees they would have to give back the money or lose their jobs.

When The Upper Crust filed for bankruptcy last fall, it sparked an idea for Liss-Riordan. She began searching for a buyer who would treat workers fairly. In November, however, the trustee who had taken over the chain suddenly shut it down, leaving 140 people without jobs. After her attempts to find an investor on short notice failed, she and her husband bought the Harvard Square location themselves.

Their plan is to hire back as many Upper Crust employees as possible and to give them an ownership share in the restaurant—an experiment that Liss-Riordan hopes will provide an example of how giving employees a voice will help companies thrive.

Liss-Riordan's own firm has specialized in going after companies she claims have handed off the cost of running a business to employees by cheating them out of wages and earned tips.

In addition to Upper Crust employees, she has represented workers in the restaurant, hotel, and food service industries in cases involving tips and overtime pay, employees who allege they have been mischaracterized as independent contractors, and workers who claim that their employers have charged them for

the right to work. Such cases have included commercial cleaners who pay up to \$30,000 to get access to cleaning jobs they claim never materialized, strippers forced to pay shift fees to rent out poles, and truck drivers who have to buy or lease their own trucks.

In November, the 1st Circuit also affirmed on appeal a \$14 million judgment Liss-Riordan won on behalf of nearly 15,000 Starbucks baristas in Massachusetts who accused the coffee chain of breaking a Massachusetts law prohibiting managers from dipping into waitstaff tip pools.



MARTHA STEWART

AFTER HAVING FOUGHT SO LONG ON BEHALF OF EMPLOYEES, SHE'S PREPARED TO BECOME AN EMPLOYER.

Having fought for so long on behalf of employees, Liss-Riordan is excited to see how a business can operate from an employer's perspective and hopes that The Just Crust will successfully prove that worker-owned businesses can function in other industries as well. If pizzas prove to be successful, the next step might involve a worker-owned cleaning business.

"I thought that putting my legal skills to use on behalf of employees was an important thing I could do with my legal education and training to balance the scales of justice toward employees, because employers have so much more power," Liss-Riordan said. "I hope this little experiment shows that you can turn that all around when you give the workers a voice."

—LANA BIRBRAIR '15

this fall after a year (sponsored by the university) doing community service in India.

YOUNG JOON KIM, a partner at Milbank, Tweed, Hadley & McCloy in Hong Kong, is a trustee of the Asian University for Women and chair of the board of the AYW Support Foundation. The AYW is an independent university in Bangladesh dedicated to educating future women leaders from across South and Southeast Asia and the Middle East. In January, Kim and AYW Chancellor Cherie Blair were special guests at an evening event held in Seoul, South Korea, to benefit the university. Former South Korean Assemblyman Park Jin delivered the opening address.

1984 BARBARA (FISCHBEIN) BERENSON is a contributor to and co-editor of "Breaking Barriers: The Unfinished Story of Women Lawyers and Judges in Massachusetts" (MCLE). See note for **PATTI SARIS '76**.

1985 JAY ROTHMAN is included on Wisconsin Law Journal's 2013 list of Leaders in the Law and has been named 2013 Milwaukee Mergers & Acquisitions Law Lawyer of the Year by "The Best Lawyers in America." Chairman and CEO of Foley & Lardner, he is a partner and a member of the firm's management committee, transactional and securities practice, and energy industry team. He focuses primarily on mergers and acquisitions, securities law, takeover defense, and general corporate and business law. In addition, Rothman frequently speaks on SEC compliance and corporate disclosure and governance matters. In 2012 he was named to BTI Consulting Group's Client Service All-Star Team and recognized by the Legal 500 for his work in the area of mergers and acquisitions.

BRYAN STEVENSON, founder and executive director of the Equal Justice Initiative in Montgomery, Ala., was honored at the 2012 American Ingenuity Awards hosted by Smithsonian magazine recognizing nine innovators in the arts, science, technology and social initiatives. EJI, whose work has reversed the death sentences of more than 75 inmates in Alabama, was recognized in the area of social progress for its work confronting mass incarceration and challenging adult prosecution and

extreme sentences imposed on children. Stevenson has been advocating for death-row inmates in the United States for a quarter-century, and his work on behalf of incarcerated minors last year led to a Supreme Court ruling effectively barring mandatory life sentences without parole for minors, meaning about 2,000 such cases in the U.S. may be reviewed.

Since last September, **VERONICA M. WHITE** has been overseeing 3,500 full-time employees and helping steward 29,000 acres of land with a budget of \$337 million as commissioner of the New York City Department of Parks & Recreation. She previously was the founding executive director of the Center for Economic Opportunity, established by Mayor Bloomberg to implement innovative ways to reduce poverty in New York City, which last year won an Innovations in Government Award from Harvard Kennedy School. She has also worked on behalf of New York City as a public official under the administrations of Mayors Edward I. Koch and Rudolph Giuliani. A lifelong New Yorker, White grew up in Brooklyn and now lives in Manhattan with her husband, Victor Marrero, and two sons, Andrew and Robert.

1986 Last year **GLORIA VALENCIA-WEBER**, a professor at the University of New Mexico School of Law, was reappointed as a director of the Legal Services Corp., a position she has held since 2010. "I am one of two career law academics appointed by President Obama," she writes. "The other is the dean of the Harvard Law School." Valencia-Weber has taught and written about immigration law and specializes in Native American/American Indian law. Her scholarly research in Indian law covers areas including tribal courts, domestic violence, and the constitutional interface of tribal, federal and state authority. Founder of the UNM School of Law's Indian Law Certificate Program in 1992, she had previously established a similar program at the University of Tulsa College of Law, where she was an assistant professor. She also serves as a judge for the American Indian Law Center's Southwest Intertribal Court of Appeals. She was inducted into the American Law Institute in 2007.

1987 **SCOTT D. DEATHERAGE** has

become a partner at Gardere Wynne Sewell in Dallas. A member of the firm's environmental practice group and energy industry practice group, he practices environmental, energy and greenhouse gas regulatory matters. In addition to providing permitting, compliance and litigation services, he counsels clients on a wide array of environmental issues in connection with transactions, including mergers and acquisitions, and represents them before local, state, and federal environmental agencies and in state and federal courts.

WALTER EFFROSS, a professor at American University Washington College of Law, is the author of "Corporate Governance: Principles and Practices" (Aspen, 2d ed., 2013). He writes, "New appendices detail practical ways in which lawyers can find, develop and enhance career opportunities in this field."

1988 In January, **RON LATZ** became chair of the Minnesota Senate Judiciary Committee. He is serving his third term in the Minnesota Senate, after two terms in the House of Representatives, and maintains a practice in criminal defense and civil plaintiffs' employment discrimination cases at his own firm in Minneapolis. Latz writes, "My wife, Julia, and I have three kids (boy, girl, girl) between 13 and 5 years old, so our house is hopping!"

ALLEN K. ROBERTSON, an attorney with the corporate and commercial law firm Robinson Bradshaw & Hinson in Charlotte, N.C., will serve as president of the National Association of Bond Lawyers in 2013-2014. Involved in Robinson Bradshaw's public finance, banking, bankruptcy, and health care practices, he regularly serves as bond counsel, underwriter's counsel, bank counsel and borrower counsel in a variety of tax-exempt bond issues. He is also a fellow of the American College of Bond Counsel. The National Association of Bond Lawyers was founded in 1979 to promote the integrity of the municipal market by advancing the understanding of and compliance with the laws affecting public finance.

1989 **REBECA HIDALGO BELLWS**, an assistant U.S. attorney, was honored last fall with the Attorney General's Award for Distinguished Service, the second highest award for employee performance bestowed



Commissioner of
the New York City
Department of Parks &
Recreation



Honored at the
2012 American
Ingenuity
Awards hosted
by Smithsonian
magazine

by the U.S. Department of Justice, for her exceptional work as part of the team that investigated and prosecuted former Congressman **WILLIAM J. JEFFERSON '72** and his co-conspirators, culminating in his conviction for bribery, honest services fraud, conspiracy, money laundering, and Racketeer Influenced and Corrupt Organizations violations.

NEIL A. BELSON writes: "I have opened a new 'virtual' law practice, the Law Office of Neil A. Belson, in Port Tobacco, Md. It focuses on technology transactions in the life sciences, information technology, renewable energy, and agricultural industries, including technology licensing and research and development agreements." Belson has more than 20 years of experience in the life sciences and technology industries, including founding and serving as president of NewAgriculture Inc., an industrial biotechnology company.

The U.S. Securities and Exchange Commission has named **NORMAN B. CHAMP III**, a former general counsel to hedge fund manager Chilton Investment Co., as its director of investment management. He has been with the SEC since 2010, most recently serving as deputy director of its compliance inspections and examinations unit, an office that played a key role in implementing certain provisions of the Dodd-Frank financial reform law. Champ now oversees the regulation of mutual funds, hedge funds and other money management businesses. He has taught a class on investment-management law at HLS and in the fall was teaching it to 120 colleagues at the SEC.

WILLIAM P. CRAWFORD JR. recently became senior vice president and general counsel of Pacolet Milliken Enterprises Inc. in Spartanburg, S.C., a private, family-owned investment company. In addition to being responsible for the legal affairs of the company, he shares significant responsibility in its risk, tax, capital markets, and corporate relationships areas, and he also serves as a member of its management investment committee. Prior to joining Pacolet Milliken, Crawford served as senior counsel at TD Bank, where he was responsible for the legal aspects associated with the bank's U.S. corporate, real estate and contract functions.

NATALIE HANLON-LEH has been named leader of Faegre Baker Dan-

iels' national intellectual property group in Indianapolis. She was previously leader of the firm's Denver office. As a partner and senior trial lawyer focusing on intellectual property protection and litigation, Hanlon-Leh serves as lead counsel in complex patent, copyright, trademark and trade secrets cases.

CESAR LAPUZ VILLANUEVA LL.M. writes: "I have been appointed chair of the new Philippine Governance Commission for Government Corporations [in Manila], a central advisory, monitoring, and oversight body with authority to formulate, implement and coordinate policies over state-owned enterprises. The government position is Cabinet level, which brings me into the official family of President Benigno Aquino III. The new appointment saw the end of my seven-year tenure as dean of the Ateneo Law School." The author of "Philippine Corporate Governance," which received an award from the National Book Board of the Philippines, Villanueva recently wrote "Philippine Law and Practice on Non-Corporate Media of Doing Business."

ALFREDO VITOLO LL.M. writes, "Our firm, Cardenas, has merged into Nicholson and Cano to become one of the largest full-service firms in Argentina." It is located in Buenos Aires.

