On Legal Scholarship: Questions for Judge Harry T. Edwards

By Ronald K.L. Collins

> *[S]ome of the worst effects of the problems that I see in legal education [are]: faculty hiring that is tilted in favor of "impractical" scholars; inattention to written work, clinical training, and ethics; an increasing number of law teachers who hold the profession in disdain; a proliferation of legal scholarship that does not aim to serve the profession; and a growing inattention to the needs of the disadvantaged.*—**Harry T. Edwards**, May 19, 1997[1]

The life of Judge Harry T. Edwards[2] is one very much steeped in writing. His passion dates back at least to his years at Uniondale High School when he was the editor of the school newspaper. In the legal realm, that passion traces back to 1964 and his days on the *Michigan Law Review* when he published two student Notes.[3] In the half-century since then, Judge Edwards has authored six books and more than 90 scholarly articles or essays.[4] As a lawyer, educator, administrator, arbitrator, and now jurist, Harry Edwards has put his ideas into print concerning an array of subjects. For example, he has written on administrative law, affirmation action, arbitration, civil rights, federal courts, empiricism, federalism, forensic science, higher education law, judging, labor law, lawyering, legal education, racial justice, and sex discrimination, among other topics.[5]

Important as his contributions to the law have been in those areas, what sparked the most attention with law professors, judges, and lawyers was his

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1. *A New Vision for the Legal Profession*, 72 N.Y.U. L. Rev. 567, 572 (1997), *quoting* Harry T. Edwards, *Another "Postscript" to "The Growing Distinction Between Legal Education and the Legal Profession,"* 69 Wash. L. Rev. 561, 568-69 (1994).
2. Senior Circuit Judge and Chief Judge emeritus on the United States Court of Appeals for the D.C. Circuit in Washington, D.C.
3. *See* his *Recent Decisions, Trademarks—Unfair Competition—Scope of Federal Jurisdiction Under Section 43(a) of the Lanham Act*, 62 Mich. L. Rev. 1094 (1964), and his *Recent Decisions, Administrative Law—Rate-Making—Authority of FPC to Limit Rate of Return on Tax Reserves Resulting From Use of Liberalized Depreciation*, 62 Mich. L. Rev. 1036 (1964).
4. *See* Appendix.
5. *See* Appendix.

1992 law review article titled *The Growing Disjunction Between Legal Education and the Legal Profession*.[6] That article is said to be one of the most-cited law review articles of all time,[7] and was the subject of an entire symposium issue in the *Michigan Law Review*.[8] Since then, the Judge has continued to write in this field,[9] most recently in a 2014 piece in the *Virginia Law Review*.[10] Not surprisingly, Judge Edwards' latest round of arguments continues to draw praise[11] in some quarters and critical attention[12] in others.

However one values the Edwards line of argument on law and legal scholarship, his thoughts have become, and remain, essential reading in the dialogue and debate over the principles and purposes of modern scholarship in the legal academy. In one form or another, they have found a sympathetic ear among the likes of Chief Justice John Roberts[13] and Second Circuit Judge Dennis Jacobs,[14] among others.[15] Even so, others are much

6. 91 Mich. L. Rev. 34 (1992).

7. *See* Fred Shapiro & Michelle Pearse, *The Most-Cited Law Review Articles of All Time*, 110 Mich. L. Rev. 1483, 1492, 1493, 1501 (2012).

8. *See Symposium, Legal Education*, 91 Mich. L. Rev. 1921 (1993).

9. *See, e.g.*, Harry T. Edwards & Michael A. Livermore, *Pitfalls of Empirical Studies That Attempt to Understand the Factors Affecting Appellate Decisionmaking*, 58 Duke L.J. 1895 (2009); Harry T. Edwards, *Reflections (On Law Review, Legal Education, Law Practice, and My Alma Mater)*, 100 Mich. L. Rev. 1999 (2002); Harry T. Edwards, *A New Vision*, *supra* note 1; Harry T. Edwards, *Another "Postscript," supra* note 1 (1994); and Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession: A Postscript*, 91 Mich. L. Rev. 2191 (1993).

10. Harry T. Edwards, *Another Look at Professor Rodell's "Goodbye to Law Reviews*," 100 Va. L. Rev. 1483 (2014).

11. *See, e.g.*, Richard G. Kopf, *The Value of Law Reviews to Judges*, Hercules & the Umpire, Dec. 18, 2014, http://herculesandtheumpire.com/tag/editorial-partnership-between-law-review-editors-and-judges/.

12. *See, e.g.,* Michael Dorf, *Judge Harry Edwards Is Still Unimpressed With Legal Scholarship*, Dorf on Law, Dec. 15, 2014, http://www.dorfonlaw.org/2014/12/judge-harry-edwards-is-still.html; and Paul Caron, *Judge Edwards on Rodell's "Goodbye to Law Reviews*," TaxProfBlog, Dec. 20, 2014, http://taxprof.typepad.com/taxprof_blog/2014/12/judge-edwards-on-rodells-.html.

13. *See* Adam Liptak, *Keep the Briefs Brief, Literary Justices Advise*, N.Y. Times, May 20, 2011, *quoting* Chief Justice Roberts ("What the academy is doing, as far as I can tell," Chief Justice John G. Roberts Jr. said in 2011, "is largely of no use or interest to people who actually practice law.").

14. *See* Brent E. Newton, *Law Review Scholarship in the Eyes of the Twenty-First Century Supreme Court Justices: An Empirical Analysis*, 4 Drexel L. Rev. 399, 415-416 (2012), quoting Judge Jacobs ("I haven't opened up a law review in years. . . . No one speaks of them. No one relies on them.").

15. *See, e.g.,* Adam Liptak, *When Rendering Decisions, Judges Are Finding Law Reviews Irrelevant*, N.Y. Times, Mar. 19, 2007; and Adam Liptak, *The Lackluster Reviews That Lawyers Love to Hate*, N.Y. Times, Oct. 21, 2013.

less sympathetic,[16] while still others both agree and disagree with him in part.[17] The upshot? Judge his views as you will; term them too fixed or too fluid; or commend or condemn them. It is, nonetheless, a fact: Judge Edwards' article "certainly hit a nerve."[18]

If works such as Holmes' *The Path of the Law*[19] have taught those of us in the legal academy anything, it is this: Provocative propositions and unsettling arguments should, when thoughtfully advanced, prompt us to pause and rethink how we size up life and law. After all, one does not have to be a convert to an argument to feel the sting of its truth. By that measure, and for that reason, among others, I invited Judge Edwards to reply to a set of questions—some autobiographical, others analytical—about legal scholarship. He graciously agreed, and his responses to most of them are set out below.

Edwards: I want to make it clear at the outset that some of my answers to the questions posed below have been drawn directly from some of my earlier works. I cannot improve much on what I said in those articles, so I have not tried. Indeed, I prefer not to have anything published that will detract from what I tried to say in those pieces.

