

## Book Review

Justin O'Brien, *The Triumph, Tragedy and Lost Legacy of James M Landis: A Life on Fire*, Oxford: Hart Publishing, 2014, pp. 187, \$52.00 (cloth)

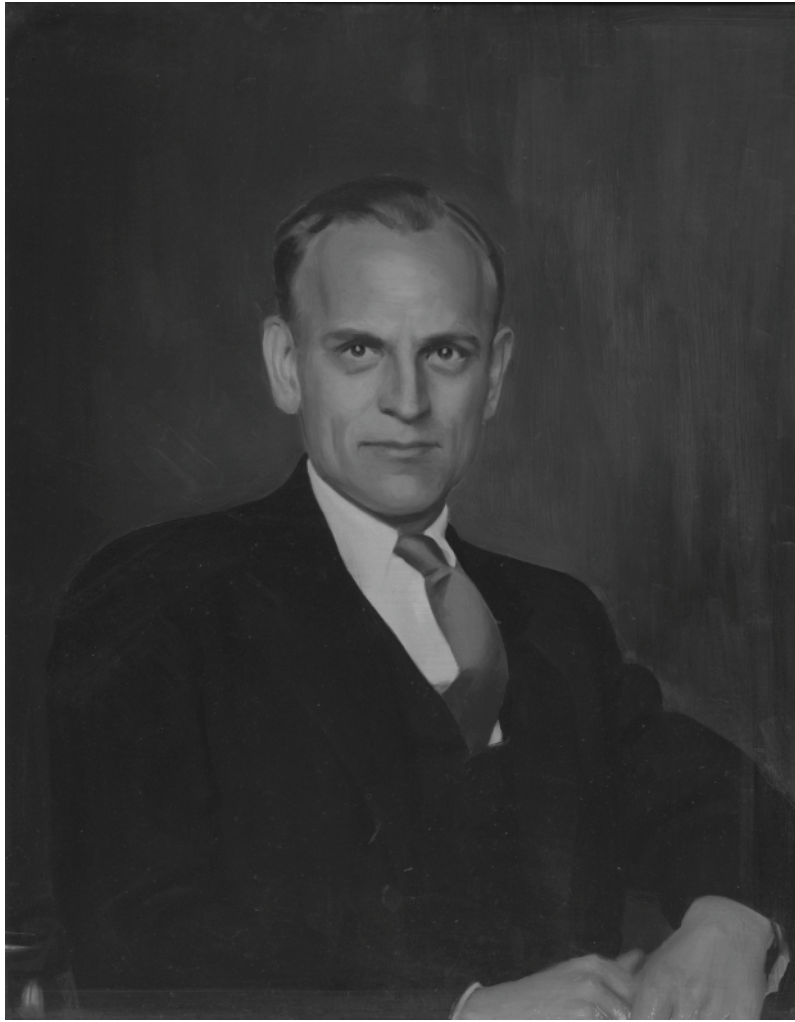
Reviewed by Duncan Farthing-Nichol

In *The Triumph, Tragedy and Lost Legacy of James M Landis*, Justin O'Brien asks why Harvard Law School has so far neglected to hang its portrait of James M. Landis (11). The library's walls bow under the weight of history; Harvard's twentieth-century deans gaze down en masse from the south end. But Landis, dean from 1937 to 1946, is not among them.<sup>1</sup> Professor O'Brien traces the omission to Landis' 1963 conviction for tax avoidance, a crime for which Landis was sentenced to thirty days in jail. The school, according to O'Brien, has let the conviction overshadow Landis' vital role in shaping law and government. O'Brien reminds readers that Landis wrote and administered the Securities Act of 1933 and the Securities Exchange Act of 1934—the first serious efforts at federal securities regulation—and, in 1938, developed the most persuasive contemporary theory of government by administrative agency. The University of New South Wales professor also contends that Landis introduced social responsibility to legal education, an achievement that elevated law from a mere technical discipline to a means of seeking justice. Harvard, O'Brien concludes, should hang its Landis portrait.