1990 RICARDO ANZALDUA has been named executive vice president and general counsel of MetLife Inc. in New York City. He leads the company's global legal operations and oversees its government relations and public policy department, corporate secretary's office, and corporate ethics and compliance group. Anzaldua was previously senior vice president and associate general counsel at The Hartford Financial Services Group, where he co-chaired the law department's diversity committee.

1991 PHILIPPE COEN LL.M. writes that he was elected in Berlin as president of the European Company Lawyers Association (www.ecla.org) in Brussels. Created in 1983, ECLA is the umbrella organization for 20 European country bars and lawyer associations and represents 40,000 individual company lawyers.

1992 Jackson Walker partner **SCOTT M. MCELHANEY** is serving as

president-elect of the 11,000-member Dallas Bar Association and will become president in January 2014. A member of the DBA board of directors since 2006, he has previously served as vice president, chair of the board, and chair of various sections and committees. He also chaired DBA's 2009 "Equal Access to Justice" Campaign, which set a record for total dollars pledged. As trial and appellate counsel for a variety of companies and individuals, McElhane works with clients to resolve complex commercial disputes and employment matters, and he regularly appears before federal and state courts and arbitrators for trials and hearings. He has taught Employment Law and Legal Research and Writing as an instructor at the Southern Methodist University Dedman School of Law.

1993 JIM DONOVAN, a managing director at Goldman Sachs, was unanimously elected to the board of directors of the Foundation for the National Institutes of Health in Bethesda, Md., and began his term May 16, 2012. Among his responsibilities are helping guide the FNIH's mission and purpose, strengthening its programs and services, and enhancing its public standing. In addition to working in investment banking, investment management and corporate strategy for nearly two decades, Donovan also serves as an adjunct professor at the University of Virginia and has been a trustee of the Dana-Farber Cancer Institute.

ARTHUR LONG, a partner at Gibson, Dunn & Crutcher in New York City, recently wrote a treatise on the Dodd-Frank Wall Street Reform and Consumer Protection Act, "Financial Services Regulation Deskbook," published by the Practising Law Institute. In addition, Long's wife, Wendy, was the Republican United States Senate candidate for the state of New York in 2012.

STEVEN LURIE got married in February 2012 to Erin Duncan Gordon, a professor of pulmonology at the University of California San Francisco School of Medicine. Lurie recently lived for two years in Bangalore, India, where he built a game group for the social game services provider Zynga. Former head of the company's mobile group, he now heads the international group based in its San Francisco headquarters. Lurie



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holds a charity 5K run/walk every year in honor of his late older sister to benefit education, and he donated proceeds from last year's run to two schools in India (see www.runforteachers.org).

LOCKE MCMURRAY LL.M. has joined Jones Day as a partner in the New York City office from Lehman Brothers Holdings Inc., where he had been the head bankruptcy lawyer for derivatives since 2008. His practice focuses on complex financial products through their entire life cycle from development to dispute resolution or bankruptcy of one of the parties.

1994 JUSTIN J. DANIELS has become a partner at Proskauer in Boston. A patent litigator, he has represented clients in the software, entertainment, media, finance and pharmaceuticals industries.

JEFFREY GOLDFARB has joined Houston-based Hicks Thomas in its new Dallas office. A commercial litigation lawyer and founder of Dallas' Goldfarb LLP, he represents public and private corporations and entrepreneurs in high-stakes commercial cases, including contracts, fiduciary duties, real estate disputes and intellectual property matters. He has also represented major corporations and high-net-worth individuals in state and federal trial and appellate courts and arbitration proceedings.

In April, **HARRY L. JOHNSON III** was nominated by President **BARACK OBAMA '91** to serve on the National Labor Relations Board. Johnson is a partner in Arent Fox's labor and employment practice in Los Angeles.

KEVIN KIM LL.M. has been awarded the Outstanding Achievement in the Legal Field Award by Chambers & Partners, which honored him for his work in promoting international arbitration in Asia, and Asian interests in the field of international arbitration worldwide. He leads a team of 19 lawyers and is secretary general of the International Council of Commercial Arbitration.

JENS KRUSE MIKKELSEN LL.M. writes that he has been appointed justice of the Danish Supreme Court in Copenhagen.

Last year **RAYE MITCHELL** wrote that she, **LISA JONES JOHNSON '82** and **HILL HARPER '92** launched The M.B.A. Series (M.B.A. stands for Motivated Brilliant Achievers), a mentoring and training program to sup-

port African-American youth. The collaboration is in response to the executive order that President **BARACK OBAMA '91** signed last July to improve outcomes and advance educational opportunities for African-Americans. Obama's initiative aims to ensure that all African-American students receive an education that fully prepares them for high school graduation, college completion, and productive careers, and The M.B.A. Series "provides youth, ages 8 to 18+, with leading-edge, inspirational, and motivational advice and counsel bolstered with specific hard skills and technical skills development in leadership." See www.TheMBAseries.org to learn more about the initiative and the HLS alumni organizers.

1995 NIKOLA "NICK" DJURIC, a partner at Sutherland Asbill & Brennan and member of its tax practice group, received the Atlanta Bar Association's estate planning and probate section inaugural Distinguished Service Award. He was recognized for his involvement in the leadership of the estate planning and probate section, the Atlanta Estate Planning Council, and the State Bar of Georgia's fiduciary law section, as well as his many continuing legal education presentations and his participation in the March Madness Will Training Program. He practices primarily in the areas of estate, gift and generation-skipping transfer tax; wills, trusts and administration of estates; tax controversies; fiduciary litigation; and private foundations.

1996 ANNALISA CIAMPI LL.M. and her husband announce the birth, in June 2012, of their second child. She writes, "Maria has now joined Emilio (December 2010)." While continuing to serve as an adjunct professor of international law at the University of Florence in Italy, Ciampi received tenure from the University of Verona, where she teaches international law and EU law.

1997 AARON ALT has become [senior vice president for business development and treasurer of Target Corp. in Minneapolis.](#)

King & Spalding partner **MARK A. JENSEN** has been elected to the firm's policy committee, its governing body responsible for policies, strategic focus and overall enhancement of the firm, for a three-year term. A dep-

uty managing partner of the firm's Washington, D.C., office, he is also a member of the special matters and government investigations practice. He focuses on white-collar criminal litigation, complex civil litigation, internal investigations and compliance counseling.

ALEXANDER E. POTENTE has been named partner at Sedgwick in San Francisco. He represents insurers and reinsurers in complex commercial insurance litigation matters. His litigation practice focuses on disputes pertaining to general liability and professional liability policies, specifically extracontractual coverage for claims arising from advertising, environmental, product defect and personal injury litigation as well as general commercial disputes.

ALEJANDRO GARCÍA VILLALPANDO LL.M. has joined Akerman Senterfitt as a shareholder in the taxation practice group in New York City. He focuses on domestic and international tax and corporate matters. His work for U.S. and foreign clients largely intersects with the firm's Latin American and Caribbean practice, with an emphasis on the tax aspects of cross-border transactions.

1998 SHANNON (JOHNSON) HASSAN recently became a partner in the Warner Literary Group, a full-service agency that provides literary and entertainment representation. She was previously acquisitions editor and general counsel at Fulcrum Publishing and an attorney at Arnold & Porter in New York City.

1999 TED RANDOLPH, an investment funds lawyer, is now a partner at Wiggin and Dana in Stamford, Conn., and also leads the firm's new hedge fund and investment management practice group. He joined the firm after seven years as senior vice president and associate general counsel for HSBC Securities (USA) Inc.

Wake Forest University School of Law Professor **KAMI CHAVIS SIMMONS** has been elected to the American Law Institute. She has been on the law school faculty since 2006, and prior to that she was an assistant U.S. attorney for the District of Columbia. Simmons' research focuses on using cooperative federalism principles and stakeholder participation to implement sustainable reforms in the criminal justice system.



[Has become senior vice president for business development and treasurer of Target Corp. in Minneapolis](#)

From Murder Boards to Regulation Rollback

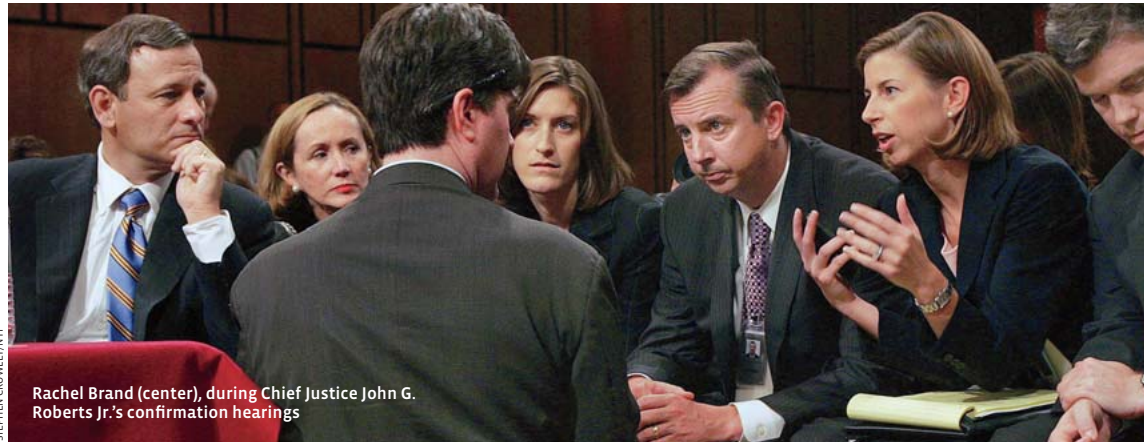
RACHEL BRAND '98 has occupied a series of high-profile government jobs in a career that has taken her from the White House to the Supreme Court and the Justice Department.

But she remained silent during her most prominent moment in the spotlight as the assistant attorney general shepherding President George W. Bush's two Supreme Court nominees through the Senate. Brand sat directly behind Chief Justice John G. Roberts Jr. '79 and Samuel A. Alito throughout their confirmation hearings, in full view of the television cameras.

These days, Brand is leading the U.S. Chamber of Commerce's campaign to roll back government regulations while also serving as one of the charter members of a new Privacy and Civil Liberties Oversight Board.

For Brand, the oversight board is a way to stay involved in government service, which she chose as her career path even before enrolling at Harvard Law School.

After a clerkship with Professor Charles Fried, when he served as a justice on the Massachusetts Supreme Judicial Court, Brand worked briefly for the presidential exploratory committee of Elizabeth Dole '65 before joining a small Washington, D.C., law firm headed by



STEPHEN CROWLEY/NYT

Rachel Brand (center), during Chief Justice John G. Roberts Jr.'s confirmation hearings

**"SHE HAS A VERY, VERY SAVVY
POLITICAL AND PRACTICAL SENSE."**

—CHARLES FRIED

prominent appellate litigators Charles Cooper and Michael Carvin.