Collins: Your legal scholarship writing goes back more than a half-century to your days on the law review at the University of Michigan Law School. And you began writing books nearly four decades ago. Today you continue to till these fields while turning out judicial opinions. Why? What is it about legal writing that so impassions you?

Edwards: I have always enjoyed writing. As a young boy, I used to write stories for my personal amusement. In high school I was the editor of the school newspaper. And the vast majority of my undergraduate courses at Cornell University involved heavy writing

16. *See, e.g.,* Louis H. Pollak, *The Disjunction Between Judge Edwards and Professor Priest*, 91 MICH. L. REV. 2113 (1993); Paul Brest, *Plus* ça *Change*, 91 MICH. L. REV. 1945 (1993); and Kevin M. Clermont & Theodore Eisenberg, *Judge Harry Edwards: A Case in Point*, 80 WASH. U. L. Q. 1275 (2002).

17. *See, e.g.*, James J. White, *Letter to Judge Harry Edwards*, 91 MICH. L. REV. 2177 (1993). Consider also Professor Stephen Vladeck's comments: "Whether or not we agree with this sentiment, the salient issue to those who find this trend disturbing must be whether our scholarship is both accessible to judges and applicable to the disputes before them. Thus, I find the suggestion that at least some legal scholarship should aspire to be useful to judges entirely unobjectionable, and the complaint that it isn't doing so one that merits sustained reflection." Stephen Vladeck, *The Law Reviews vs. the Courts: Two Thoughts From the Ivory Tower*, 39 CONNTEMPLATIONS 1, 2 (2007) (citations omitted).

18. NEIL DUXBURY, JURISTS AND JUDGES: AN ESSAY ON INFLUENCE 44 (2001). *See also* Richard Brust, A.B.A. J., Feb. 1, 2012, http://www.abajournal.com/magazine/article/the_high_bench_vs._the_ivory_tower/.

19. 10 HARV. L. REV. 457 (1897).

requirements. When I attended law school, I was required to learn a new style of writing, which I found to be intriguing.

In my view, "legal writing" at its best is precise, carefully reasoned, and well-supported (by both facts and governing principles). It should not be meandering, pointless, frivolous, or pedantic. It is wonderfully challenging because, often, your aim is to address a difficult issue and convince others to understand and embrace the view that you are espousing. I enjoy every facet of writing—the thought and research that precedes the actual writing; the task of organizing your thoughts; the work involved in drafting your position; and, finally, the important chore of editing for clarity and accuracy. I never want anyone to be confused about what I have written, even when they may disagree with what I have to say.

Writing always has been my preferred method of communication. People can distort anything that you have to say, whether written or spoken, but you are better able to defend a position in retrospect if it is committed to writing. This puts pressure on you, however, to write with precision and clarity. I enjoy the challenge.

Collins: You have written some 15 articles or essays that pertain to one aspect or another of race and the law. Why? What drew you to that topic?

Edwards: Matters having to do with "race and the law" have consumed society during my lifetime. Our country has struggled with issues of race discrimination in employment, voting, education, and criminal justice; racial stereotyping in all walks of life; and profound disputes over preferential remedies and affirmative action to cure the lasting effects of race bias. I felt the effects of race bias when I was growing up, and I certainly experienced it firsthand when I was in law school. The interesting question is not why I was drawn to write about some of these subjects, but why I did not write more.

When I was an undergraduate student at Cornell University, there were only a handful of African American students at the school. Across the country the few "Negroes" who attended the elite, predominantly white schools often were seen as "different," both from white students and from other blacks. Indeed, I heard this from a number of my undergraduate classmates. I was viewed as having "made it" despite my race. I was told that I was the exception to whom the stereotype of inferiority did not apply. It was quite bizarre to listen to comments such as these, and it was a challenge to overcome the not-so-subtle racist digs.

When I entered the University of Michigan Law School in 1962, I was the only African American in my class. I graduated very high in my law school class, earning a number of honors for academic achievement. Nevertheless, when I finished law school, many major

law firms to which I applied for jobs rejected me. I was told quite frankly by some of the hiring partners that, despite my strong academic record, the firms would not hire a Negro. It was only when my white mentor, Michigan law Professor Russell Smith, pressed on my behalf that I received a job offer from a major Chicago law firm.

In 1969 and 1970, students at the University of Michigan engaged in protests and demanded that the law school hire a black faculty member. It was because of these protests that I was recruited to teach at Michigan in 1970. In 1975, I was invited to join the faculty at Harvard Law School under similar circumstances. In 1977, I was appointed to the Board of Directors of Amtrak, where I later was elected Chairman, because President Carter was determined to give qualified African Americans access to high government positions. And in 1980, I was appointed to the United States Court of Appeals for the D.C. Circuit, in part because the Carter administration was determined to put more qualified African Americans on the bench.

So why did I not opt to write even more than I did on "race and the law?" Part of the answer is that, when I first joined the legal academy, African American scholars faced the great risk of being marginalized and discredited if we focused on subjects having to do with race and the law. There were very few minority law professors in those days, and many were hired only grudgingly. So it mattered—to us, to the students who saw us as role models, and to the institutional integrity of the schools at which we taught—that we succeed in the legal academy. At least in those early days, I and other African American legal scholars had the clear sense that we should teach and write about mainstream subjects in order to be taken seriously. As it turned out for me, I focused on my areas of specialty (labor and employment law, collective bargaining, negotiation, and higher education law), which I enjoyed immensely.

I wrote, as did many other minority scholars, on "race and the law" issues, even as we specialized in other subjects. It was impossible to ignore the issues that sometimes seemed intractable. Because of our life experiences, many African American scholars have *something* to say about "race and the law," even if our principal teaching and scholarly work is in other areas.

It was not until 2004, however, in *The Journey from* Brown v. Board of Education *to* Grutter v. Bollinger*: From Racial Assimilation to Diversity*, that I seriously attempted to draw on my own personal and professional experiences to reflect on racial equality and inequality in the United States and ponder the consequences of the shift from racial assimilation to diversity as a means of achieving racial equality. This was a particularly rewarding project because my son, Brent Edwards, who is a professor of comparative literature at Columbia University, collaborated with me on a piece of it.

Fortunately, we have reached a point in the legal academy where many law professors—female, male, minority, and nonminority—focus on race and the law and other civil rights issues in their teaching and scholarship.

Collins: Since 1979 you have written some 17 articles on the legal profession, the legal academy, and the relationship between the two. Again, why? And what drew you to that topic?

Edwards: I joined the bench in 1980. Before my appointment, I had gained significant experience as a practicing lawyer and as a member of the legal academy: I had practiced law for five years in Chicago with a major law firm, taught law at the University of Michigan and Harvard Law School (earning tenure at both schools), served for a decade as a neutral labor arbitrator, and published several books and numerous articles. My appointment to the D.C. Circuit afforded me an opportunity to think seriously about the work of the legal profession and the legal academy, and, in particular, the relationship between the two.