I agree, but on somewhat different grounds. O'Brien lays a compelling case for Landis' impact on administrative thought and practice. He moves too quickly, however, in naming Landis a transformative figure in legal education. Landis spoke in ambitious terms: He aimed for a legal education that transcended technique, reflected the rise of public law, and respected the new experts (economists, sociologists, and other specialists). He sought to instill a desire for justice in his students. Yet Landis did relatively little to institutionalize that vision, acting more as a caretaker than a reformer. If Harvard should hang Landis' portrait, it is for his ideas and his story, rather than his deeds.

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1. Derek Bok, dean for two and a half years before his promotion to University President in 1971, is the only other face missing from the library's south end.



Historical & Special Collections, Harvard Law School Library

James M. Landis

### In the Government Trenches

Born in 1899, Landis ranked first at Princeton College and at Harvard Law School, and by the late 1920s had already started to make his name as one of the brightest lawyers of his generation. His fascination with legislation led him, in 1933, from the Harvard faculty to New Deal Washington. Professor Felix Frankfurter, Landis' mentor, had recruited him to help redraft the securities legislation then foundering in Congress. Landis, together with Thomas Corcoran and Benjamin Cohen (two other young sparks of President Roosevelt's expansive brain trust), rewrote the bill, changing its focus from the investment quality of securities to disclosure about securities.

The change significantly curtailed administrative influence. Landis, Corcoran, and Cohen removed the administrative power to forbid honest sale of a worthless security, leaving only the power to compel disclosure before selling the security. Landis did not think any government agency should (or could) say whether an investor should buy a security. Rather, the most an agency could do was make sure the investor had the right information to judge for him- or herself (29-30).

The disclosure paradigm and Landis' role in developing and administering that paradigm, in the Securities Act of 1933 and the Securities Exchange Act of 1934, form the core of Professor O'Brien's book. O'Brien is an expert on financial regulation. He has published extensively on capital market governance. He seeks from Landis insight into modern problems of finance.

That modern focus is O'Brien's contribution to the Landis literature. Landis is the subject of one other book-length biography, Donald Ritchie's *James M. Landis: Dean of the Regulators* (1980), and he occupies a quarter of another book, Thomas K. McCraw's *Prophets of Regulation* (1984). Donald Ritchie's excellent biography explores a complex man rich in ideas and relationships; it does not attempt to draw contemporary lessons. Thomas McCraw mines Landis' regulatory projects and political fights, but he does not invoke Landis' strategies to solve present-day financial problems.

O'Brien, by contrast, looks to Landis for precisely those solutions. He spends great energy on the failings of modern financial regulation, fulminating against bankers' suspect morality and governments' ineffective containment. In his view, neither rules nor principles by themselves can produce a stable financial system. Rules are too easy to avoid and principles too hard to define. A culture of technical compliance has created the rickety system now in place. According to O'Brien, the economy can only hope for a financial system less prone to scandal and catastrophe when the players accept moral responsibility for their actions.

Professor O'Brien argues that Landis intended the disclosure requirement to induce just that sort of moral responsibility. Informing investors was a secondary aim; in greater part, Landis insisted on disclosure to convince companies of their public responsibilities. O'Brien writes that "[a]t its core, disclosure is a normative demand, a point explicitly made by its original

framers. Demanding truth in securities is a moral claim” (166). A corporation that discloses the bare minimum has lost the thread. As imagined by Landis, disclosure is not about technical compliance but about diffusing a spirit of honesty and fair dealing. O’Brien closes his book by warning regulators and financiers that stability will remain a historical curiosity unless they instill that spirit into the culture of modern finance.

While O’Brien concentrates his attention on financial regulation and the disclosure paradigm, he also writes of Landis’ broader influence on the theory and practice of regulation. Landis published two core texts of the administrative state. In 1938, he wrote *The Administrative Process*, a sweeping argument advocating regulation as the solution to the industrial world’s complex problems. In 1960, he wrote the *Report on Regulatory Agencies to the President-Elect*, an analysis of regulatory failings and a set of recommendations to President-elect John F. Kennedy. Together, the works track Landis’ changing views as the administrative agencies he held in such high regard declined into a morass of incompetence and delay.