She found herself in Tallahassee, Fla., during the disputed 2000 *Bush v. Gore* presidential recount and then landed in the Office of the White House Counsel, where her responsibilities shifted after the 9/11 terrorist attacks to include helping draft the executive order to create the Office of Homeland Security, the precursor to the Department of Homeland Security.

"It was an amazing change in mindset from the day before 9/11 to after," said Brand, who remembers spending an all-nighter at the White House after evacuating the building on the day of the attack.

After clerking for Justice Anthony Kennedy '61, Brand moved to the Justice Department's Office of Legal Policy, which in 2005 she was confirmed by the Senate to lead. It was in that job that she led the "murder boards," the mock sessions where Roberts and Alito prepared for their hearings, and fulfilled the Senate Judiciary Committee's voluminous document requests.

"Nothing gets by her," said Fried. "In addition to being a good lawyer, she has a very, very savvy political and practical sense."

Brand left the Justice Department in 2007, when she was eight months pregnant, and started a three-year stint at WilmerHale in 2008.

(She met her husband, Jonathan Cohn '97, when they both attended a Federalist Society student conference at Stanford University.)

Brand shifted to the Chamber of Commerce's litigation arm in 2011, where she's responsible for challenging Obama administration regulations issued by agencies such as the Securities and Exchange Commission and the Labor Department.

The chamber files amicus briefs in about 100 cases a year and also engages in its own litigation, including a record-high five cases last year, Brand said.

"Some of our cases are very high-profile; others are not as high-profile, but they're important to members and have an economic impact," Brand said. "There's a perception that we file a new lawsuit a week. That's not true. We're judicious, but we're not afraid to litigate

when it's necessary."

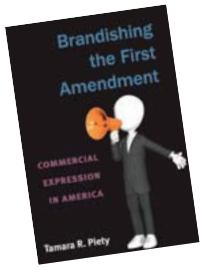
Brand's most high-profile victory at the chamber came in January, when the U.S. Court of Appeals for the D.C. Circuit invalidated several recess appointments to the National Labor Relations Board, a case the Obama administration has asked the Supreme Court to review.

In 2012, Brand, along with Elisebeth Cook '00, became a member of the board within the executive branch tasked with monitoring how government counterterrorism activities impact civil liberties and privacy.

"It's nice to have a hand in public policy matters again," Brand said. "I won't say it's not a challenge to balance two jobs and two children—I'm pretty busy."

—SETH STERN '01

As the Bulletin went to press, Brand—along with Kate Todd '99—was promoted to lead the chamber's litigation center.



Author of “Brandishing the First Amendment: Commercial Expression in America,” published by the University of Michigan Press

Her article “Subverting Symbolism: The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act and Cooperative Federalism” appeared in the American Criminal Law Review last year.

2000 TARA UZRA DAWOOD, president of the Dawood Global Foundation and founder of LADIESFUND in Karachi, Pakistan, was invited by former Vice President of Taiwan **ANNETTE LU LL.M. ’78** to go to Taiwan to speak during the Business & Professional Women Asia-Pacific Conference on the She-Economy. Dawood writes: “Madame Lu founded the Taiwanese chapter of BPW decades earlier and four years back took the helm once again as president and has

grown the organization immensely during her tenure. ... I hope that her work in Taiwan will inspire and aid us toward our work for women empowerment in Pakistan.”

Last year **BRIAN FITZPATRICK** was promoted to professor with tenure at Vanderbilt Law School.

MICHAEL E. LEITER, senior counselor at Palantir Technologies in Palo Alto, Calif., has been elected to the board of trustees of the RAND Corp., a nonprofit research organization. He served as director of the National Counterterrorism Center, the nation’s primary organization for analysis and integration of domestic and foreign terrorism intelligence, in the administrations of both **BARACK OBAMA ’91** and George W. Bush.

TAMARA PIETY LL.M., associate dean of faculty development and professor at the University of Tulsa College of Law, is the author of “Brandishing the First Amendment: Commercial Expression in America,” published by the University of Michigan Press.

ANGELA WU, executive director of Zion Community Development Corp. in her hometown of Oberlin, Ohio, writes: “This is a dream of mine, to be in a position where I can facilitate leadership among the beautiful people of my home community in implementing systemic change. We have serious problems to overcome in our small city of 8,000—high poverty (24 percent), unemployment, hunger (including many children), homeless-

HIS OTHER LIFE ➤ *He’s got game*

If you really want to improve your legal writing, says **MARK YOHALEM ’05**, try writing a video game. A prosecutor at the U.S. attorney’s office in Los Angeles with a Supreme Court clerkship under his belt, Yohalem has written more than 20 short stories and seven computer games in his free time. He credits the latter with keeping his writing fresh and reminding him that there are multiple ways to tell a good story.

Then again, a lawyer’s obsessive attention to detail also affects the

way Yohalem approaches creative writing, including his latest accomplishment, “Primordia,” a game that takes place in a desolate landscape ruled by robots that inherited the world after humans became extinct.

“It’s astonishing to me that there will be games with phenomenal graphics and orchestral scores and there will just be grammar errors,” Yohalem said. “I deliberated about every single word. A lawyer is more likely to have that kind of neurotic attitude about things than your ordinary game designer.”

Legal concepts also shaped “Primordia.” Complete with detailed, two-dimensional graphics, point-and-click adventuring and a series of puzzles, some shaped by LSAT logic games, “Primordia” features an *in rem*

legal dispute, a robot law clerk named Clarity, and a debate between legal positivism and empathetic judging.

Yohalem, who paid his way through law school in part by writing stories for computer games, credits Harvard Law School with inspiring him to work on a video game with a serious storyline, rather than the more typical fare focused on blowing up bad guys.

In one instance, he recalled, Professor Lloyd L. Weinreb ’62 chewed him out for working on a video game that had “no redeeming value to it.” Yohalem admitted he was right but countered that someone was going to write it, so it might as well be him.

“He said that’s a complete cop-out,” Yohalem recalled. “Someone might write it,” he said to me, “but you have a set

of skills and you should be trying to use those skills for something more rewarding.”

There is another aspect of the game that law school grads will find familiar: There’s no perfect ending. In the “best” storyline, the protagonist abandons a city in the hands of a corrupt artificial intelligence and sets out with others to create a more equitable society.

“There’s a mindset people have that games are the ultimate power fantasy, and through the power of one person, usually through physical force, you can change the world from a bad place to a good place,” Yohalem said. But, much like lawyering, “the game is more about an incremental process, not something that can be done in one fell swoop.”

—LANA BIRBRAIR ’15



A screen shot from Mark Yohalem’s video game “Primordia”

ness, physical/mental illness, and a large minority, low-income population disproportionately impacted by poor educational performance and entanglement with the criminal justice system. But our nonprofit is giving people hope—starting first with block organizing, involving the residents in their own needs assessment.” After only seven months on the job, the organization was selected to receive an award from the NAACP for “outstanding service to our people of color,” she continues. “We’ve got lots of work left to do, but I am excited about what is to come, especially with grassroots energy.”

2001 MICHAEL G. ADAMS, a partner in the government relations practice group in Dinsmore’s Washington, D.C., and Louisville, Ky., offices, is serving a one-year term on the Republican National Lawyers Association board of governors. Adams’ practice at Dinsmore focuses on counseling and representing federal and state candidates, PACs, issue groups, and donors. He also counsels clients in other state and federal constitutional and regulatory matters. Former in-house general counsel of the Republican Governors Association, he continues to serve as general counsel from Dinsmore. Prior to joining the RGA, he served at the U.S. Department of Justice as deputy chief privacy and civil liberties officer and counsel to the deputy attorney general.

KATE COOK has been appointed chief legal counsel to Massachusetts Gov. **DEVAL PATRICK ’82**. She is the first female chief legal counsel for a governor in the history of the commonwealth. Prior to this appointment, Cook was the director of policy and Cabinet affairs for two years and previously served as the governor’s deputy legal counsel and as general counsel to the Massachusetts Senate Committee on Ways and Means.

MATTHEW W. CROWE has been working in-house at Citigroup for seven years. “I joined in the wake of some regulatory challenges in Tokyo in 2005,” he writes. “I currently serve as general counsel for Citi Private Bank North America in New York and would be interested in connecting with others at banks and broker-dealers wrestling with the avalanche of regulation rumbling toward us from regulators around the world (crowe@post.harvard.edu). I see

Elissa and **ZACH GELBER** frequently in the city. Zach has a flourishing legal practice downtown, and Elissa continues her children’s advocacy work, all the while raising two brilliant girls together. I have crossed tracks recently with **JASON HERMAN**, who is a partner at Simpson Thacher, and had the opportunity to participate in **JOHN PALFREY**’s investiture at Phillips Academy in Andover, Mass., in September. It’s no surprise to see our classmates doing so well and always a joy to reconnect.”

TONY D. FEUERSTEIN has become a partner at Akin Gump Strauss Hauer & Feld in New York City. He is a member of the firm’s corporate practice and focuses on representing clients in a broad range of public and private M&A transactions.

JESSICA MANCE LL.M. has been appointed senior legal counsel at the United Kingdom’s Financial Ombudsman Service in London. “The ombudsman is an independent body formed by Parliament to adjudicate in disputes between the public and financial services industries such as banks, insurance companies and ancillary advisers,” she writes. “The work is diverse and energizing, with cross-border and policy ingredients.”

JESSICA NALL, a partner in Farella Braun + Martel’s white-collar crime group in San Francisco, was recognized by the San Francisco Business Times as one of its “40 under 40” emerging leaders in the Bay Area. The publication noted Nall’s successful representation of senior-level executives and companies facing high-stakes SEC investigations and enforcement actions, Department of Justice investigations and prosecutions, and complex internal investigations.

STEPHEN SCALI lives in the “sub-tropical idyllic island of Mauritius” with his spouse and two children. He is head of the Mauritius office of the international law firm Conyers Dill & Pearman. He writes: “Following HLS, I practiced corporate law with Freshfields Bruckhaus Deringer in London and Paris, acted as in-house counsel at Vodafone Group and Merrill Lynch, and was CEO of an international trust company. My practice covers cross-border corporate, finance and commercial transactions, typically relating to investments involving jurisdictions such as Africa and India.”

ARCHANA SRIDHAR has become

assistant provost at the University of Toronto.

2002 DANIEL L. GEYSER has joined McKool Smith as a principal in its Dallas office. He has served as lead appellate counsel in more than 20 cases in both federal and state courts, and for four years he worked in the Office of the Solicitor General of Texas conducting and supervising appellate litigation for the state.