I have always taught while serving on the bench—it has been enriching because my work as a judge enhances my teaching, and vice versa. After more than a decade on the bench, however, I was dismayed with some of what I was seeing in the legal profession and in the legal academy. I gave vent to my concerns when I published *The Growing Disjunction Between Legal Education and the Legal Profession*. My general thesis was this:

> I have been deeply concerned about the growing disjunction between legal education and the legal profession. I fear that our law schools and law firms are moving in opposite directions. The schools should be training ethical practitioners and producing scholarship that judges, legislators, and practitioners can use. The firms should be ensuring that associates and partners practice law in an ethical manner. But many law schools—especially the so-called "elite" ones—have abandoned their proper place, by emphasizing abstract theory at the expense of practical scholarship and pedagogy. Many law firms have also abandoned *their* place, by pursuing profit above all else. While the schools are moving toward pure theory, the firms are moving toward pure commerce, and the middle ground—ethical practice—has been deserted by both.

The reactions from the bench, bar, and academy were more than anything I ever anticipated. One of my former colleagues at the University of Michigan Law School, who will remain unnamed, sent me a funny and poignant letter which said something like: "Obviously, you hit a nerve. And what is so amusing is that the members of the academy cannot simply dismiss your critique because you are a member of the academy and know what goes on in our ranks." The *Disjunction* piece was cited in Fred Shapiro and Michelle Pearse's *The*

Most-Cited Law Review Articles of All Time, so I guess that more than a few people have read it. I have been gratified—even to see some of the critical commentary that the article has drawn—because I know that at least some members of the academy and legal profession are focused on the issues. I have continued to write on this subject because I feel that it is incredibly important, and there are still issues to be resolved.

Collins: Nearly a quarter-century ago, you observed: "I fear that our law schools and law firms are moving in opposite directions." And in a 1997 speech published in the *New York University Law Review*, you quoted from a December 23, 1992, letter the late Charles Alan Wright sent you, wherein he wrote: "Legal education is moving away from the needs of the legal profession, it is doing so at an increasing pace, and this is a great loss."[20] Has the situation improved in any meaningful way since then or is it worse?

Edwards: There are still many serious problems that we are facing in the legal academy and the legal profession. The problems are somewhat different from the problems that I discussed in 1992, but they are no less significant.

There are still law professors who express disdain for the practice of law, and offer no concrete proposals for reform. In my view, this is unacceptable. In constructing a vision of legal education, I agree with Professor J.B. White, who once wrote that, in order for legal academic work "to be of value to the law it is essential that the work in question express interest in, and respect for, the possibilities of what lawyers . . . do."[21] This means that a good body of legal scholarship must address law's purpose of serving society. Not *all* legal scholarship, but a good body of it.

There are a number of skeptics who see legal education as a failing enterprise. Professor Brian Tamanaha recently wrote that "[v]olumes of material are being written by law professors that appear to leave little or no trace . . . . Riding one intellectual fad after another, law professors are spinning wheels going nowhere."[22] Professor Tamanaha says that this is because law professors have "no obligation to produce scholarship that is useful for judges and lawyers—although law professors are best positioned, with subject matter expertise and the luxury of time, to provide this essential service to the legal system. Most professors in most academic fields, like law professors, write for each other."[23] This is a harsh critique, but hardly unfounded.

20. *A New Vision*, *supra* note 1, 72 N.Y.U. L. Rev. at 568 (1997), *quoting from* letter from Charles Alan Wright to Harry T. Edwards 1 (Dec. 23, 1992) (on file with author).

21. James Boyd White, From Expectation to Experience: Essays on Law and Legal Education 51 (2000).

22. Brian Tamanaha, Failing Law Schools 56 (2012).

23. *Id.* at 57.

Beyond the ongoing debates over legal scholarship, law schools are now also facing a number of critics who question the value of legal education and suggest that major reforms are necessary. And law school applications are down, in part due to the economic crisis in the legal profession. These realities have caused some law schools to overhaul their curriculums or take innovative steps to make course offerings more relevant to the needs of the profession.

Some of the steps taken have been for the better. For example, law schools have made significant investments in expanding their clinical offerings—and not just offering more options, but making clinics useful, productive, and educational. Good clinical instruction is difficult and expensive, so it is encouraging to see the genuine efforts made by a number of law schools to improve their clinical offerings.

We have also seen some sustained interest in legal education reforms encompassing a broad range of strategies and proposals. For example, more and more academics and practitioners have suggested reforming the third year of law school by having students focus on experiential learning and/or major research and writing projects. Recently, several professors at Harvard Law School conducted a survey of law firm practitioners to determine what business courses should be offered to law students to better prepare them for law practice. It is unclear whether any of the current ideas for curriculum reforms will be adopted in the legal academy. It is encouraging, however, that members of the academy and the profession are at least addressing some of the serious issues that now face legal education.

I continue to be optimistic in my outlook, possibly because I cherish the best ideals of the legal academy and the legal profession. I am unwilling to believe that we will not fix the problems that we now face in legal education and the profession. Democracy in the United States depends upon our commitment to the rule of law, and good legal education helps to ensure that our commitment never wavers. Members of the legal academy certainly have the capacity, and hopefully the vision, to embrace whatever reforms may be necessary to achieve and maintain excellence in legal education.

Collins: Few of the so-called "better" law schools hire applicants who have had more than a couple of years in practice, if that. As you know, today the typical profile in such schools is an applicant with Ivy League credentials and a federal appellate clerkship . . . and a PhD if possible. All such applicants often lack any meaningful and sustained experience in the practice of law. What connection, if any, do you think that has to the problems you see in legal education and scholarship?

Edwards: Over the past two decades, a number of preeminent law schools have placed a premium on abstract scholarship and aimless

empirical studies, even though members of the legal academy have reason to know that much of this work is not useful to most practicing lawyers, legislators, judges, and regulators who employ the law to promote societal well-being. Bright, young lawyers who are seeking to enter the academy know that this is the type of scholarship that they must produce in order to be given serious consideration for teaching positions at a number of law schools. The more obscure the better, it sometimes seems.

There is certainly value in some abstract scholarship. I have never doubted this. But it should not be preferred over other forms of scholarship. In order for legal scholarship to be relevant outside the legal academy, law professors should balance abstract scholarship with scholarly works that are of interest and use to lawyers, legislators, judges, and regulators who serve society through legal arguments, decision-making, regulatory initiatives, and enforcement actions. In other words, law schools, law reviews, and legal scholars should do a better job in producing scholarship that is of interest and use to wider audiences in society. This means that law schools must hire young scholars who are interested in doing such work, and then value their efforts.

In addition, because young scholars are discouraged from spending any serious time in practice, many know little about the real world of lawyering. A sampling of tenure-track professors hired during the past decade at forty law schools found that the median professor had three years' practice experience. Law schools are also hiring an increasing number of professors who have PhDs in other fields. This is not a bad development, unless PhDs come in droves and uniformly spurn any interest in the law and in the issues facing the legal profession.

Unless law schools ensure that their faculties reflect a real balance of talent—*i.e.*, including professors with strengths in both concrete and abstract scholarship and teaching—the current gulf between the profession and the academy will continue to grow and become even more distressing.

