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Michigan Law at 150: An Informal History

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MICHIGAN LAW AT 150
AN INFORMAL HISTORY

JAMES TOBIN
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AN INFORMAL HISTORY

JAMES TOBIN

Michigan Law
University of Michigan Law School
1859 • 2009
Global Leadership in Law
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For more about the Law School's history, see the History and Traditions website: www.law.umich.edu/historyandtraditions

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Front: Looking northeast from the corner of State Street and South University as it appeared about 1870, with University Hall under construction. The first Law Building (later called Haven Hall) is at far left. At center and right are early professors' houses on North University. Photo: Bentley Historical Library, University of Michigan.
Back: A view of the Lawyers Club from above South University. Photo: University Photo Services (Lin Jones).

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FOREWORD

The University of Michigan Law School is many things. It is the long line of a distinguished professoriate, stretching back 150 years to the three founding faculty members. One of those, Thomas M. Cooley, was arguably the foremost American jurist, constitutional scholar, and government regulator of his generation.

More recently, and I speak only of faculty members under whom I studied, Michigan Law is Paul Kauper, all of 8 feet tall (as he appeared to us students gazing up at him from the front rows in Room 150), grasping the desk with huge hands as if to crush it, and about to expound on a lofty constitutional principle. The Law School is Allan Smith, one long leg stretched up on the desk like some amiable spider, quizzing a student who is obviously distressed by a seemingly bizarre judicial decision: “So, the law there doesn’t square with your sense of justice? Well, in that case there’s something wrong with your sense of justice—or else there’s something wrong with the law!” The Law School is that gentlest of all Socratic interlocutors, William Bishop, apologizing to three students who have just “passed” in a row: “Oh, I am so very sorry. I never meant to embarrass you!” No one would ever pass in that class again.

Years later I would summon the courage to ask: “Bill, that was the most effective ploy I have ever seen for making students prepare. Is it possible it was intentional?” There was a long pause and then, with a sheepish grin, Bill replied, “Well, Ted, not the first time...”

The Law School is the splendid array of alumni, who could hardly be more diverse in background and accomplishments. There is the country’s most famous criminal lawyer, Clarence Darrow; the first woman to graduate from a university law school and be admitted to the bar, Sarah Killgore; and the strongest champion of free speech and the disadvantaged on the United States Supreme Court, Frank Murphy. Two African Americans became judges on the most prestigious courts next to the Supreme Court, Amalya Kearse of the Second Circuit and Harry Edwards of the D.C. Circuit. One of the early foreign graduate students was John Wu, who drafted the first constitution for China and became a celebrated correspondent of Oliver Wendell Holmes. Our eccentric benefactor, William W. Cook, made his fortune as a pioneering communications lawyer. Add Branch Rickey, the baseball magnate who broke the color line...
in the Major Leagues with Jackie Robinson; Thomas Sunderland, general counsel of Standard Oil of Indiana and later president of United Fruit; and John Pickering, bar association activist in a whole range of worthy causes. And on and on.

Michigan Law is its lively and frighteningly bright students, taking time off on a golden October afternoon to cheer on the Wolverines in the Big House. The Law School is the most majestic set of buildings devoted to legal education in the United States. And finally the Law School is the ablest, most devoted group of librarians, faculty assistants (secretaries), writers and publicists, technicians, and assorted administrators and staff persons that any institution could hope to have. The fascinating and delightful Informal History presented here is primarily the work of these good people.

For 150 years the University of Michigan Law School has been legal educator for the State, the Nation, and the world. The following pages capture that story in vivid words and pictures. Having had nothing to do with its composition, I can commend it heartily. And now it is up to all of you attending this Gala Sesquicentennial Celebration, or reading these words, to carry on the proud tradition we have inherited.

Theodore J. St. Antoine (1954)
James E. & Sarah A. Degan Professor Emeritus of Law
Dean, 1971-1978
“...not theoretical merely, but practical lawyers...”
I. THE LAW DEPARTMENT

On the morning of Tuesday, October 4, 1859, Charles I. Walker, a prominent member of the Detroit bar, strode to the front of the Chapel of the University of Michigan—the only space available for the new Department of Law—and turned to face an assembly of some 90 young men. Walker, recently named to the part-time law faculty of three, was to give the Department's inaugural lecture.