KEVIN R. PINKNEY has been elected partner at Arent Fox in Washington, D.C. Formerly an associate in the firm’s government contractor services and commercial litigation practices, he now counsels clients doing business with federal and state government agencies on matters arising throughout the acquisition life cycle, focusing on the government contracting and national security aspects of business transactions. Before joining Arent Fox, Pinkney was the co-founder and general counsel of a biotechnology firm in the veterinary diagnostics industry.

EZRA REESE has been promoted to partner at Perkins Coie in Washington, D.C., and is a member of the firm’s political law practice. He focuses on campaign finance issues, serving as counsel to political committees and issue advocacy organizations as well as elected officials and political party committees. He also represents public charities and other nonprofit organizations with respect to Internal Revenue Service restrictions, in particular those regarding lobbying and political activities. In addition, he counsels organizations on issues relating to lobbying disclosure and ethics issues.

2003 HEATH A. BROOKS has been promoted to special counsel at WilmerHale in Washington, D.C.

MICHAEL E. DAHM has joined the corporate practice group of Whyte Hirschboeck Dudek in Milwaukee, where he is a member of the corporate transactions, emerging and entrepreneurial companies, and securities teams. In his previous work in private practice and as an associate general counsel for a large global multistrategy hedge fund, he provided counsel on acquisitions and sales of businesses in a variety of industries, investments in early-stage companies, joint ventures, auctions of private fund interests, participations, and alternative financings.



Appointed chief legal counsel to Massachusetts Gov. Deval Patrick '82



Litigates intellectual property

CARLOS LAZATIN has been named partner at O'Melveny & Myers in Los Angeles, which he joined in 2003 and where he is a member of the class actions, mass torts, and insurance litigation practice with a focus on class-action and consumer product litigation. He has represented clients in class-action and products liability cases and in copyright, trademark and intellectual property disputes. A veteran of the firm's Trial Advocacy Prosecution Program, he has also done pro bono work as part of the UCLA 9th Circuit Appellate Advocacy Clinic.

"It's a huge win for my company!" **BEN LONGORIA** wrote earlier this year. "Latham and Watkins (one of the largest firms in the USA) just signed a worldwide license to use [Wizdocs'] DealManager application to run their M&A and corporate deals."

BARBARA NIEDERKOFER has been named partner at Akin Gump Strauss Hauer & Feld and works in the firm's New York City and London offices. A member of the investment funds practice, she represents private investment funds and their sponsors and focuses on the formation and operation of fund complexes. Her practice extends to both hedge and private equity funds.

MICHAEL PASSANTE and Sarak Ardestani were married on Nov. 10 at Morais Vineyards in Bealeton, Va. Ardestani is from northern Virginia and works for PricewaterhouseCoopers as an Internet technology consultant for the government. Passante is the New Jersey state director of the President's Hurricane Sandy Rebuilding Task Force and previously worked as counsel in the United States Senate for banking and housing issues. He invites classmates to get in touch.

2004 **RITA BOLT BARKER**, an environmental lawyer with Wyche in Greenville, S.C., was one of 12 lawyers nationwide to receive the Distinguished Environmental Advocacy Award from the American Bar Association's section of environment, energy and resources earlier this year. Barker's experience includes advising clients on matters arising under federal and state environmental laws, and she also advises businesses on assessing environmental risks and incentives associated with corporate transactions, including

mergers, acquisitions and real estate deals.

JASON BORDOFF, former special assistant to President **BARACK OBAMA '91** and senior director for energy and climate change on the staff of the National Security Council, has joined Columbia University's School of International and Public Affairs, where he is a professor of professional practice and director of the Center on Global Energy Policy. He also is a member of the Council on Foreign Relations and serves on the board of the Association of Marshall Scholars. Bordoff also held senior policy roles in the White House's National Economic Council and Council on Environmental Quality.

STEVEN CALLAHAN litigates intellectual property and complex commercial cases, with a particular focus on patent infringement disputes, as a new principal at McKool Smith in Dallas.

JAMES C. LESNETT JR. has become a partner in the Charlotte, N.C., office of Parker Poe Adams & Bernstein, a firm with five offices across North Carolina and South Carolina. A member of the firm's litigation department, he practices in the anti-trust, business torts and white-collar group.

AMY C. MALONEY has become a partner and **VERONICA RELEA** has become counsel at Latham & Watkins, both in the firm's New York City office. A project finance lawyer, Maloney represents commercial and investment banks, private equity firms, insurance companies, and other financial institutions, sponsors, and developers in connection with the development and financing of domestic and cross-border energy and infrastructure projects. Relea's practice focuses on leveraged finance transactions, including acquisition financings, project financings and cross-border financings; private-equity transactions; and general corporate transactions.

MICHAEL S. SCHECHTER has been promoted to member in the Seattle office of Foster Pepper, which he joined as a first-year associate in 2004. He focuses his practice on municipal governance, open government, eminent domain, land use and the environment. Schechter is also a lecturer on land-use and zoning law at the University of Washington College of Built Environments.

2005 **WES BRINKLEY** was recently elected as a shareholder in Maynard Cooper & Gale's Birmingham, Ala., office. His practice focuses on fund formation and investment management, general corporate, and mergers and acquisitions.

MICHAEL FERTIK, the chief executive of Reputation.com, talked to The New York Times in December about his plans to market his company's "data privacy vault" this year to help people manage their personal online identities. He sees the potential hazards posed by having marketing and analytics companies profile and score consumers and wants to help them take control of their own marketing profiles.

ROBERT TAULER and former Orrick, Herrington & Sutcliffe commercial litigator Thomas Godwin have opened the trial and appellate law firm Godwin Tauler in Los Angeles. Tauler was previously a commercial litigator at Greenberg Traurig, and the new firm represents both plaintiffs and defendants in matters including business disputes, class-action defense, real estate, securities, unfair competition and trade practices, and intellectual property.

As senior staff attorney at Public Advocates Inc. in San Francisco, **SAMUEL P. TEPPERMAN-GELFANT** has successfully negotiated with Bay Area city governments, enforced housing laws that had previously been ignored and helped develop affordable homes for low-income residents. His passion for social justice dates back to his HLS days, when he represented indigent tenants in housing disputes and helped lead a coalition challenging discrimination against LGBTQ students in on-campus military recruiting.

2006 **JEREMIE DUFALT**, an Army judge advocate who returned to Yakima, Wash., last fall after a deployment in Afghanistan, helped set up the new Veterans Division of the Washington state attorney general's office. A member of Attorney General Bob Ferguson's transition team, Dufault served as an adviser on veterans' issues, helping with the development of policies to protect military service members from issues such as identity theft, fraud and home foreclosure.

MANDISA PRICE has become president of the J.L. Turner Legal

Were married on Nov. 10





Has written a second book, the medical thriller “Do No Harm”



Former football coach for the Kansas City Chiefs

Association, the African-American bar association in Dallas. HLS Professor Lani Guinier was the keynote speaker at the event where she was sworn in. Price is a corporate associate at Weil, Gotshal & Manges in Dallas, where she focuses on complex corporate and transactional matters, including representation of private equity firms and public companies in connection with public and private acquisitions, divestitures, and investment transactions. She is also a member of the firm’s associates committee and the Dallas office’s pro bono committee. Price has been active in the JLTLA throughout her career. She plays an integral part in its Street Law program, which provides practical legal education to high school students, young parents and youth in the juvenile justice system; youth aging out of foster care; and other vulnerable populations.

2007 JOHN KICKEN LL.M., a corporate lawyer at Cravath, Swaine & Moore in New York City, recently received the “Best Young Professional Law” award in the Netherlands given by Memory Group each year. “Memory Group is the number one publisher on student and career affairs in the Netherlands and annually publishes its leading list of the Dutch top 50 legal professionals under 32,” Kicken writes.

In January, **NOAH PURCELL** was named solicitor general of the state of Washington.

DARON ROBERTS, former football coach for the Kansas City Chiefs, the Detroit Lions and, most recently, West Virginia University, is currently the defensive quality control coach for the Cleveland Browns. He has also founded the nonprofit 4th and 1. See the Winter 2011 Bulletin story at bit.ly/DaronRoberts.

VIKRAM K. THOMAS and Swarna-meenakshi “Veni” Manickam were married last Sept. 29 in Asheville, N.C. Thomas is a legal counsel in the New York City offices of Google, and Manickam is an associate at the law firm Moses & Singer. Manickam received her undergraduate degree at Yale, and the couple met at the 2005 Harvard-Yale game.

2008 FRANCESCO LIBERATORI LL.M. married Maria Antonietta Romeo last Sept. 22 in Sant’Andrea Apostolo dello Ionio, in the Calabria region in the south of Italy. Liberatori

is an associate at Shearman & Sterling in Rome, and Romeo is a 2009 LL.M. graduate of the University of Chicago Law School.

MILLIE TADEWALDT is a co-founder of the online shopping service for women CakeStyle. Customers fill out an online form that helps define their likes/dislikes, lifestyle, size and shape; outfits are hand-picked by a stylist and sent to them to choose from. Founder of a Web application development firm prior to coming to Harvard Law, Tadewaldt learned about the intersection of law, business, and technology at HLS and spent time at the school’s Berkman Center. She writes: “After HLS, I joined the Boston Consulting Group, where I was able to learn more about financial analysis, business strategy and technology in large organizations. I joined Sandbox Industries in 2010 and was given the opportunity to grow and develop the startup Foundry, an investing model that enables Sandbox to take majority stakes in startup companies founded by internal teams of employee-entrepreneurs. CakeStyle was developed within the startup Foundry at Sandbox, and I recently took on a full-time leadership role on the CakeStyle team. ... As many of our clients are busy attorneys (and some of our first clients are my friends from HLS!), my role at CakeStyle really brings me full circle, allowing me to leverage all facets of my background in one enterprise.”

2009 JIABEI CHEN, a former associate at Davis Polk & Wardwell in New York City, transitioned from lawyer to entrepreneur last year and co-founded the e-commerce lingerie company Ampere, which launched in the fall. It has been featured in the blogs *Rose Runs Wild* and *News on Women*. Chen writes: “Quitting my corporate law job was not an easy decision. It was my dream, however, to become an entrepreneur. I decided that there was no better time than now to take a risk. I chose lingerie specifically because of its power to make women feel confident and beautiful. I also saw great room for improvement in the lingerie industry, particularly surrounding fit issues.”