Collins: On a related front, in your 2014 *Virginia Law Review* article you wrote: "My guess is that we will see no significant change in the content of what is published in the law reviews unless the law schools change their ways."[24] Might you elaborate a bit more on that for our readers?

Edwards: Law review editors have come to understand the law schools' preferences for obscure philosophical and theory-laden material, in part because they have received so many articles of this stripe in recent years. And the law reviews have accommodated these forms of scholarship, largely without protest.

24. *Another Look*, *supra note* 10, 100 Va. L. Rev. at 1509.

I do not blame the law reviews for law schools' preferences in favor of abstract philosophical, theoretical, and empirical scholars and scholarship; nor do I blame the law reviews for the academy's seeming disdain for scholarship that focuses on issues related to professional practice, procedure, doctrine, regulation, and legislation that would be of more interest and greater use to wider audiences. The reviews really do not have the leverage to change how law schools operate. The law reviews will change their publication practices when the law schools signal that they have a serious interest in scholarship related to professional practice, procedure, doctrine, regulation, and legislation —*i.e.*, scholarship beyond just abstract philosophical, theoretical, and aimless empirical scholarship.

Collins: Professor Pierre Schlag has asserted: "I think [what] we need to talk about is whether or not the sort of extraordinarily refined doctrinal approach that someone like Judge Harry Edwards champions is producing anything of value." He then added: "Is it producing anything of value in the academy and is it producing anything of value in the law? That is, what do we have to show for all this doctrinal complexity apart from a massive piling on of transaction costs? Is there anything to show for it?"[25] What is your response to that?

Edwards: Read my article in *Another Look at Professor Rodell's "Goodbye to Law Reviews*."[26] Two additional points are worth mentioning here. First, law professors have to do more than just write for a few of their academic colleagues. This self-indulgent approach hardly serves the needs of the profession or society at large. Second, it is shortsighted, to say the least, to characterize my thesis as an "extraordinarily refined doctrinal approach."

Seeking a *balance* between abstract scholarship and scholarship founded on doctrine and theory is not an endorsement of unnecessary and burdensome doctrinal complexity. Ideally, good doctrine/theory-focused legal scholarship brings clarity and order, not simply "complexity," to our systems of justice and the rule of law.

Collins: Turning to what Judge Richard Posner said in his book *Overcoming Law*, he wrote: "The most interesting questions raised by Edwards' article is whether the shift in the emphasis in legal scholarship at the leading law schools from the practical to the theoretical has caused a net decline in the social value of legal scholarship."[27] Moreover, he charged that you are "convinced . . . [that] interdisciplinary scholarship

25. *Id.*

26. *Supra* note 10.

27. Richard A. Posner, Overcoming Law 96-97 (1995).

[is] useless to the legal profession . . . ."[28] He also suggested that you overlooked the value of various kinds of interdisciplinary scholarship:

> "He does not discuss [scholarship such as] the criticisms that Bayesian probability theorists and cognitive psychologists have made on the rules of evidence, jury instructions, and the burden of proof . . . ."
>
> "He does not discuss [scholarship such as] the impact of feminist jurisprudence on rape law, sexual harassment, and the debate over the legal protection of pornography. (He does not mention feminist legal writing at all.)"
>
> "He ignores the important role that political scientists play as expert witnesses in reapportionment litigation."
>
> "And he is silent on the growing literature, which is informed by philosophy and literary theory and also by political theory, economics, and the theory of public choice, on the interpretation of constitutions and statutes, even though interpretation is the major function of the court on which Judge Edwards sits."

How would you respond to Judge Posner?

Edwards: Judge Posner's critique fails to capture my position. Read my article *Another Look at Professor Rodell's "Goodbye to Law Reviews."*[29] Most of the matters that he mentions are addressed in the *Virginia Law Review* essay.

Collins: In *Overcoming Law* Judge Posner also asked: "[W]here is it written that all legal scholarship shall be in the service of the legal profession? Perhaps the ultimate criterion of all scholarship is utility, but it need not be utility to a particular audience, or even to a contemporary audience."[30]

In a 2004 interview with Washington University Law School's Dean Joel Seligman, you stated: "I . . . believe that there are still too many legal scholars who tend to discuss material from non-law disciplines without situating it in a meaningful legal context. I think that some of this is attributable to a misguided sense of intellectual superiority."[31]

Are these two views compatible or not?

Edwards: Unless Judge Posner means to say that law schools are not professional schools, with a principal mission of educating students to enter the legal profession, then I see no incompatibility with the two statements. And I have never said that "*all* legal scholarship shall be in

28. *Id*. at 96.

29. *Supra* note 10.

30. Overcoming Law, *supra* note 38, at 99.

31. *Access to Justice: The Social Responsibility of Lawyers: A Conversation with Judge Harry T. Edwards*, 16 Wash. U. J. L. & Pol'y 61, 73 (2004).

the service of the legal profession." That strikes me as a fundamentally silly assertion.

Collins: In a 2012 article published in the *Northwestern University Law Review*, Professors Lee Petherbridge and David L. Schwartz conducted empirical research on the use of scholarly articles by Supreme Court Justices in their published opinions. Among other things, the authors found that Chief Justice John Roberts used "legal scholarship in about a quarter (23.08%) of the opinions he authored" through 2010. "That rate," Petherbridge and Schwartz added, "does not differ significantly from the rates of the other current Justices."[32]

What do you make of those findings? Do you think they undermine the critique against the uses and values of contemporary legal scholarship?

Edwards: I do not make anything of the findings. Do the authors tell us anything about how the articles are used? Do they tell us how many of the articles are repeat citations? Do we know what percentage of *all* published law review articles are cited by the Court? I suspect that the percentage is quite low.

Actually, I would be more impressed by a study of Court of Appeals opinions because we decide so many more cases each year than the Supreme Court. My sense is that my colleagues and I do not often rely on law review articles in writing our published opinions. For the year ending December 31, 2013, the Courts of Appeals terminated almost 35,126 cases on the merits. About 12% of the terminations on the merits were by published written decision. How many of these dispositions relied on law review articles?

Collins: By and large, law professors write all or most of the scholarly work they publish, whereas judicial law clerks (recent law grads, almost all of whom were law review editors) write the lion's share of the opinions published by appellate judges. Do you think the quality of judicial opinions is diminished because of the latter?

Edwards: The premises underlying the question are misguided. What valid study shows that "judicial law clerks (recent law grads, almost all of whom were law review editors) write the lion's share of the opinions published by appellate judges"? This has not been my experience and I have not seen it to be true with my judicial colleagues. No one doubts that good law clerks can be invaluable to a judge in assisting with legal research and drafting. But drafts produced by law clerks should not be confused with the opinions issued by the judges. My colleagues and I are responsible for and attend to the writing of any opinion that leaves chambers. The suggestion that my law clerks do the "lion's share" of my work is ridiculous. The truth is that no matter how bright

32. *Id.*

they may be, most law clerks do not have either the knowledge or experience to shoulder the "lion's share" of the decision-making and opinion-writing responsibilities assigned to their judges.