McCraw hails *The Administrative State* as “the most forceful argument ever written in favor of regulation.”<sup>2</sup> In *The Administrative Process*, Landis describes the administrative agencies as a necessary response to the rise of economic interdependence and democratic government. As industry became more complex and economic relationships more numerous, legislatures and the courts lost the ability to regulate the economy. Yet, at the same time, the public demanded government accountability for the economy’s growth and collateral damage.<sup>3</sup> Out of this untenable situation emerged the administrative agency.<sup>4</sup> Practicality was the agency’s touchstone: “[A] government had to be provided to direct and control . . . industry, and governance as a practical matter implied not merely legislative power or simply executive power, but whatever power might be required to achieve the desired results.”<sup>5</sup>

One of the administrative branch’s greatest virtues was its concentration of industry- and issue-specific expertise. Judges were “jacks-of-all-trades and masters of none”; by contrast, administrators “devote[d] fifty-two weeks a year, year after year, to a particular problem.”<sup>6</sup> Moreover, the problems of industry “call[ed] not only for legal intelligence but also wisdom in the ways of industrial operation”—wisdom found not in the judiciary but rather in the specialized branches and varied experts of the administrative state.<sup>7</sup>

The *Report on Regulatory Agencies to the President-Elect* opens with a litany of complaints against, among other things, the competence of many of those

2. THOMAS K. McCRAW, PROPHETS OF REGULATION 212 (1984).

3. JAMES M. LANDIS, THE ADMINISTRATIVE PROCESS 7-9 (1938).

4. *Id.* at 11-12.

5. *Id.* at 10.

6. *Id.* at 23, 31.

7. *Id.* at 31.

apparent experts.<sup>8</sup> The *Report* repeats *The Administrative Process*' insistence that government in the industrial age requires administrative agencies.<sup>9</sup> The *Report* does not, however, echo with the same optimism and faith in agency rule. Instead, it recognizes that administrative agencies only work with good people, adequate budgets, and political attention—and that without those elements, agencies can impose heavy costs on industry and the public.

Landis, however, had not yet reached those last conclusions when he was dean of Harvard Law School. Landis took the deanship in 1937 and wrote *The Administrative Process* in 1938. Just off the height of his government career, he still retained his idealistic conviction in the administrative process. If he was to force a break with the technical, private law roots of the school, here was his moment.

### Back to the Ivory Tower

Harvard President James Conant labeled the Harvard Law faculty of the mid-1930s “the most quarrelsome group of men I ever encountered.”<sup>10</sup> The quarrels pitted Dean Roscoe Pound, a dictatorial dean already two decades in office, against a group of faculty led by Professor Frankfurter.<sup>11</sup> When the rifts began to threaten the school’s administration, the Harvard Corporation passed a retirement rule to force the aging Pound out of office, and President Conant went on the hunt for someone who could knit the Faculty back together.<sup>12</sup> After two outsiders declined the job, Conant turned to Landis.<sup>13</sup>

The deanship required both a peacemaker and a visionary. Legal education stood ripe for reform. Outside the academy, the administrative state continued to rise out of the Depression’s ashes. Legal education could no longer relegate public law to the periphery. Just after his appointment, Landis emphasized public law’s new prestige: “It is not going to make any difference who controls the Government in Washington. . . . [T]he pervasive character of government will continue. . . . All of this must reflect itself in today’s legal training.”<sup>14</sup>

Inside the academy, legal realism continued its assault on the legal formalism often associated with Harvard. Pound took particular exception to its inroads: “[M]y chief reason for giving up the Deanship is that I do not care to be responsible for teaching that law is simply a pious fraud to cover up decisions of cases according to personal inclinations or that there is nothing in

8. JAMES M. LANDIS, REPORT ON REGULATORY AGENCIES TO THE PRESIDENT-ELECT 8-10 (1960).

9. *Id.* at 2.

10. JAMES CONANT, MY SEVERAL LIVES: MEMOIRS OF A SOCIAL INVENTOR 110 (1970).

11. DONALD RITCHIE, JAMES M. LANDIS: DEAN OF THE REGULATORS 80-81 (1980).

12. *Id.* at 81.

