From the Editors

Our editorial group has been calling this issue the "Harvard issue," since we decided to group together a range of articles focusing on Harvard Law School, the school most associated with hierarchy in legal education, the case method, and in particular the case method as a "paper chase" involving cutthroat competition and high student anxiety. The first two articles, by Professor Bruce Kimball, take us into the history of Harvard Law School in the decades prior to World War I. Both make the case for the importance of this neglected period in the history of Harvard Law School and contain lessons for today's law school deans.

The first article is on Harvard's "impoverishment," which resulted from the school's early dependence on expanding student enrollments, the prosperity associated with that approach, and the problems that soon emerged from self-funding construction projects. The article asks why the Harvard Law School, under Dean James Barr Ames, rejected the formula of President Charles Eliot so familiar to academics today–spend all the revenues, plead poverty to alumni, get them to endow professorships and chairs, in particular, since such endowments can free up resources for the dean or president to spend as he or she chooses, and in general claim urgent needs to compete with other schools even as the contributions grow. Compared with Harvard's other professional schools at the time, the law school was slow to adapt the more general Harvard model.

The second article uses biographies, diaries, letters, and contemporary accounts to explore student life at Harvard Law School. These sources allow Professor Kimball to document the deliberate imposition of the hypercompetitive "paper chase" model at Harvard, which occurred well after the triumph of the case method. Harvard Law School, it turns out, was more student-friendly and less competitive under Dean Christopher Langdell than what became associated later with the Langdellian model of teaching. Under Dean Ezra Thayer in particular, Harvard Law School purged the institution of the people and activities that dampened potential competition among those vying for the law review and the rewards of academic distinction. It was not so much that the Langdellian recipes were meant to be student friendly, but the potentially harsh logical logic was mitigated under Langdell. It was only after Dean Thayer committed the school to full implementation that the path to generations of unhappy students was set.

Dean Kevin Washburn picks up the narrative several decades later. Based on his year as a visiting professor at Harvard in 2007-08, Washburn seeks to explain how the activities that took place under Dean Elena Kagan turned the typical student there from unhappy and alienated to engaged and enthusiastic.

He writes therefore of "the Miracle at Harvard." From smaller sections to organized groups to food and volleyball, a series of small changes transformed the atmosphere. The stories are of internal developments at Harvard, but it appears also that the turn toward rigor before World War I and the turn toward warmth at the end of the 20th century were both also responses to competition from other elite law schools. The terms of that competition are clearly very different today.

The next article, by Daniel Martin Katz, Joshua R. Gubler, Jon Zelner, Michael Bommarito II, Eric Provins, and Eitan Ingall, then provides a complex but very provocative empirical analysis of the law professoriate and the "reproduction of hierarchy." They show convincingly what law professors know – the complete dominance of a few law schools, led by Harvard with its elite stature and relatively large size, in the production of law professors. The authors make an important point that they hypothesize is a result of the domination of the market for professors namely, that .this phenomenon is not simply about law school hiring but is also an indicator of a tilted market for the production of legal knowledge and legal doctrine. They suggest that understanding of how law school hierarchy works, in short, helps us see which ideas are taken seriously and diffused successfully into courts and legal theories.

In contrast to the previous articles, which show how entrenched the traditional hierarchy of law school prestige is, the article by Professor Dena Davis nicely shows how the relatively prestigious status of Fulbright scholar is well within reach of virtually any law professor willing to do the work and go abroad. It is a "how to" that is bound to be of interest to law professors everywhere in an age of globalization.

The last article, by Professor D.A. Jeremy Telman, acknowledges the enduring influence of Langdell and the case method, but Telman finds a way to both lighten the burden of that method and help students master it. He composes limericks and uses them in part to teach contracts. Contracts professors may lack the temerity to bring these limericks into their own classes, but those who are immersed in the law of contracts will come away with a new sense of both the possibilities of humor in contracts and what leading cases might be construed to say.

Our two book reviews are very different but highly instructive. Professor Christopher Tomlins takes up the question of the consumption of history in the legal academy, drawing on four works of historical synthesis to see what indeed they might offer to legal historians. His review suggests that the dichotomy of more general historians, who produce history as "science," versus legal historians and others in law schools, who consume the grand syntheses and import them into their work, will not suffice. The general historians themselves, he finds, build arguments that are based on their own current positions and their own encounter with the past. Of course, not all historical syntheses are equal, and historians make distinctions among their colleagues in part based on the quality of their research and the cogency of

their presentations. But the point is that legal historians have to do their own work. From their own position and perspective, they must fully dive into the historical material and create original works of legal history. Consuming and perhaps refocusing historical syntheses will not be enough.

Finally, Joseph Mandel, from the perspective of his experience managing the legal affairs of the UCLA campus for sixteen years, assesses "the trials of academe." He notes that, as the title of Amy Gajda's book suggests, it may be that courts should be better educated on academic values and the dangers of intervening in academic decisions. At the same time, Mandell also observes that there are instances where, in fact, those in the academy hide discrimination and other wrongs behind so-called academic values making campus litigation necessary at times.

The reviews round out what is an unusual issue of the Journal of Legal Education. It may be a reflection of academic hierarchy, but we think readers will be intrigued by the various perspectives on Harvard, Langdell, and the case method, that make up the bulk of this issue. As always, we welcome comments and suggestions.

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