And what valid study shows that "law professors write all or most of the scholarly work they publish"? During my 45 years as a law professor, I have known of more than a few situations when research assistants and/or law review editors have crafted large chunks of the drafts of articles published by law professors.

Collins: Today, there are more than 1,600 legal journals published in the United States alone, and some are released as many as eight times annually. As you know, many law schools have multiple journals (*e.g.,* Yale Law School has 11). And then there are online repositories (*e.g.,* SSRN and Digital Commons). In 1997 it was estimated that American law reviews turned out 150,000 to 190,000 pages annually.

Are too many schools publishing too many articles? If so, what do you propose?

Edwards: I would not propose doing anything. I understand that the range of merit in law review publications is enormous because there are so many law schools and law journals, talent is not evenly distributed, and article selection and editing processes vary widely. And the proliferation of law journals has undoubtedly resulted in an increase in the publication of articles of little value. But I am not sure why this should bother anyone. Law reviews are not universally bad, nor are the articles that they publish universally uninteresting and useless. So long as researchers can find the good works, it does not much matter that there are many articles that are left unread.

I have already indicated that, in my view, relatively few law review articles are cited in judicial opinions. This is not necessarily a valid measure of the value of law reviews, however. Good articles are potentially useful to anyone who reads them, whether or not they are cited. And, as I note below, law review publications can serve purposes beyond having an impact on judicial decision making.

Some critics suggest that law reviews have little influence in the legal community in part because their circulation numbers are low. I think this is a shortsighted view. First, law review articles can easily be read online, so print subscriptions are a poor measure of readership. Furthermore, even if most law journal articles are not widely read, law reviews nonetheless have educational value: Law professors who publish their writings often pursue research that supports their law teaching, and these professors may also use their published works to supplement class assignments. And students who serve on law reviews are afforded opportunities to produce notes and comments on a variety of legal issues and to gain experience in editing. Whatever we may think of law reviews, I strongly disagree with critics who claim that we

should simply abolish journals as they currently exist. Throwing the baby out with the bath water is not a viable solution.

Collins: In a 2014 interview posted on the *Concurring Opinions* blog, Judge Posner declared: "The domination of academic law journal publication by students is a scandal."[33] Do you agree? If so, what do you recommend?

Edwards: The most significant problem with student editors is their limited ability to select articles for publication after having had only two years of legal education. Many students have low knowledge depth, for want of experience, and the capabilities of individual students vary considerably. And to the extent that specialized knowledge and editorial experience confer unique efficiencies, these are efficiencies that most student-run publications cannot capture.

These are formidable obstacles that have warped the article-selection and editing processes and promoted the publication of articles that are of little use to the bar, bench, legislatures, and regulatory bodies. Student editors generally are not innovators. They stick with the style rules that have been handed down to them. Editors who might have the talent to develop new and more appealing protocols for their journals do not have the time to pursue their ideas, nor generally the incentive. They are full-time students who serve as editors for no more than twelve months. There is no simple solution, however, because law faculty members generally are unwilling to shoulder the burdens now carried by student editors.

Reforms may be possible, however. Apparently, there are some law journals that have tried to involve law professors in their article-selection process to gain the benefit of the professors' expertise and experience in assessing articles that student editors are not easily able to evaluate. There are some pitfalls to these approaches, however, because professors do not always have the time or interest to undertake such reviews. And unregulated "peer review" is not always an ideal system to assess articles that have been submitted for publication.

So where do we stand? It is unclear. Over the years, I have had the good fortune to work with some truly outstanding student law review editors. The truth is that the quality of work done by law review editorial boards varies from year to year, depending upon the leadership abilities, intellectual talents, and dedication of the individual editors. The best of the student editors are sterling in their work and should be commended.

33. Ronald K.L. Collins, *On legal education & legal scholarship—More questions for Judge Posner*, Concurring Opinions blog, Dec. 8, 2014, http://concurringopinions.com/archives/2014/12/on-legal-education-legal-scholarship-more-questions-for-judge-posner.html.

Collins: In writing the foreword to the 2009 *Michigan Law Review* book issue, Dean Erwin Chemerinsky wrote: "I knew that writing that impressed other academics was the key to advancing in my chosen profession—pleasing those within my institution, opening the door to moving to other schools, and fostering my reputation so that I would receive recognition such as being invited to speak at conferences and being thought well of by my peers in academia."[34]

He added: "As I observe my more junior colleagues, I realize that they are far more sophisticated than I was in working toward these goals. They spend far more time than I did in making strategic choices about topics that will lead to prominent placements and taking actions to gain recognition. They focus much more than I ever did on the hierarchy of law reviews and trying to draw fine distinctions among them in deciding where to publish."[35]

What do you make of that?

Edwards: I largely agree with Dean Chemerinsky's comment.

Collins: If I may draw once more on something from what Dean Chemerinsky wrote in his foreword to the book review issue of the *Michigan Law Review*: "Why should law schools require and encourage scholarship, and what types of writings deserve recognition?"[36] How would you respond to that question?

Edwards: Legal *education* and good scholarship are inexorably linked. Superior scholarship advances knowledge, tests our thinking, encourages better decision making by public officials, leads to reforms that serve the public good, improves teaching, and enriches our understanding of history. Therefore, law schools should require and encourage scholarship. Law schools, however, should remain open to and respectful of diverse forms of scholarship to achieve the salutary goals of education.

Collins: Writing in *Dorf on Law*, Professor Michael Dorf declared: "*The Growing Disjunction* was a *cri de coeur* of an old guard."[37] Moreover, he added: "[T]he complaints of Judge Edwards, Justice Breyer, Chief Justice Roberts, and the other critics of legal scholarship rest on nothing more than an occasional perusal of the covers of law reviews. There may well be problems with legal scholarship. But the judicial critics have not made any kind of a case. At most, they've sent a signal to legal scholars that if they want to influence judges, they should title

34. *Foreword: Why Write?* 107 MICH. L. REV. 881, 881 (2009).

35. *Id*.

36. *Id*. at 882.

37. *Judge Harry Edwards Is Still Unimpressed*, *supra* note 11.

their articles something like 'An Article That Is Super-Duper Helpful to Judges.'"[38] Your response?

Edwards: Respectfully, Professor Dorf appears to have missed the point. I cannot speak for others, but the point that I have tried to make over the past twenty-three years is that legal scholarship and teaching should be balanced to accommodate the needs of the profession as a whole (not just judges), law students, other legal scholars, and society. I have consistently espoused the view that theoretical scholarship is undoubtedly valuable, but that there must be a balance between theory and concrete applications of the law. Indeed, I have explained that I do not doubt for a moment the importance of theory in legal scholarship, because good scholarship routinely integrates theory with doctrine. I have also explained that I am not opposed to intensely theoretical scholarship that does not purport to have any practical value so long as other scholars are not discouraged from producing work that is of greater interest and use to wide audiences. Legal scholarship should include a healthy balance of theory, practice, procedure, policy, and doctrine. How can this be objectionable?