13. W. Barton Leach, *The Law at Harvard: A Quasi Review with Personalities*, HARV. L. SCH. BULL., March 1968, at 4, 17.

14. Windsor Booth, *Harvard's New Law Dean Anxious for School to Start*, WASH. POST, June 6, 1937, at B2.

the way of reason back of the legal order but it is simply a pulling and hauling of interests with a camouflage of authoritative precepts.”<sup>15</sup>

Legal realism argued that personal beliefs and idiosyncrasies play a dominant role in the way judges decide cases, and that doctrinal reasoning is often just a rationalization of judicial bias.<sup>16</sup> Realist professors taught that judicial decisions, though written to suggest reliance on widely applicable legal concepts, actually turn on sympathies in the facts. Realists therefore recommended reordering courses around related facts (a structure known as functionalism) rather than around legal concepts.<sup>17</sup> Realists also rejected law’s isolation from the social sciences, calling instead for recognition of social scientific influence on law and for social scientific courses in law school.<sup>18</sup>

Landis rode into Cambridge at a moment of contest at Harvard Law School and in legal education. Yet while the disquiet made room for change, Landis did not have a free hand. First, a dean is not a dictator, despite Pound’s tendencies. Second, the faculty had just finished reforming the curriculum in spring 1937 (while Landis was still away in Washington),<sup>19</sup> and Harvard Law School is not a place of frequent curricular experiment. With the exception of Criminal Law, private law courses filled every slot in the new curriculum’s first two years.<sup>20</sup> If Landis’ record in Cambridge was to match his record in Washington, he would have to move boldly.

### **Transformer or Tinkerer?**

Landis, according to Professor O’Brien, moved boldly. O’Brien says Landis “transform[ed] the form, content and purpose of legal education” (12). He cites speeches and letters in which Landis calls for lawyers trained for an administrative machinery that does not rely on legal technique alone. He argues that Landis, through legal education, strove “to impregnate the major law firms with enhanced social consciousness” (106). As Landis sought by disclosure to instill a sense of social obligation in companies, so he sought by legal education to instill a sense of social obligation in lawyers.

O’Brien is on firm ground in describing Landis’ ambitions. His thesis wobbles somewhat in describing Landis’ accomplishments. Take, for example, the place of public law in the curriculum. As a premier administrator in the New Deal and a vocal advocate of public law in legal education, Landis might have been expected to expand the curriculum’s public law content. Yet public

15. LAURA KALMAN, *LEGAL REALISM AT YALE 1937-1960* 57 (1986) (quoting Letter from Roscoe Pound, former Dean, Harvard Law Sch., to Spier Whitaker (Sept. 8, 1936) (on file with the Harvard University Archives, Dean’s Files)).

16. *Id.* at 6-7.

17. *Id.* at 29, 70.

18. *Id.* at 43.

19. James M. Landis & Sidney Post Simpson, *The New Curriculum of the Harvard Law School*, 51 *HARV. L. REV.* 965, 968 (1938).

20. *Id.* at 975-79.

law hardly advanced during his tenure. The school tweaked the curriculum in only two relevant ways: It added Administrative Law as a third-year elective (it was only available as a graduate seminar when Landis took over), and it developed a Federal Administration graduate seminar.<sup>21</sup> A student of the early 1940s could expect almost no greater exposure to the workings of government than a student of the mid-1930s, even if the student sought out public law courses.

O'Brien emphasizes Landis' letters and speeches in which he encourages prospective law students to indulge in a breadth of courses before settling into a narrowing professional degree (99, 106). A student broadly educated in college would less likely learn law as merely a technical discipline. Landis, however, far from requiring a diverse college degree for admission, did not even publish his recommendations in the school's register.<sup>22</sup> Most prospective students probably never learned that an eclectic education would serve better than one tightly tailored to "pre-law" subjects.<sup>23</sup>

Landis' only programmatic effort to expand the minds of college students was the Seven-Year Plan. Beginning in 1941-42, a Harvard College student could enroll in the Seven-Year Plan instead of choosing a college major. The student would complete three wide-ranging years at the Faculty of Arts and Sciences, move to the law school for year four and most of year five, and then spend years six and seven finishing his law courses and concentrating on modern problems in the field of his choice.<sup>24</sup> The first three years permitted an "acquaintance with and appreciation of the many facets of life and thought [that] are as essential to the making of a great lawyer as pure professional equipment."<sup>25</sup>