JOANA FLOREZ and **BRIDGETTE L. HYLTON** have founded ShopRagHouse, a Boston-based fashion community that allows members to submit their designs and have them

voted on by other members for a chance to have their designs produced and sold on the site for a share of the profits. They launched their startup in beta last fall. Commenting on the fact that they have “used [their] legal background in an unexpected way,” Hylton writes, “While ShopRagHouse is at the intersection of fashion and social media, our legal education—from negotiating contracts to drafting licensing agreements—has been invaluable to us in getting the business off the ground.” Their blog is at www.shopraghouse.tumblr.com.

ALLISON (RONE) FOREMAN and her husband, James, welcomed their second child, a son named Erik, in September. The family of four lives in Wenatchee, Wash., where Foreman practices with her father-in-law, **DALE FOREMAN ’75**.

2012 Last year **JAMES GOLD-SCHMIDT** became an associate in the commercial litigation group of Quarles & Brady in Milwaukee. He previously worked in both the health care industry and higher education, with experience at ANEW Health Care Services in Wauwatosa, Wis., and the Derek Bok Center for Teaching and Learning at Harvard University.

ANTHONY HENDRICKS is an associate in the Oklahoma City office of Crowe & Dunlevy, where he focuses on litigation.

DANIELLE SINGLETON has written a second book, the medical thriller “Do No Harm” (CreateSpace, 2013). It tells the story of a doctor and his medical team who race against the clock to defeat a mysterious virus that’s killing patients in hospitals across the U.S. Singleton is also the author of “Safe & Sound.”

GRANT STROTHER, an associate at Davis Polk & Wardwell in Menlo Park, Calif., received the International Institute for Conflict Prevention & Resolution’s Outstanding Original Student Article Award for his paper “Resolving Cultural Property Disputes in the Shadow of the Law.” Strother also won the 2012 Roger Fisher-Frank E. A. Sander Prize for the article at HLS’s Commencement that May. The article will be published in the Spring 2014 issue of the *Harvard Negotiation Law Review*.

○ ANY NEWS? *Alumni updates may be emailed to bulletin@law.harvard.edu.*

“The Morphine Dream,” by **DONALD L. BROWN '89**, with Gary S. Chafetz (Bettie Youngs Books). The title of this memoir is literal—and relates to Harvard Law School. While on morphine, recovering from an operation meant to restore his ability to walk after an accident, the author imagined he would graduate from the school. And walk across the country. His doctor thought he was delirious. After all, Brown had few prospects and only a ninth-grade education. But the dream did indeed come true; he tells the story of his long walk both literal and metaphorical.

“Overheated: The Human Cost of Climate Change,” by **ANDREW GUZMAN '96** (Oxford). Humans are causing the earth to warm, and humans will sustain the consequences, contends Guzman, a professor of law and associate dean at University of California, Berkeley. These consequences include rising water levels that will displace millions of people, interfere with food production and disrupt the availability of fresh water. Climate change may also exacerbate tensions within and between nations. He outlines what should be done to mitigate the effects, including raising the price of emissions, developing alternative energy and instituting a carbon tax. Otherwise, he warns, we could face human tragedy never before seen.

“The Lawyer Bubble: A Profession in Crisis,” by **STEVEN J. HARPER '79** (Basic Books). Marked by short-term thinking and a fixation on national rankings, both law schools and large firms focus on maximizing immediate profits, thereby victimizing the very people who enter the legal profession, according to Harper, a former large-firm litigator now teaching at Northwestern University School of Law.

The result: too many lawyers for the market and too little job satisfaction for those who are working in it. He calls for greater transparency, restructured financial incentives and a change in a culture that too often, he says, is driven by greed.

“Priests of Our Democracy: The Supreme Court, Academic Freedom, and the Anti-Communist Purge,” by **MARJORIE HEINS '78** (NYU). New York’s 1949 Feinberg Law allowed for investigations of teachers’ loyalty, leading to summary dismissals. Recounting challenges to that law in two contrasting Supreme Court decisions that showed the evolving standards of academic freedom, Heins also tells the personal stories of those who fought against a “witch hunt” targeting educators. The founder of the Free Expression Policy Project also explores issues of academic freedom that continued after the

Feinberg Law was overturned in 1967, particularly following the 9/11 terrorist attacks.

“For the Survival of Liberty: Great Presidential Decisions,” by **ELTON B. KLIBANOFF '67** (Dog Ear Publishing). Calling the survival of liberty akin to America’s “state religion,” Klibanoff delves into the decisions of six U.S. presidents that helped cement the country’s freedoms. From Washington’s creation of a national economic structure to Lincoln’s fight for equality to Franklin Roosevelt’s establishment of Social Security, such decisions “have earned their place in America’s political tradition because successor presidents and later Congresses have built on their foundation and followed their example.” Thus, these turning points in history also are relevant to the choices we make today.





A PRESIDENT FOR ALL

“Two Presidents Are Better Than One: The Case for a Bipartisan Executive Branch,” by **DAVID ORENTLICHER '86** (NYU). Imagine if the two Harvard Law graduates running for president in 2012 *both* could have won. Orentlicher can, and argues that such an arrangement would benefit the country. He contends that a single president inspires partisan conflict and invites imperious behavior. In contrast, a bipartisan executive branch would make for better decision-making and less conflict, and provide the public with broader representation, all while remaining more faithful to the framers’ vision. And he outlines why the prospects for a two-person presidency might be better than one might expect.

“The Knockoff Economy: How Imitation Sparks Innovation,” by **KAL RAUSTIALA '99** and Christopher Sprigman (Oxford). Intellectual property law exists to protect creative industries and incentivize people to create, according to the authors. Yet they argue that the fashion industry, in which designs (as opposed to trademarks) are not covered by copyright law, thrives precisely because of copying. That industry—and others ranging from food to football—demonstrates that “imitation often co-exists with innovation,” write Sprigman and Raustiala, a professor of law at UCLA, in a book that offers a fresh perspective on how creativity can flourish in an increasingly ideas-based economy.

“Federalism and the Tug of War Within,” by **ERIN RYAN '01** (Oxford). Ryan examines the tensions created by the concept of federalism, which inspires not only the question of whether the state or federal government will have ultimate authority, but also the question of which among the three

“Everybody Matters: My Life Giving Voice,” by Mary Robinson LL.M. '68 (Walker). Robinson covers a remarkable journey, in which the only daughter in a deeply religious Catholic family from a small town in Ireland becomes a global champion of human and women’s rights, forever renowned as the first female president of her home country. Prepared to become a nun, she had an early revelation that would shape her future. “[I]nstead of accepting the way of life that I had been brought up in, I was questioning everything around me in a constructive but nonetheless implacable way,” she writes. She maintained that conviction as an activist attorney representing marginalized people and as a member of the Irish Senate, when she proposed a bill to amend a law prohibiting contraception. As president, she brought a global perspective and broke a “taboo” by standing side by side with the Queen of England. She also chronicles the impact she made and frustrations she experienced as U.N. high commissioner for human rights, a role that represents just part of her lifelong fight for universal rights.

branches of government will determine the answer. Offering examples from environmental law, land-use law, and public health and safety regulations, the associate professor at Lewis & Clark Law School proposes a “Balanced Federalism” model, which “offers hope for moving beyond the paralyzing features of the federalism discourse that have stymied it for so long.”

“More Essential Than Ever: The Fourth Amendment in the Twenty-First Century,” by **STEPHEN J. SCHULHOFER '67** (Oxford). In an era in which the “relevance and meaning of the Fourth Amendment seem increasingly obscure,” the author seeks to prove that the right against unreasonable searches and seizures remains just as vital as it was during the American Revolution.

Exploring the amendment’s tradition as well as threats posed by the modern, high-tech world, he exposes the “myths” behind the increasing willingness to cede privacy.

“The Counterinsurgent’s Constitution: Law in the Age of Small Wars,” by **GANESH SITARAMAN '08** (Oxford). Small wars have never been so important, and so, too, is the role of law in counterinsurgency operations, argues Sitaraman. His book is divided into three parts: on the laws of war; counterinsurgency’s turbulent transitions from war to peace; and its approach to reconstruction. Combatants must follow the rule of law, the author contends, or lose legitimacy, popular support and, in the end, the chance for success.

WOMEN'S ALLIANCE LAUNCHED

There are more than 10,000 Harvard Law School alumnae. A new organization is helping HLS women build on and tap into this network

The Harvard Law School Women's Alliance was formally established last summer under the direction of Stacey Austin '04 and Lindsay Blohm '06. The two co-chairs both practice in Chicago (Austin at Wang Kobayashi Austin; and Blohm at Hill-Rom), but in the process of getting the alliance started, they heard from volunteers across the country and around the globe.

The organization is intended to foster leadership, community, networking, professional development, and continuing education among the women graduates of HLS, and it has already begun to take off. There are now Women's Alliance groups in 13 cities from Atlanta to Sao Paulo. HLSA President Paul Perito '64 is pleased to see the activity. "The Women's Alliance brings a whole new dimension to HLS involvement in post-education," he said. "I'm particularly excited about the role that more recent graduates are playing."

Groups have begun to hold events, from the kickoff cocktail reception in New York City in February honoring 24 HLS alumnae judges in the New York area, where Dean Martha Minow delivered remarks (see story opposite), to regular monthly events in cities including Chicago, Boston and Washington, D.C.

Both Austin and Blohm feel good about the alliance's beginnings and see even greater potential.

"I would like to see [the alliance] continue to grow," said Austin, to become a place "where women at all levels of expertise can learn from each other."

"We have this huge network at our fingertips," said Blohm. "That we haven't taken advantage of it is sad, but we are starting to do that now. Everyone is so excited about it. It's pretty simple to connect people—senior and junior women." She cited the networking events in the Boston area that follow that model.

Knowing people makes the world go round, said Austin. Create a space where women can get to know each other and they will take it from there.

For more on the Women's Alliance, and other HLSA groups and events, go to HLSA.org



Dean Martha Minow pays tribute to the school's 24 alumnae judges practicing in the New York area.

DAVE CROSS PHOTOGRAPHY



Jamie Gorelick '75 (right), partner at WilmerHale, was among alumnae at the inaugural D.C. Women's Alliance event held at the firm. Elisebeth Cook '00 (not pictured), of counsel at WilmerHale and a member of the Privacy and Civil Liberties Oversight Board, helped establish the D.C. alliance and organize the reception.

SAVE THE DATE

Sept. 27-29, 2013



Celebration 60: Harvard Law School Leaders for Change: Women Transforming our Communities & the World

2013 marks 60 years since the first women graduated from HLS. Come back to the school this fall for a weekend of networking, panels and plenary sessions. Former HLS Professor Elizabeth Warren, U.S. senator for Massachusetts, will be the keynote speaker.