Collins: Much of legal scholarship is court-centric. Often ignored is litigation scholarship, namely, scholarship focusing on how trial and appellate lawyers actually litigate cases. Do you think this problem (assuming you see it as one) has anything to do with how law is taught in most law schools?

Edwards: Scholarship and teaching focused on effective techniques of trial and appellate advocacy are important. They should be a part of every law school's curriculum and scholarly output. However, it is very difficult to produce good scholarship focusing on how trial and appellate lawyers actually litigate particular cases. "True scholarship consists in knowing not what things exist, but what they mean; it is not memory but judgment."[39] It is too easy to fall into the trap of "storytelling" when writing about how lawyers litigate particular cases. Individual cases are often *sui generis*, so what flows from the case may not be generalizable. On the other hand, there are certain landmark cases—*Korematsu v. United States*, *Brown v. Board of Education*, *Roe v. Wade*, *Bush v. Gore*, *Lawrence v. Texas*, and *Obergefell. v. Hodges*—that are indelible pieces of American history. We learn from history, both our mistakes and our triumphs. So it certainly would make sense to encourage scholarship that focuses on how trial and appellate lawyers litigated landmark cases.[40]

38. *Id.*

39. *Quoted in* Ferris Greenslet, James Russell Lowell: His Life and Work 130 (1905).

40. *See* Ronald K.L. Collins, *Litigation Scholarship* (unpublished manuscript, June 7, 2015, on file with the author).

Collins: You have portrayed the legal treatise as "[t]he paradigm of 'practical' legal scholarship."[41] That said, are we witnessing a decline in interest when it comes to using legal treatises? It seems that the glorious days of the likes of treatise writers such as Blackstone, Kent, Story, Corbin, Wigmore, and K.C. Davis are no more. And Angela Fernandez and Markus Dubber maintain that "few if any legal scholars in the United States today wake up filled with a burning desire to devote their professional lives to the production of a treatise."[42]

In that regard, in an April 29, 2005, letter to Justice Stephen Breyer, Professor Laurence Tribe wrote: "[I came] to the sobering realization that no treatise, in my sense of that term, can be true to this moment in our constitutional history—to its conflicts, innovations, and complexities." He also added: "I do not have, nor do I believe I have seen, a vision capacious and convincing enough to propound as an organizing principle for the next phase in the law of our Constitution."[43]

Are treatises becoming the dinosaurs of legal scholarship? Have electronic search engines eclipsed them?

Edwards: There are a few outstanding treatises that are still very much in use in law practice and in judicial chambers. And some of these treatises can be searched online. However, it is true that legal scholars are no longer encouraged to produce legal treatises. It is a dying form of legal scholarship.

Collins: With increasing frequency, blogging seems to be trumping law review publications for any variety of reasons. I am thinking of blogs such as *SCOTUSblog*, *The Volokh Conspiracy*, *Balkinization*, *PrawfsBlawg*, *LawProfessorBlogs*, and *Concurring Opinions*, among others.

As Paul Clement noted in his foreword to *A Conspiracy Against Obamacare*: "[I]f ever a legal blog and a constitutional moment were meant for each other, it was the *Volokh Conspiracy* and the challenge to the Affordable Care Act."[44] What do you make of this development? Do you think it deserves the title of "legal scholarship"?

Edwards: If blogs are taken for what they really are—news reports and commentaries—then they have the potential to be interesting and useful. They provide services formerly offered by newspapers, namely, reporting the news and publishing editorial comments. Blogs certainly do not replace good scholarship found in law reviews.

41. *The Growing Disjunction*, *supra* note 9, at 43.

42. Law Books in Action 20-21 (2012).

43. *Id*. at 295.

44. A Conspiracy Against Obamacare: The Volokh Conspiracy and the Affordable Care Act viii (Trevor Burrus ed., 2014).

The worry that I have with law blogs (as with many Internet sites that purport to report and comment on the news) is that they sometimes report and comment too quickly on judicial decisions. As a result, blogs do not always capture the important nuances of an opinion or the precedent that underlies the decision. The best way to understand an opinion is to read it.

Collins: Apart from the *Michigan Law Review's* annual book review issue, many law reviews have ceased to publish book review essays. What are your views concerning this brand of legal scholarship?

Edwards: In my view, a good book review is a great brand of legal scholarship. The truth is that most books on the law do not garner wide readership. Book reviews usefully call attention to books that ought to command interest. Good book reviews also helpfully amplify and critique theories, policies, and practices that are the subject of the books being reviewed. In other words, a review gives readers some context. Even when a review takes issue with the author of the book, the reader invariably learns about matters that were formerly unknown or not well understood.

Collins: In retrospect, are there any aspects of your extensive scholarship about which you now have serious misgivings? Have you changed your mind on anything in any significant way?

Edwards: Not really. I do not mean to suggest that my views always have been on the mark or that everything that I have written has been salutary. Quite the contrary. I have learned a lot over the years as I have probed different areas of interest. I would like to think that my intellectual interests and capacities have continued to grow.

In my early years in the profession, I could not have written about some of the matters that have been of great interest to me during the past decade because I had neither the experience nor the insights that come from experience to tackle the issues. Some subjects that come to mind include race and the law, empirical legal studies, judicial collegiality, and the use of forensic disciplines in the law.

Collins: Have you ever considered writing a memoir of your many years in the law?

Edwards: I have thought about it, but it seems a bit pretentious. I do not think that there is anything more that I need to say beyond what I have published in my legal scholarship, speeches, and judicial opinions.

The Editors of the Journal of Legal Education *thank Judge Edwards for first agreeing to be interviewed, and for taking the time to answer our questions.*

Appendix

Books, Articles, Essays, Tributes, Remembrances, Speeches & Student Notes

by Harry T. Edwards

Books

1. & Linda A. Elliott &, Federal Courts–Standards of Review: Appellate Court Review of District Court Decisions and Agency Actions (2nd ed. 2013)
2. & R. Theodore Clark, Labor Relations Law in the Public Sector: Cases & Materials (1991)
3. & Virginia D. Nordin, Higher Education and the Law (Institute for Educational Management, Harvard Univ., 1979 & Supps., 1980-1983)
4. Collective Bargaining and Labor Arbitration (1980)
5. Higher Education and the Law (1979)
6. & James J. White, The Lawyer as a Negotiator: Problems, Readings & Materials (1976)

See also: An Introduction to the American Legal System: A Supplement to Higher Education and the Law (1980) (65 pp.)