The Seven-Year Plan, while a heady concept, never attracted more than a handful of students in its decade of life. The Plan was Landis' most significant concession to those who clamored for greater social scientific content in law school, and yet it still kept the social sciences out of the LL.B. proper. When in early 1940 Professor Erwin Griswold suggested that the school let students

21. *The Law School Including Courses of Instruction for 1941-42*, 38 OFFICIAL REG. HARV. U., no. 46, 1941, at 1, 13; Edwin Frimage, *Ernst Freund—Pioneer of Administrative Law*, 29 U. CHI. L. REV. 755, 770 (1962); James M. Landis, Dean, Harvard Law Sch., Memorandum for Committee on Instruction (Apr. 17, 1940) (on file with the Library of Congress, James M. Landis Papers, Folder 16.2).

22. *The Law School Including Courses of Instruction for Summer Term 1945/Winter Term 1945-46/Spring Term 1946*, 42 OFFICIAL REG. HARV. U., no. 10, 1945, at 6.

23. Though students who read the newspapers might have learned Landis' opinion: See, e.g., James M. Landis, *Seven-Year Plan is Harvard's Aim for Law Degree*, N.Y. TIMES, June 30, 1940, at 40; *Graduate Deans Advise Students to Get Liberal Education in College*, THE HARVARD CRIMSON, Sept. 23, 1940.

24. Harvard Law School Faculty Meeting Minutes (Jan. 9, 1940) (microfilm on file with the Harvard Law School Library).

25. Landis, *Seven-Year Plan*, *supra* note 23.

take up to two non-law courses for LL.B. credit, Landis turned him down.<sup>26</sup> The 1946 Spring-Summer Register, the last register before Landis left Harvard, allowed law students to take courses in other university departments, but not for credit.<sup>27</sup> The very next register, the first of Griswold's deanship, granted third-year students up to six hours of credit for work in other departments.<sup>28</sup> Landis, despite a desire to avoid narrow lawyers, recoiled from anything that smacked of "dilettantism."<sup>29</sup>

In contrast to his rapid overhaul in Washington, Landis moved slowly in tilting against Harvard's traditions, even against those most disgraceful. Landis owns the black mark of the last dean to refuse to admit women. Harvard kept to the barricades much longer than others: Yale yielded in 1886, Stanford in 1895 and Columbia in 1928.<sup>30</sup> As the 1930s drew to a close and Langdell Hall still housed only suits and ties, the school began to look like a relic. No one did anything (except Professor Zechariah Chafee, who lobbied persistently to admit women) until late 1942. That fall, as World War II sent enrollment plummeting and the school's accounts into a shambles, the faculty voted fifteen to eleven to admit women. Landis voted to admit.<sup>31</sup> But the faculty never sent the recommendation to the Harvard Corporation (which held ultimate control over the decision), because the vote was so close on "so fundamental a question."<sup>32</sup> That poor excuse for inaction became even poorer as the post-war winds favored admitting women. Yet still Landis delayed.<sup>33</sup>

26. Letter from Erwin Griswold, Professor, Harvard Law Sch., to James M. Landis, Dean, Harvard Law Sch. (Jan. 24, 1940) (on file with the Harvard Law School Library, Erwin Griswold Papers, Folder 84.14).
27. *The Law School Including Courses of Instruction for Spring Term 1946/Summer Term 1946*, 43 OFFICIAL REG. HARV. U., no. 1, 1946, at 1, 17.
28. *The Law School Including Courses of Instruction for Fall Term 1946/Spring Term 1947/Summer Term 1947*, 43 OFFICIAL REG. HARV. U., no. 18, 1946, at 1, 16.
29. Booth, *supra* note 14. See also James M. Landis, Chairman, Sec. and Exch. Comm'n, Address Before the Associated Harvard Clubs 5 (May 15, 1937) (transcript available in the Harvard Law School Library) (In modernizing the curriculum, the school must avoid producing graduates who know "less and less about more and more.").
30. CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* 50 (2d ed. 1993).
31. Zechariah Chafee, Professor, Harvard Law Sch. Memorandum to the Faculty (Dec. 5, 1942) (on file with the Harvard Law School Library, Zechariah Chafee Papers, Folder 59.5).
32. Harvard Law School Faculty Meeting Minutes (Dec. 15, 1942) (microfilm on file with the Harvard Law School Library).
33. Harvard Law School Faculty Meeting Minutes (Apr. 3, 1945) (microfilm on file with the Harvard Law School Library) ("The Dean reported that he had learned that the Medical School is now admitting women, but feels that this question should not be taken up by the Law School until the problem of finance is over."); see also Harvard Law School Faculty Meeting Minutes (Sept. 11, 1945) (microfilm on file with the Harvard Law School Library) ("Mr. Casner raised the question of the admission of women students to the School. The Dean said that this should not be considered until there was a full Faculty, and that at present any such action would look too much like a seeking for students.").