For more information, go to law.harvard.edu/c60, email celebration60@law.harvard.edu or call 617-384-9523.

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TWITTER Receive HLSA announcements or news of the school at <http://twitter.com/hlsa> or http://twitter.com/Harvard_law.



HLS WOMEN'S ALLIANCE HONORS JUDGES

The newly formed New York chapter of the Harvard Law School Women's Alliance held its inaugural event on Feb. 12, celebrating 24 distinguished alumnae serving as judges in the New York metropolitan area.

"To be a judge is to be entrusted with society's commitments to fairness and justice, and hence it is a privilege to recognize individuals serving in this vital role," said Dean Martha Minow at the event. "For all who have had to be the only [woman judge on a court], we give thanks. ... Today, as more than 4,000 members of the International Association of Women Judges work to advance the commitment to equal justice and the rule of law, there is cause to rejoice."

The judges honored at the New York event

- Deborah A. Batts '72
U.S. District Court, Southern District of New York
- Carol Berkman '67
New York County Supreme Court (Retired)
- Frederica Shoenfield Brenneman '53
Connecticut Superior Court
- Jean Marie Brescia '85
Mamaroneck Town Court, New York
- Susan Laura Carney '77
U.S. Court of Appeals, 2nd Circuit
- Shelley C. Chapman '81
U.S. Bankruptcy Court, Southern District of New York
- Antoinette L. Dupont '54
Connecticut Appellate Court
- Fern A. Fisher '78
New York City Courts
- Marilyn D. Go '77
U.S. District Court, Eastern District of New York
- Faith S. Hochberg '75
U.S. District Court, District of New Jersey
- Debra Ann Livingston '84
U.S. Court of Appeals, 2nd Circuit
- Colleen McMahon '76
U.S. District Court, Southern District of New York
- Sondra M. Miller '53
Appellate Division, New York State Supreme Court (Retired)
- Christine L. Miniman '78
Appellate Division, New Jersey Superior Court
- Paula J. Omansky '62
New York State Supreme Court (Retired)
- Reena Raggi '76
U.S. Court of Appeals, 2nd Circuit
- Tynia D. Richard '90
Office of Administrative Trials and Hearings, City of New York
- Allyne R. Ross '70
U.S. District Court, Eastern District of New York
- Joan R. Salzman '82
Office of Administrative Trials and Hearings, City of New York
- Carol Sherman '71
Family Court, City of New York (Bronx)
- Arlene R. Silverman '67
New York County Supreme Court, 1st District of New York (Retired)
- Elizabeth S. Stong '82
U.S. Bankruptcy Court, Eastern District of New York
- Laura Taylor Swain '82
U.S. District Court, Southern District of New York
- Kimba M. Wood '69
U.S. District Court, Southern District of New York

Launching Careers in the Public Interest

BERNARD KOTEEN '40, a telecommunications expert who endowed Harvard Law School's Office of Public Interest Advising, died Feb. 22 in Washington, D.C., suffering a fatal heart attack just three days after the death of his wife of 70 years, Sherley Koteen.

"Bernard and Sherley Koteen each made such an enormous difference in the world—and at Harvard Law School," said HLS Dean Martha Minow. "Their devotion to public service—manifested in their support and passion—has made the dreams and aspirations of generations of Harvard Law School students come true, and will continue to do so, bringing immeasurable benefit not just to the students but to the countless clients assisted by them."

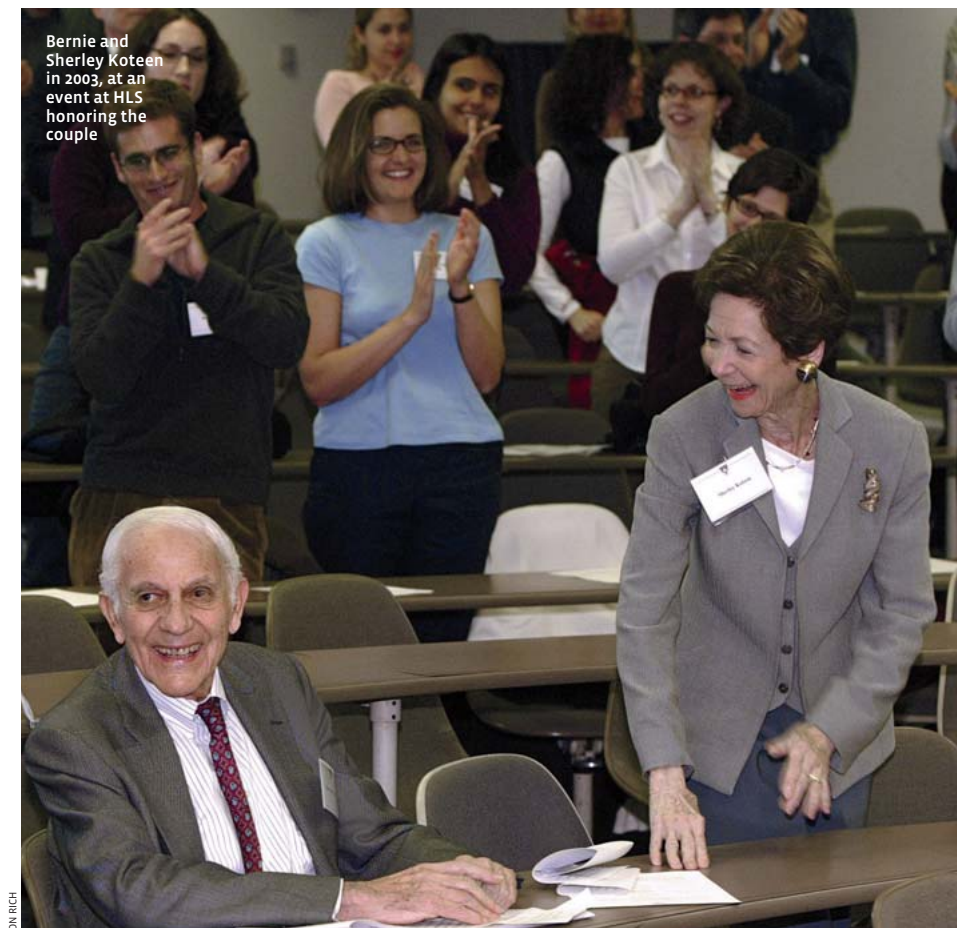
"In losing Bernie and Sherley, we in the Bernard Koteen Office of Public Interest Advising have lost not just benefactors but friends," said Alexa Shabecoff, assistant dean for public service and director of OPIA. "Bernie's generosity has allowed OPIA to expand to serve the dramatically increasing numbers of students and graduates who use our office, and to tackle some important future projects."

Bernard Koteen, 97, was a member of the Federal Communications Bar Association and a partner at the firm Holland & Knight. He secured his status as a leading lawyer in the field of telecommunications, spending decades in the field—a path which started in 1949, when he founded one of the first firms in the nation that focused on broadcasting.

He helped HLS students interested in public service fund and find careers: In addition to endowing OPIA, he helped establish HLS's Low Income Protection Plan, the pioneering loan forgiveness program for students working in the public interest.

The Great Depression, Koteen said, inspired his strong support for public interest law; attending Harvard Law during those dark days, he learned the law as President Franklin Delano Roosevelt urged the importance of public service. This mindfulness of public benefit stuck with him throughout his career as a lawyer.

Originally from Paterson, N.J., Koteen attended Oberlin College and the University of Wisconsin, where he played varsity soccer and basketball and rowed crew. He graduat-



Bernie and Sherley Koteen in 2003, at an event at HLS honoring the couple

DON RICH

**"THE KOTEENS WERE NOT
REMOTE DONORS BUT ENTHUSIASTIC
MEMBERS OF OPIA."**

—ALEXA SHABECOFF

ed from college in 1937, and after graduating from Harvard Law in 1940, he worked for the Farm Credit Administration and served in the Navy during World War II.

Koteen's wife, Sherley Koteen (née Heidenberg), died on Feb. 19 at age 94 after having a stroke. After graduating from Wellesley in 1940, the Louisville, Ky., native went on to sit on the board of the National Council of Jewish Women, serve as president of the Woman's National Democratic Club

and work as a special assistant in Vice President Mondale's office during the Carter administration.

Shabecoff remembered the Koteens as a warm couple who donated time as well as money to the OPIA. "The Koteens were not remote donors but enthu-

siastic members of the OPIA family," she said. They met staff for lunch, attended OPIA events in Washington, D.C., and welcomed staff in their home.

"They cared deeply about our work, and cared about us as well," she said. "I will miss them a lot, as I know is true of all the OPIA staff who have met them. We hope to honor their legacy by continuing to use their support to send our incredible students out to do amazing public service work."

1930-1939

WARREN E. CARLEY '35
Oct. 17, 2012
WILLIAM M. HOGAN JR. '36
Nov. 12, 2012
HILBERT FEFFERMAN '37
Nov. 7, 2012
MILTON P. KROLL '37
Sept. 14, 2012
JOSEPH Z. SUDOW '38
Sept. 9, 2012
SEYMOUR D. KAPLAN '39
Nov. 4, 2012
DAVID MACDONALD '39
Oct. 8, 2012

1940-1949

BRUCE RABISON '40
Sept. 1, 2012
ALVIN C. SCHOTTENFELD '40
Dec. 16, 2012
JOHN J. WITHERSPOON '40
Dec. 8, 2012
IRVING G. BRILLIANT '41
Feb. 19, 2013
IRWIN D. GREENWALD '41
Feb. 17, 2013
MILTON A. MAUSNER '41
Aug. 30, 2012
JOHN S. "JACK" NEWHOUSE '41
Oct. 9, 2012
CHARLES F. BARBER '42 ('43)
Sept. 30, 2012
DAVID S. BATE '42 ('46)
Oct. 5, 2012
F. CARTER CHILDS '42 ('47)
Feb. 13, 2013
KENNETH A. MACDONALD '42
Nov. 19, 2012
D. BRET CARLSON '43 ('47)
March 2, 2013
GARFIELD H. HORN '43 ('46)
Nov. 9, 2012
JEROME E. ROSEN '43 ('46)
Oct. 13, 2012
FREDERICK R.H. "ERIC" WITHERBY '43 ('47)
March 12, 2013
JOSEPH ZORN '43 ('47)
Sept. 14, 2012
JOSEPH R. CREIGHTON '44 ('48)
Feb. 2, 2013
WESTON P. HATFIELD '44 ('47)
Oct. 19, 2012
MORRIS W. MACEY LL.M. '47
Aug. 29, 2012
JOSIAH K. ADAMS JR. '48
Oct. 13, 2012
ROBERT R. BATT '48
April 2, 2013
BENJAMIN LEE BIRD '48
April 16, 2013
JOHN E. CAPUTO '48
Dec. 8, 2012