Articles, Essays, Et cetera

1. *Another Look at Professor Rodell's "Goodbye to Law Reviews*," 100 Va. L. Rev. 1483 (2014)
2. *Reflections on the Findings of the National Academy of Sciences Committee on Identifying the Needs of the Forensic Science Community*, presented to First Public Meeting of the National Commission on forensic Science (2014) (online)
3. *Tribute to Hon. Patricia M. Wald*, 66 N.Y.U. Ann. Surv. Am. L. 1 (2010-2011)
4. *The National Academy of Sciences Report on Forensic Sciences: What It Means for the Bench and Bar*, 51 Jurimetrics J. 1 (2010)
5. *Solving the Problems That Plague the Forensic Science Community*, 50 Jurimetrics 5 (2009-2010)
6. & Michael A. Livermore, *Pitfalls of Empirical Studies That Attempt to Understand the Factors Affecting Appellate Decisionmaking*, 58 Duke L.J. 1895 (2009)
7. *Renewing Our Commitment to the Highest Ideals of the Legal Profession*, 84 N.C. L. Rev. 1421 (2006)
8. *Professor Yale Kasimar: Awesome*, 102 Mich. L. Rev. 1677 (2004)

9. *The Journey from* Brown v. Board of Education *to* Grutter v. Bollinger*: From Racial Assimilation to Diversity*, 102 MICH. L. REV. 944 (2004)
10. *The Effects of Collegiality on Judicial Decision Making*, 151 U. PA. L. REV. 1639 (2003)
11. *The Good and Bad of Legal Education in the United States*, Presentation to Faculty and Graduate Students at the University of Tokyo (Oct. 10, 2001), 5 CAUSA 54 (2003)
12. *Defining Characteristics of Federal Courts in the United States: The System of Justice Below the Supreme Court*, Presentation to Japanese American Society for Legal Studies, Tokyo University, Japan (Oct. 13, 2001), 2002 AMERIKA HO 58
13. & Linda Elliott, *Beware of Numbers (and Unsupported Claims of Judicial Bias)*, 80 WASH. U. L. Q. 723 (2002)
14. *Reflections (On Law Review, Legal Education, Law Practice, and My Alma Mater)*, 100 MICH. L. REV. 1999 (2002)
15. *Race and the Judiciary*, *20* YALE L. & POL'Y REV. 325 (2002)
16. *Where Are We Heading with Mandatory Arbitration of Statutory Claims in Employment?* 16 GA. ST. U. L. REV. 293 (1999-2000)
17. *In Memoriam: Honorable Spottswood William Robinson III*, 15 HARV. BLACKLETTER L. J., 25-27 (1999)
18. *Collegiality and Decision Making on the D.C. Circuit*, 84 VA. L. REV. 1335 (1998)
19. *Professor Theodore J. St. Antoine: A Legendary Figure*, 96 MICH. L. REV. 2192 (1998)
20. & Virginia A. Seitz, *From Labor Law To Employment Law: What Next? in* INDUSTRIAL RELATIONS AT THE DAWN OF THE NEW MILLENNIUM (Maurice Neufeld & Jean McKelvey eds., New York State School of Industrial and Labor Relations, Cornell University, 1998)
21. *A Tribute to My Friend, the Honorable Ruth Bader Ginsburg*, 1997 ANN. SURV. AM. L. xv (1997)
22. *Comments on Mirjan Damaška's "of Evidentiary Transplants*," 45 AM. J. COMP. L. 853 (1997)
23. *A New Vision for the Legal Profession*, 72 N.Y.U. L. REV. 567 (1997)
24. *In Memoriam: George E. MacKinnon*, 64 GEO. WASH. L. REV. 819 (1996)
25. *Reflections on Education at the ILR School, circa 1958-1962*, *in* CORNELL UNIVERSITY ILR SCHOOL, THE ILR SCHOOL AT FIFTY: VOICES OF THE FACULTY, ALUMNI & FRIENDS 70 (Elaine Goldberg ed., 1996)
26. *To Err Is Human, But Not Always Harmless: When Should Legal Error Be Tolerated?* 70 N.Y.U. L. REV. 1167 (1995)
27. & Mitchell N. Berman, *Regulating Violence on Television*, 89 NW. U. L. REV. 1487 (1994-1995)

28. *Remarks of the Honorable Harry T. Edwards*, 44 CATH. U. L. REV. 3 (1994)
29. *Another "Postscript" to "The Growing Disjunction Between Legal Education and the Legal Profession,"* 69 WASH. L. REV. 561 (1994)
30. *Personal Reflections on 30 Years of Legal Education for Minorities*, 37 MICH. L. QUADRANGLE NOTES 38 (1994)
31. *The Growing Disjunction Between Legal Education and the Legal Profession: A Postscript*, 91 MICH. L. REV. 2191 (1993)
32. & James B. Speta, "*Our Federalism:" Doctrines of Legislative and Judicial Federalism in the United States* (Comparative Lessons for "Subsidiarity" in the European Community?) (Mentor Group Working Paper, 1993)
33. *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34 (1992)
34. *Lessons of Life*, 5 WASH. LAW. 12 (1991)
35. *Appellate Advocacy: Good and Bad in the Court of Appeals*, CAL. LAB. & EMPLOYMENT L.Q. 1 (1991)
36. *The Judicial Function and the Elusive Goal of Principled Decision-making*, 1991 WIS. L. REV. 837
37. *A Lawyer's Duty to Serve the Public Good*, 65 N.Y.U. L. REV. 1148 (1990)
38. *Regulating Judicial Misconduct and Dividing Good Behavior for Federal Judges*, 87 MICH. L. REV. 765 (1988-1989)
39. *Judicial Review of Labor Arbitration Awards: The Clash Between the Public Policy Exception and the Duty to Bargain*, 64 CHI.-KENT L. REV. 3 (1988)
40. *The Role of Legal Education in Shaping the Profession*, 38 J. LEGAL EDUC. 285 (1988)
41. *The Future of Affirmative Action in Employment*, 44 WASH. & LEE L. REV. 763 (1987)
42. *Agonizing Over the Simple Realities of Labor Relations*, *in* THE FUTURE OF INDUSTRIAL RELATIONS 162 (Daniel J. B. Mitchell ed., UCLA Institute of Industrial Relations, Monograph and Research Series: 47, 1987)
43. *Justice Black and Labor Law: Some Reflections on the Justice's Jurisprudence of Individual Versus Collective Rights in Industrial Relations*, 38 ALA. L. REV. 249 (1987)
44. & Walter Gelhorn, et al., *Alternative Means of Dispute Resolution in Government: A Sense of Perspective*, 1 ADMIN L. J. 459 (1987)
45. *Wade H. McCree Jr.: A Model of Excellence*, 86 MICH. L. REV. 227 (1987)
46. *The Changing Notion of Our Federalism*, 33 WAYNE L. REV. 1015 (1986-1987)
47. *Alternative Dispute Resolution: Panacea or Anathema?* 99 HARV. L. REV. 668 (1986)