Despite such flaws, Landis did not fail as dean. He recruited excellent faculty: Andrew James Casner, Lon Fuller, Paul Freund, and Milton Katz in 1940, and David Cavers, Robert Bowie, Mark De Wolfe Howe, Robert Braucher, and Archibald Cox in 1944-45. He balanced the books and stashed a small surplus before the war wrecked the school's finances. In one of his most farsighted proposals, he introduced the written work requirement that still dogs (and sometimes inspires) Harvard Law students today. In that last move, he started to connect the practice of legal education to his dream of something greater:

Too many men graduate from the School who are competent enough but who have failed to catch a glimpse of the law as a means for more effective living. The zest that may develop from individual research, as well as the discipline necessarily engendered by its pursuit, may instill a desirable discontent with a mere vocational attitude towards the study of law. It has a tendency to breed a sense of consecration to the acquisition of knowledge because of the conviction that the things for which one delves are important for the world to know.<sup>34</sup>

While Landis did not fail, neither did he transform. In part, he may have been too concerned about interfering with the school's technical training. All lawyers, Landis stressed, must master the fundamentals—for “you cannot make good reformers out of poor lawyers.”<sup>35</sup> He would not introduce changes that might risk the school's tradition of technical excellence. More important, I think, Landis simply was not around long enough, his already brief nine-year term between 1937 and 1946 made shorter by World War II.<sup>36</sup> Landis left the school in January 1942 to serve in government, and did not return until January 1945 (most students and professors served, leaving the school with a skeleton crew during the war). The problem of integrating droves of soldier-students absorbed nearly all his time in 1945 and 1946.<sup>37</sup>

Landis took a moment in those last years to divine the future. He recognized that legal education after the war must change. In laying out Landis' educational legacy, O'Brien stresses the post-war Committee on Legal Education (107-08). Landis appointed the committee to survey legal education and devise a plan for its improvement. The rise of the administrative state, the rise of expertise, and a worldwide bloodbath could not go by without

34. James M. Landis, *Report to the President on the Law School 1938-39*, 37 OFFICIAL REG. HARV. U., no. 12, 1940, at 224, 230.

35. James M. Landis, Chairman, Sec. and Exch. Comm'n, Address Before the Harvard Club of Boston 1 (Mar. 17, 1937) (transcript available in the Harvard Law School Library). See also James M. Landis, *The Reminiscences of James M. Landis*, in 2 ORAL HISTORY COLLECTION OF COLUMBIA UNIVERSITY, no. 112, 472-73 (1964); Elliott Bell, *Landis Guides Young Lawyers to New Fields*, N.Y. TIMES, Nov. 28, 1937, at 11.

36. Landis made the same assessment: “I think I made a contribution. I wasn't there long enough to make a contribution of perhaps too much significance”; *The Reminiscences of James M. Landis*, in 2 ORAL HISTORY COLLECTION OF COLUMBIA UNIVERSITY, *supra* note 35, at 473.

37. *Id.* at 461.

comment. Legal education had to build lawyers both stronger in skills properly “legal” and smarter in recognizing and enlisting other professions’ expertise.<sup>38</sup>

The Committee’s product, the Preliminary Statement of the Committee on Legal Education, helped guide Harvard through the post-war period.<sup>39</sup> But Landis had already left by then, lured away to chair the Civil Aeronautics Board in Washington. The siren call of government, which had distracted Landis even before Pearl Harbor, tempted him from a job he no longer found interesting.<sup>40</sup> Moreover, Landis’ marriage lay broken, and he was having a too-public affair with his secretary—a tricky situation in 1940s Cambridge.<sup>41</sup> Veteran Professor Austin Scott, acting on pressure from Visiting Committee members and likely his own disapproval, seems to have asked President Conant and the Harvard Corporation to coax Landis out.<sup>42</sup> As in his conviction for tax avoidance (a crime of procrastination, not greed), Landis’ personal disarray caught up with his professional life, ruining both.