EDMOND J. FORD JR. '48
Jan. 21, 2013
MATTHEW E. GATELY III '48
Jan. 30, 2013
EDWARD M. HELLER '48
Feb. 12, 2013
ALVIN S. HOCHBERG '48
Jan. 30, 2013
GEORGE D. MCCLINTOCK JR. '48
Nov. 27, 2012
ARTHUR MINUSKIN '48
Jan. 22, 2013
GEORGE F. REALL '48
Sept. 23, 2012
MERCER L. STOCKELL '48
Nov. 23, 2012
COLTON P. WAGNER '48
Jan. 4, 2013
JEREMY R. WALDRON '48
Nov. 21, 2012
MARVIN BORMAN '49
Sept. 15, 2012
MYRON E. HARPOLE '49
Oct. 10, 2012
ALBERT M. JOHNSTON '49
Nov. 10, 2012
BERNARD WILLIAM NIMKIN '49
Feb. 17, 2013
VERNE R. READ '49
Nov. 25, 2012
HAROLD R. ROOKS '49
Oct. 4, 2012
D. GRAHAME SMYTH '49
Aug. 23, 2012
JULIUS TABIN '49
Aug. 25, 2012
STEPHEN TATE '49
Feb. 17, 2013
JOSEPH R. WEISBERGER '49
Dec. 7, 2012
EUGENE N. ZEIGLER '49
Oct. 8, 2012

1950-1959

WILLIAM L. HANSON '50
Oct. 14, 2012
GIRARD R. JETTON JR. '50
Oct. 7, 2012
LESTER KATZ '50
Jan. 9, 2013
JAMES T. RHIND '50
Jan. 16, 2013
FRANCIS W.K. "BILL" SMITH '50
Feb. 15, 2013
JOHN V. FALTERMEIER '51
Feb. 15, 2013
FRANCIS R. GIARDIELLO '51
Jan. 27, 2013
JOSEPH G. LYNCH '51
Sept. 10, 2012
ALAN F. WESTIN '51
Feb. 18, 2013
ROBERT CRANE WINTON JR. '51
Sept. 15, 2012
CHARLES E. BROWN '52
Nov. 29, 2012

ALAN F. DONIGER '52
Jan. 27, 2013
ARTHUR S. ECKER '52
Jan. 22, 2013
JAMES W. GRADY JR. '52
Oct. 22, 2012
IRVIN GRAYBILL JR. '52
Jan. 2, 2013
JEROME R. KAYE '52
April 11, 2012
RICHARD A. MYREN '52
Sept. 20, 2012
RONALD A. NICHOLSON '52
Feb. 26, 2013
JOSEPH J. THALHOFER '52
Jan. 5, 2013
DANIEL C. WEARY '52
Feb. 23, 2013
DAVID WOLF '52
Nov. 10, 2012
PAUL L. BALDI '53
Sept. 5, 2012
MURRAY DRABKIN '53
Feb. 3, 2013
HOWARD E. HOUSTON '53
Oct. 25, 2012
DAVID F. McLAIN '53
April 13, 2013
HUGO J. MELVOIN '53
March 28, 2013
RUSSELL J. WEINTRAUB '53
Dec. 13, 2012
FRANK BOAS '54
March 16, 2013
MAURICE F. DOWNEY '54
Nov. 5, 2012
L. ROBERT FULLEM '54
Feb. 7, 2013
JAMES F. HOGG LL.M. '54
S.J.D. '59
Jan. 8, 2013
DANIEL J. MEADOR III LL.M. '54
Feb. 9, 2013
ROBERT D. OUMET '54
Feb. 9, 2013
EDWARD C. STEBBINS '54
Aug. 29, 2012
RONALD L. UNGER '54
Nov. 23, 2012
MICHAEL BERGNER '55
Oct. 28, 2012
CARLOS BOZA VEGA-LEON LL.M. '55
Nov. 22, 2012
BRADFORD P. COLCORD '55
April 9, 2013
MORTON B. DEBROFF '55
Nov. 10, 2012
ROBERT P. LEVINE '55
Feb. 5, 2013
S. PAUL MAZZA '55
March 9, 2013
LUCIA PIERCE SMITH '55
Aug. 31, 2012
JUNE STRELECKI '55
March 9, 2013
PAUL WALTER '55
Nov. 22, 2012
BARBARA DAVIS BODEN '56
Oct. 30, 2012

JACK B. KIRSTEN '56
Nov. 7, 2012
RICHARD I. MARK '56
Dec. 17, 2012
HUGH D. ROGOVIN '56
May 20, 2012
CHARLES E. ZEITLIN '56
Dec. 14, 2012
FREDERIC L. ATWOOD '57
Dec. 13, 2012
WILLIAM V. CAPLAN '57
Jan. 13, 2013
WOONSANG CHOI LL.M. '57
S.J.D. '61
Sept. 5, 2012
RONALD M. DWORKIN '57
Feb. 14, 2013
HAROLD A.J. FORD S.J.D. '57
Sept. 27, 2012
STEPHEN M. HERMAN '57
Sept. 27, 2012
ANTHONY LEWIS SP. '56-'57
March 25, 2013
BARRY R. PERIL '57
Feb. 15, 2013
HOWARD W. PHILLIPS '57
Jan. 25, 2013
J. PETER WILLIAMSON '57
July 30, 2012
EDWIN B. BORISON '59
Jan. 8, 2013
ALDEN LOWELL DOUD '59
Oct. 1, 2012
DAVID O. ELLIOTT '59
Feb. 21, 2013
HENRY P. KAPLAN '59
Sept. 9, 2012
REGIS D. MURRIN '59
Dec. 15, 2012
LESLIE TODD '59
Feb. 11, 2013
JOHN E. YOUNG '59
April 1, 2013

1960-1969

DOUGLAS P. BEIGHLE LL.M. '60
Feb. 3, 2013
WILLIAM H. COPENHAVER LL.M. '60
Feb. 6, 2012
WILLIAM B. PEER '60
Aug. 11, 2012
JOEL S. SIEGEL '60
March 12, 2013
ARTHUR G. SILER '60
April 25, 2013
EDMUND E. ACKERSON '61
Dec. 11, 2012
JOHN R. QUARLES JR. '61
Oct. 29, 2012
ROBERT E. FAST '62
Oct. 20, 2012
BYRON J. JOHNSON '62
Dec. 9, 2012
JOHN L. NEU '62
Feb. 27, 2013
WILLIAM F. KEHOE '63
Oct. 22, 2012

JOHN A. HELMS '64
Jan. 22, 2013
PETER D. ROWNTREE '64
Aug. 28, 2012
J. LESTER PARSONS III '65
March 21, 2013
BILL L. WILLIAMSON '65
Aug. 25, 2012
RONALD D. EASTMAN '66
Aug. 18, 2012
ED KAUFMANN '66
Dec. 26, 2012
JOHN MILEM '66
Jan. 5, 2013
MICHAEL B. CREW '67
Jan. 31, 2013
JOSEPH M.N. KAKOOZA LL.M. '67
Oct. 7, 2012
DAVID A. STRAWBRIDGE '67
May 28, 2012
JAMES A. WINKLER '68
Sept. 9, 2012
PETER D. MADDAUGH LL.M. '69
June 20, 2012

1970-1979

CHARLES B. BOURNE S.J.D. '70
June 25, 2012
JOHN G. FARIA '70
March 2, 2013
OTIS H. KING LL.M. '70
Nov. 21, 2012
BROWNLOW M. SPEER '70
March 4, 2013
THOMAS E. MELLON JR. LL.M. '74
Jan. 15, 2013
PAUL J. WEINER '74
December 2012
GREGORY P. HUWE '75
Feb. 14, 2013
DONALD H. WILSON III '76
Dec. 17, 2012

1980-1989

KATHLEEN L. BEGGS '82
Sept. 1, 2012
ALISON C. WETHERFIELD LL.M. '85
July 31, 2012

1990-1999

C. LEIGH "CINDY" McAFEE '90
Oct. 31, 2012
SCOTT V. BRUNER '92
Oct. 25, 2012
VAN L. NGUYEN '94
Dec. 1, 2012
JEFFREY A. CARPENTER '98
Feb. 24, 2013

LEADERSHIP PROFILE A CONVERSATION WITH MORGAN CHU '76

→ Dealing at Sunrise

Many Harvard Law School alumni have been extraordinarily successful, many have lived unusual lives, and not a few have done both—including Morgan Chu '76, one of the most successful IP lawyers in the world, who, along with his wife, Helen, is endowing in perpetuity the dean's chair at HLS. Dean Martha Minow will be honored as the inaugural Morgan and Helen Chu Dean's Professor. The chair will be held in the future by whoever is the dean of HLS. The bowtie-wearing Chu comes from a remarkably accomplished family: After his parents emigrated from war-torn China, his father and mother attended M.I.T., and his father became a college professor. His brother Steven won the Nobel Prize in Physics in 1997 and served as the U.S. secretary of energy in the Obama administration; his other brother, Gilbert, has a Ph.D. from M.I.T. and M.D. from Harvard Medical School, and is a professor at Stanford School of Medicine.

As for Chu himself, in addition to his J.D. from HLS, he holds three degrees from UCLA—a bachelor's, a master's and a Ph.D.—as well as an M.S.L. from Yale. In 35-plus years as an IP litigator, he's achieved more than \$3.2 billion in actual payments to his high-tech clients, including a \$120 million verdict against Microsoft in 1994 in a patent dispute and \$565 million in payments to City of Hope National Medical Center from a 2002 patent case against Genentech. A partner at Irell & Manella in Los Angeles, Chu was named the Outstanding Intellectual Property Lawyer in the United States in the first Chambers Award for Excellence, 2006. Chambers described Chu as "beyond doubt the most gifted trial lawyer in the USA," who "delivers staggering results for clients." He's garnered a long list of other accolades, including being named among the "Top Ten Trial Lawyers" in the nation and one of the "100 Most Influential Lawyers in America" by The National Law Journal since the list began in 1994.

But Chu is no grind. His accomplishments also include, at age 15, breaking the record for riding the entire New York City subway system in the shortest time. Bored with high school, he purposely scored zero on a true-false final examination in history, dropped out, traveled for a year and never got a diploma—he had to talk UCLA into admitting him. At HLS, he liked to stay up all night once or twice a week playing poker yet graduated magna cum laude. He can imagine himself as a ski bum, laughs easily, and uses the word "fun" a lot.

Many Harvard Law School alumni have been extraordi-

Was your family surprised when you dropped out of high school?