48. *Do Lawyers Still Make a Difference?* 21 WAYNE L. REV. 201 (1986)
49. *Storm Warnings In Labor Arbitration*, 22 ILR REPORT 2 (1986)
50. *Hopes and Fears for Alternative Dispute Resolution*, 21 WILLAMETTE L. REV. 425 (1985)
51. *The Duty of Fair Representation: A View from the Bench*, *in* THE CHANGING LAW OF FAIR REPRESENTATION 93 (Jean McKelvey ed., 1985)
52. *Deferral to Arbitration and Waiver of the Duty to Bargain: A Possible Way Out of Everlasting Confusion at the NLRB*, 46 OHIO ST. L.J. 23 (1985)
53. *Public Misperceptions Concerning the Politics of Judging: Dispelling Some Myths about the D.C. Circuit*, 56 U. COLO. L. REV. 619 (1984-1985)
54. *The Human Aspects of Lawyering*, 61 U. DET. J. URB. L. 545 (1984)
55. *Judicial Review of Deregulation*, 11 N. KY. L. REV. 229 (1984)
56. *The Role of a Judge in Modern Society: Some Reflections on Current Practice in Federal Appellate Adjudication*, 32 CLEV. ST. L. REV. 385 (1983-84)
57. *The Rising Workload and Perceived "Bureaucracy" of the Federal Courts: A Causation-Based Approach to the Search for Appropriate Remedies*, 68 IOWA L. REV. 871 (July 1983)
58. *The Judiciary, The Law and Industrial Relations: An American Perspective*, Center for Employment Relations & Law at Florida State University, 83 CERL FORUM (No. 2, 1983)
59. *A Celebration*, 27 MICH. L. QUADRANGLE NOTES 17 (Spring 1983)
60. *Advantages of Arbitration Over Litigation: Reflections of a Judge*, *in* ARBITRATION 1982: CONDUCT OF THE HEARING, PROCEEDINGS ON THE 35TH ANNUAL MEETING, NATIONAL ACADEMY OF ARBITRATORS 16 (James Stern & Barbara Dennis eds., BNA Books, 1983)
61. *Goals in Life Worth Pursuing*, 10 FLA. ST. U. L. REV. 517 (1982)
62. *Foreword*, 31 COPYRIGHT L. SYMP. vii (1981) (ASCAP)
63. *A Judge's View on Justice, Bureaucracy, and Legal Method*, 80 MICH. L. REV. 259 (1981)
64. *A Time for Renewed Commitment*, 24 HOWARD L.J. 1 (1981)
65. *Affirmative Action or Reverse Discrimination: the Head and Tail of* Weber, 13 CREIGHTON L. REV. 713 (1980)
66. *Preferential Remedies and Affirmative Action in Employment in the Wake of* Bakke, 1979 WASH. U. L. Q. 113 (1979)
67. *On Becoming a Lawyer: Some Challenges for the Future*, 13 U. MICH. J. L. REFORM 1 (1979)
68. *Arbitration as an Alternative in Equal Employment Disputes*, 33 ARB. J. 22 (1978)
69. *The Coming of Age of the Burger Court: Labor Law Decisions of the Supreme Court During the 1976 Term*, 19 B.C. L. REV. 1 (1977-1978)

70. *Labor Arbitration at the Crossroads: The Common Law of the Shop Versus External Law*, 32 ARB. J. 65 (1977)

71. *Arbitration of Employment Discrimination Cases: A Proposal for Employer and Union Representatives*, 27 LAB. L.J. 265 (1976)

72. *The Cost of Equality: Civil Rights During Periods of Economic Stress*, 20 MICH. L. QUADRANGLE NOTES 5 (Winter 1976)

73. *Arbitration of Employment Discrimination Cases: An Empirical Study*, *in* ARBITRATION, 1975, PROCEEDINGS OF THE 28TH ANNUAL MEETING OF THE NATIONAL ACADEMY OF ARBITRATORS 59 (Barbara Dennis & Gerald Somers eds., BNA Books, 1976)

74. *Race Discrimination in Employment: What Price Equality?* 1976 U. ILL. L.F. 572 (1976)

75. & Barry L. Zaretsky, *Preferential Remedies for Employment Discrimination*, 74 MICH. L. REV. 1 (1975-1976)

76. *The Impact of Private Sector Principles in the Public Sector: Bargaining Rights for Supervisors and the Duty to Bargain*, *in* UNION POWER AND PUBLIC POLICY 51 (D. Lipsky ed., Cornell University, School of Industrial & Labor Relations, 1975)

77. *Substantive Legal Developments Under Title VII*, 19 MICH. L. QUADRANGLE NOTES 11 (Winter 1975)

78. *The Emerging Duty to Bargain in the Public Sector*, 71 MICH. L. REV.885 (1973)

79. *Legal Aspects of the Duty to Bargain*, *in* INSTITUTE OF CONTINUING LEGAL EDUCATION, FACULTY BARGAINING IN THE SEVENTIES 21 (T. N. Tice & G. W. Holmes eds., 1973)

80. *The Emerging Law on Sex Discrimination in Employment*, 17 MICH. L. QUADRANGLE NOTES 12 (Winter 1973)

81. *Sex Discrimination Under Title VII: Some Unresolved Issues*, 24 LAB. L.J. 411 (1973)

82. *Headwinds: Minority Placement in the Legal Profession*, 16 MICH. L. QUADRANGLE NOTES 14 (Spring 1972)

83. *An Overview of the "Meet and Confer" States: Where Are We Going?* 16 MICH. L. QUADRANGLE NOTES 10 (Winter 1972)

84. *The Developing Labor Relations Law in the Public Sector*, 10 DUQ. L. REV. 357 (1971-1972)

85. *Black Perspective: Justice and the Judicial System*, 15 MICH. L. QUADRANGLE NOTES 21 (Winter 1971)

86. *A New Role for the Black Law Graduate—A Reality or an Illusion*, 69 MICH. L. REV. 1407 (1970-1971)

87. & Joel H. Kaplan, *Religious Discrimination and the Role of Arbitration Under Title VII*, 69 MICH. L. REV. 599 (1970-1971)

88. *The Legal and Practical Remedies Available to Employers to Enforce a Contractual No-Strike Commitment*, 21 LAB. L.J. 3 (1970)

89. *Due Process Considerations in Labor Arbitration*, 25 ARB. J. 141 (1970)

90. & Harvey M. Adelstein, *The Resurrection of* NLRB v. Hearst*: Independent Contractors Under the National Labor Relations Act*, 17 U. KAN. L. REV. 191 (1968-1969)

91. *Recent Decisions, Trademarks–Unfair Competition–Scope of Federal Jurisdiction Under Section 43(a) of the Lanham Act*, 62 MICH. L. REV. 1094 (1964) (Student Note)

92. *Recent Decisions, Administrative Law–Rate-Making–Authority of FPC to Limit Rate of Return on Tax Reserves Resulting From Use of Liberalized Depreciation*, 62 MICH. L. REV. 1036 (1964) (Student Note)

Interviews

1. William K. Olivier, *An Interview with Judge Harry T. Edwards*, 49 JUDGES J. 4 (2010)

2. *Access to Justice: The Social Responsibility of Lawyers: A Conversation with Judge Harry T. Edwards*, 16 WASH. U. J. L. & POL'Y 61 (2004)