### A Life’s Lessons

Judge Henry Friendly described Landis as “the most wasted life of our time.”<sup>43</sup> Friendly overshot, but his remark rings with some truth as applied to Landis’ deanship. Landis, recruited from a top Washington post as the New Deal shook assumptions about law and government, had the talent and the ideas to reshape legal education. He articulated a vision of a lawyer who knows his place in the administrative scheme and who understands that expertise is not property of lawyers alone—that the judge as general statesman belongs to another era. As O’Brien explains, Landis wanted to give his students more than just technical ability (as important as technical ability remained). He wanted them to see law as an instrument by which they might discover better ways of living.

Had he stayed to implement the Committee on Legal Education’s recommendations, Landis might have achieved more of that vision. Still, even

38. Letter from James M. Landis, Dean, Harvard Law Sch., to Lon Fuller, Professor, Harvard Law Sch. (Dec. 11, 1945) (on file with the Harvard Law School Library, Erwin Griswold Papers, Folder 84.8).

39. ARTHUR E. SUTHERLAND, *THE LAW AT HARVARD* 311 (1967).

40. *The Reminiscences of James M. Landis*, *supra* note 35, at 460.

41. RITCHIE, *supra* note 11, at 134-39.

42. See interview by Donald Ritchie with Erwin Griswold, Lawyer, Jones Day Reavis & Pogue (June 3, 1975) (on file with the Library of Congress, James M. Landis Papers); interview by Donald Ritchie with Austin Wakeman Scott, Professor Emeritus, Harvard Law Sch. (June 18, 1975) (on file with the Library of Congress, James M. Landis Papers); letter from George Brownell, Lawyer, Davis Polk & Wardell, to Arthur Sutherland, Professor, Harvard Law Sch. (Oct. 2, 1967) (on file with the Harvard Law School Library, Arthur Sutherland Papers, Folder 66.2).

43. McCRAW, *supra* note 2, at 208 (quoting letter from Henry J. Friendly, Judge, Second Circuit, to Felix Frankfurter, Former Justice, U.S. Supreme Court (Aug. 12, 1963) (on file with the Library of Congress, Frankfurter Papers)).

in his short tenure, he left an impression. In 1990, Professor Paul Freund said “a good case can be made that the Landis Deanship, fragmented as it was, marked a watershed in the history of the Law School, a propelling thrust into the modern era, where law is perceived . . . not only [as] a reflection, but [as] a shaper, of the needs and ideals of the time and the place.”<sup>44</sup> Concrete progress aside, Landis is a symbol of Harvard’s evolution.

Professor O’Brien advances Landis as another symbol. In O’Brien’s skilled hands, Landis becomes the moral compass of the financial class. No one can seriously argue that bankers should continue to ignore the sometimes ruinous social costs of their business. Moral responsibility, in its broad sense, must become part of securities trading. O’Brien chose an able and articulate prophet for that truth. O’Brien, however, tacks too much onto his hero’s resume. Landis does not belong in the pantheon of transformational deans, despite his lofty intentions. His deanship, as much of his life, is defined by the gap between potential and practice. Yet despite the rosy lens through which he views Landis, Professor O’Brien has written a valuable contribution to regulatory thought and a useful memory of a difficult life.

“For too long Jim Landis—he of the deep piercing eyes and furrowed brow—has been a forgotten figure at the Harvard Law School.”<sup>45</sup> That is still true. He has much to teach, in his ideas but more in his failings, where we learn that promise does not always translate—that brilliance is not everything. Harvard Law School would do well to hang that reminder on its walls.

44. Paul A. Freund, Professor, Harvard Law Sch., Remarks at the Presentation of a Bust of James M. Landis at the Harvard Law School (Oct. 19, 1990) (on file with the Harvard Law School Library, Paul Freund Papers, Folder 201.9).

45. *Id.*