Oh, my parents were flabbergasted, I guess would be a nice way to put it.

And were they happy when you went on to earn five degrees?

I don't know. No one said, "I'm really thrilled you're getting a lot of degrees." My wife, Helen, said her parents had concluded, accurately, that I was embarking on the career of a professional student. I enjoyed being in school, at a university. Where else do you have a lot of athletics facilities, interesting speakers, film festivals and great freedom in so many things, including your time? I could have been a professional student the rest of my life.

Why did you and Helen choose to make this significant gift to HLS?

We are forever grateful to HLS for at least two things: First, I received very significant financial support that made it possible for me to attend, and, second, I received an incredible education from the best law

school on the planet that has carried me through many years as a practicing lawyer.

Why the dean's chair?

The leadership of the school, as is true for any organization, is incredibly important. It's a way for us to give back, and hopefully, in our little way, to make a contribution to the health, welfare and well-being of the school over many years to come.

You really enjoyed your time at HLS.

Some people go to school and don't seem to have much fun. I had a lot of fun. Classes were fun; there were great faculty; I enjoyed friends. A group of us once or twice a week had all-night poker games, which maybe taught me some negotiating skills that helped me as a lawyer. We used to watch the sun come up as we were still dealing.

Why did you choose to serve on the Harvard Civil Rights-Civil Liberties Law Review?

That was part of the overall experience, and good fun. I've always had a strong

Helen and Morgan Chu



Photograph by AMANDA FRIEDMAN

belief in the importance of civil rights and civil liberties for all people, and [CRCL] was both a learning experience and very much something from which I achieved a great deal of satisfaction. I believe, by the way, no matter what one's point of view, that all lawyers, and the profession as a whole, have an obligation to give back, to do pro bono.

Speaking of pro bono, about 15 years ago you handled a high-profile California death-penalty case. You got a full reversal on guilt in the 9th Circuit, which was upheld by the U.S. Supreme Court.

The death-penalty case was a large matter involving a team of people at my firm, all of whom were volunteers: lawyers and legal assistants and staff. We poured our hearts and souls into it over a six-year period. It was very meaningful, and the value of the time—because that's something law firms keep track of—was in the many millions of dollars. We were doing what we thought was right, and we still think that way. More so than today, the death penalty was

very controversial. Far fewer states had outlawed the death penalty at the time, and people really felt passionately about it, in favor of or against it as a matter of public policy. Indeed, some members of our team were in favor of the death penalty but at the same time believed that everyone has a right to representation.

What do you like about IP litigation?

I love what I'm doing. I get to learn something every week, often from some of the smartest, most creative people in the world, whether in biotech, telecommunications or computer software. I get to ask a lot of dumb questions, and they're very patient. Maybe I'm still a professional student in a way, only this is better, and incredibly I get paid for learning!

What advice would you give a 1L at HLS today?

Instead of a pre-planned path on some road to success defined in some artificial way, it's important to be yourself, have fun, be willing to explore. Stay up late at night playing poker.

GALLERY NAVIGATING THE PATH OF A LIFE

WHEN YOU NEXT have a free moment online, visit the Oliver Wendell Holmes, Jr. Digital Suite, launched by the Harvard Law School Library early this year.

Panels, like stained glass on a cloudy day, open, to reveal chapters in the life of the famed Supreme Court justice (1841-1935). They grant access to images, documents and objects—like the one that Holmes might have used to end his own life before he ever sat on the Court.

Type “laudanum bottle” into the site’s powerful search engine to find the small black flask that Holmes carried with him in the Civil War. Read the accompanying excerpt from Holmes’ diary describing his injury at the Battle of Ball’s Bluff, fought on Oct. 21, 1861, in Loudoun County, Va.:

“Shot through the lungs? ... [A]lready the blood was in my mouth,” he writes, recalling a story in which a character suffers a similar wound and hemorrhages in agony. “Just then I remembered and felt in my waist coat pocket—Yes there it was—a little bottle of laudanum which I had brought along. ... I felt ... determined to wait till pain or sinking strength warned me of the end being near.”



↑ The great dissenter, strolling on the arm of his Supreme Court colleague and fellow HLS alumnus Louis Brandeis, ca. 1927



← Childhood photo with his older siblings: Amelia and Edward, ca. 1856

→ The tin ammunition box he used to carry his lunch when he served on the Court

→ Lieutenant Holmes at 21, posing for a photo in his Civil War uniform

Or perhaps you search for the most famous lines Holmes wrote:

“The life of the law has not been logic; it has been experience.”

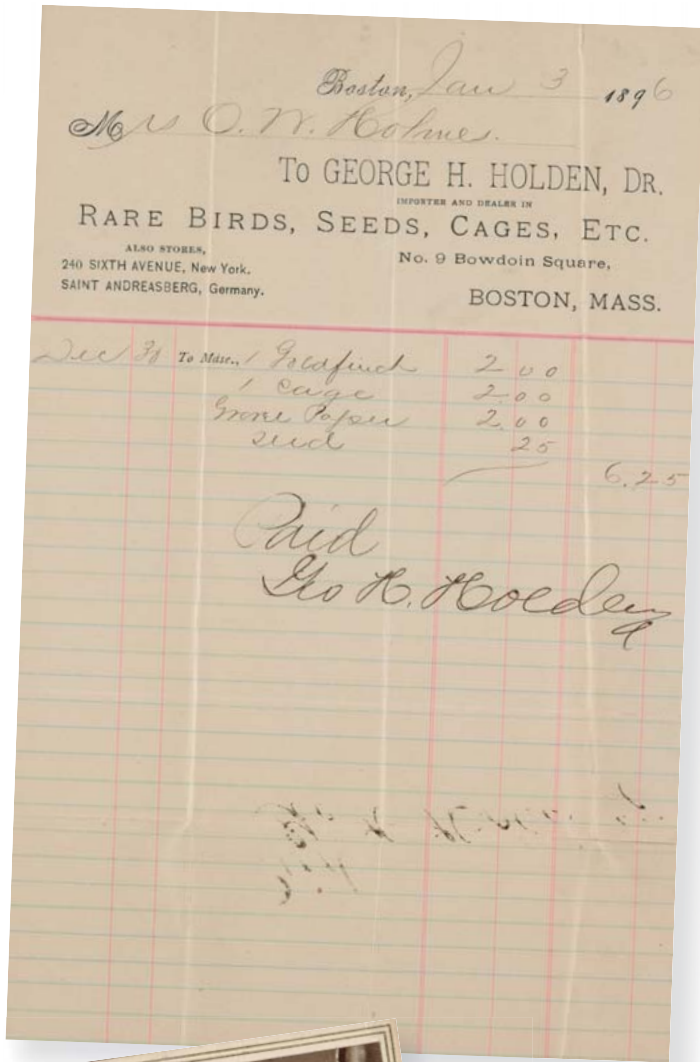
The site gratifyingly delivers a page from “The Common Law,” with a notation in Holmes’ own hand below those particular words.

And if the process of browsing then leads

you to click on a letter to Holmes from Chinese jurist and author John Ching Hsiung Wu dated 1928, you see that Wu affectionately comments on the process of trying to decipher Holmes’ hard-to-read handwriting—the very process that you have just been engaged in as you tried to read his comment in the margin of “The Common Law.” “[E]very difficult word in your letter,” writes Wu, “furnished a fresh occasion for joy, the joy of discovery!”

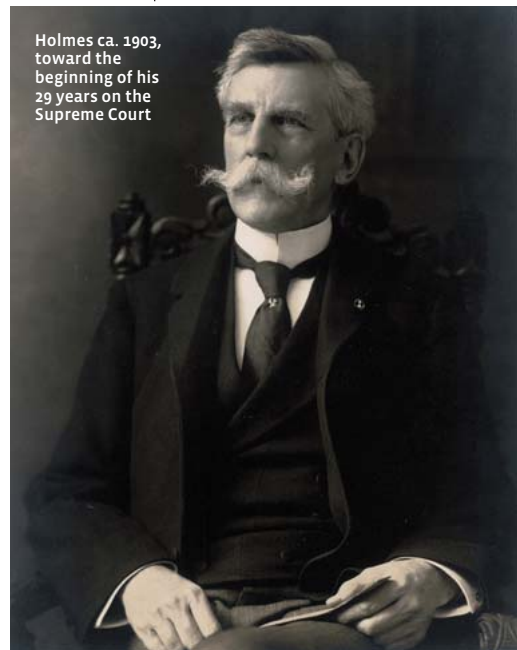
The joy of discovery is exactly what this new site offers. —Emily Newburger





← Evidence that conjures small moments in the life of a legal giant: the receipt for a bird, its cage and some seed, bought by his wife

→ Fanny Bowditch Dixwell, shown here, ca. 1870, a few years before she and Holmes married



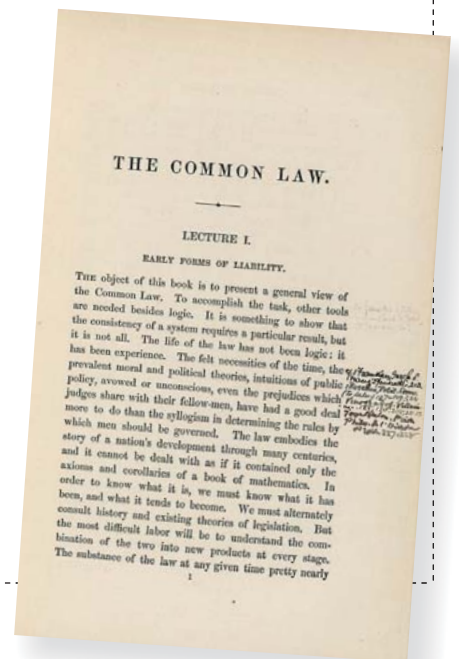
Holmes ca. 1903, toward the beginning of his 29 years on the Supreme Court

PHOTOGRAPHS: HLS HISTORICAL & SPECIAL COLLECTIONS



← John Ching Hsiung Wu, who was a student at HLS in 1923 and would be the principal author of the Constitution of the Republic of China, inscribed this photo in 1930 to his “intellectual godfather.”

→ A first edition of “The Common Law” (1881), with notes in the margin scrawled by the author



THIS SPRING, HLS Professor Terry Fisher '82 taught CopyrightX, a free, online course, concurrently with his on-campus copyright course. Twenty of his HLS students served as teaching fellows, leading 25-person sections. The experiment, devised by Fisher, involved 500 Web students from around the world and the fellows in a learning laboratory. Its results may inform the development of new teaching methods—online and in university classrooms.

→ The Global Fellowship of the 'X'