The moment had been long in coming. More than 20 years earlier, the new state's constitution had provided for a reconstituted University of Michigan with three departments—one in literature, science and the arts; one in law; one in medicine. But money was too tight to establish all three. Few lawyers showed much interest, and some were downright hostile. Virtually all lawyers had been trained on the apprentice model, by "reading law"—chiefly the Commentaries of Blackstone and Kent—in the offices of working practitioners.

But branches of the law were multiplying, and good lawyers had little time to teach apprentices. So, 10 years after the founding of the Medical Department, the Regents funded a Department of Law. Skeptical practitioners were given their due. The Department was intended "to make, not theoretical merely, but practical lawyers: not to teach principles merely, but how to apply them."

"You aspire to a profession where the oldest and wisest are still learners." —Charles I. Walker
This was not law school as we know it 150 years later—postgraduate training for students who already possess undergraduate degrees. About a quarter of the men in Professor Walker’s class had read some law, but few if any had gone to college. Those admitted were required only to be at least 18 years old and of good character, “the latter fact to be duly authenticated by a certificate.”

Professor Walker described the course of study, anchored by constitutional, international, maritime, commercial, and criminal law, as well as common law and equity pleading, evidence, and practice. Students were to attend two lectures a day, Monday through Friday, some to be supplemented by the study of cases (a welcome departure from the crusty recitation method, which required students to memorize and declaim), and would battle each other in moot courts at least once a week.

“You aspire to a profession where the oldest and wisest are still learners,” Walker told his listeners, articulating a view of legal study that would sound familiar 150 years later, “and which the longest life is unequal to a perfect mastery of its wonderful complications.”

“Do not expect too much from your professors,” he insisted. “We do not ask or desire you to trust us, but rather to distrust and
investigate thoroughly—investigate for yourselves. If we can cultivate this habit of mind we shall have accomplished one of the great objects of our appointment.”

EARLY IN 1867, a New Hampshire merchant named Carlton B. Hutchins was delayed for a few hours at the Ann Arbor railroad depot. He used the time to look around the town. When he got home, he said to his 19-year-old son, "Harry, why don't you go out there to college and grow up with the country?"

As young Hutchins would later write, “Michigan in 1867 was thought by most people of the East to be on the extreme borderline of civilization.” Instead he found “hospitalable and intelligent people” in a town much like any of comparable size in New England or New York—though facilities on the 40-acre campus were “meager in the extreme.” At the corner of State Street and North University, the Law Building, completed in 1863, had to accommodate the University’s entire General Library. But the students impressed Hutchins. “No member of my class was sent to the University by ambitious parents because of supposed social opportunities or
because it was thought by them to be the proper thing to do," he wrote later. Each had "a distinct and settled purpose." There were occasional failures due to "mental inaptitude for university work; but there were very few because of indifference..."2

These practical, ambitious students were the type favored by Thomas McIntyre Cooley, the state Supreme Court justice whose national prestige as a lawyer and jurist accounted for much of U-M's rise as a center of legal training. Of the original law professors, only Cooley built a home in Ann Arbor—a handsome, twin-gabled stone house on the future site of the Michigan Union—and thus did much of the early work of organizing the Law Department. His Constitutional Limitations (1868), based on his Michigan lectures, became "the chiefest American law book" of its era, as one legal historian has put it, and Cooley became "the most respected lawyer in America."

Judge Cooley's beliefs about training lawyers were rooted in the common-man politics of Thomas Jefferson and Andrew Jackson. While Cooley was at Michigan, the legendary Harvard dean Christopher Columbus Langdell, progenitor of the case-study method, was training highly skilled technocrats for service to the corporations and banks of an urbanizing, industrializing economy. Cooley, by contrast, adhered to Jefferson's belief that the American lawyer's prime obligation was not commercial but moral and political—to make good laws and take part in public life on behalf of ordinary people. At law schools like Michigan's, established by and for the public, the idea was "to create an elite that would not be too elite."3

Cooley spoke out for this tradition when Harvard awarded him an honorary doctorate at its 250th-anniversary celebration. With Langdell listening, and surely reddening, Cooley aimed a finger at Harvard's eye:

We fail to appreciate the dignity of our profession if we look for it either in profundity of learning or in forensic triumphs. Its reason for being must be found in the effective aid it renders to justice and in the sense that it gives of public security through its steady support of public order. These are commonplace, but the strength of law lies in its commonplace character; and it becomes feeble and untrustworthy when it expresses something different from the common thoughts of men.4
LAWYERS OF THE OLD SCHOOL—the ones who hadn't gone to law school at all—had warned that law professors would lecture to empty seats. So the University bought advertisements in big-city newspapers across the country, promising "to give instruction that will fit students for practice in any part of the country"—a commitment that defined Michigan from the first as a truly national law school. By 1865, it numbered more students than any of its dozen or so competitors, including Pennsylvania (founded 1790), Harvard (1817), Yale (1824), Indiana (1842), Columbia (1858), and Northwestern (1859).

For a time after the Civil War, many students were sober veterans with no interest in college hijinks. Then, in the '70s and '80s, the "Laws" turned rowdy, and with their numbers making up nearly one-third of the entire student body of 1,200 or so, they lent the university a rough-and-tumble edge. They proudly upheld Judge Cooley's Jacksonian scorn for anything smacking of "Oxford and Cambridge snobbery," even to the point of lampooning dandyish "Lits" for their caps and gowns. (To drive the point home, one Law class wore night shirts to their commencement festivities.)

Mary Geigus, one of the first women admitted, recalled her male class-

\[\text{At the turn of the 20th century, the law faculty cracked down on cheating.}\]
THE FIRST WOMEN

The 1837 statute that reconstituted the University in Ann Arbor had said “the university shall be open to all persons”—not “all men”—“who possess the requisite literary and moral qualifications.” But a Regents’ committee cited Blackstone to the effect that women were not persons in the eyes of the law. When several young women sought admission to U-M in 1858, President Henry Tappan gave a firm no. To a friend he confided his view that women seeking equal rights would become “something mongrel, hermaphroditic,” while men would be “demasculated.... When we attempt to disturb God’s order we produce monstrosities.”

But in the 1860s, opinion on co-education pivoted, and in February 1870, Madelon Stockwell of Kalamazoo became the first woman to be officially enrolled at U-M. She was followed that September by Sarah Killgore, 27, who entered the Law Department as a senior, having spent the previous year in the law department of the old Chicago University. Unhappy as a teacher, Killgore had been encouraged by her father, an Indiana attorney, to pursue a degree in law. Upon graduation from Michigan she returned to Indiana, where she married another lawyer, Jackson Wertman. But she could not practice, since her home state limited the bar to “male citizens of good moral character.” "Hence," she wrote in a brief autobiographical statement, "she was compelled to content herself with office work."

In 1878, she and her husband moved to Ashland, Ohio, where she passed that state’s bar exam and was admitted to practice. “For a number of years,” she wrote, (still in the third-person), "the higher duties of motherhood prevented her from actively engaging in her profession, but as soon as practicable, she resumed her profession of law and abstract business." By 1906, nearly 40 women would follow her to win their law degrees.

In contrast to U-M medical students who ridiculed the first women students, men of the Law Department, by multiple accounts, treated the newcomers “with respect and kindness.” Mary Geigus, of the class of 1885, recalled the moment when Professor Charles Kent first called on her in Pleading and Practice.

Kent’s opening question that day was: “Tell us about the declaration, its requisites and parts, and how the form of the statement differs according to the nature of the action?” He started at the top of his alphabetical roster and hurried down the list, calling on one unprepared student after another: “Mr. A... Mr. B... Mr. C!”

Finally he reached the letter G and called: “Mr. Geigus!” "It had come," Mary Geigus recalled. "The expected had happened! Would [the men] applaud? I could never keep my feet if they did, much less master the question. But thanks to the chivalry of 350 young men expressed in almost painful silence, I did both, and perhaps was less uncomfortable...than Professor Kent, who shifted uneasily on his stool and suddenly assumed a very far-away look indeed."
mates as chivalrous to her but otherwise obstreperous, shouting "Repeat!" to any professor who failed to make himself heard or understood. "Those familiar with the average law student," she wrote, "know how...irrepressible are his outbreaks of demonstration, how keen he is for the laugh, and how very much fun he manages to put into and get out of college life." They took campus politics more seriously than class. "The senior laws are supposed to represent the highest stage of development in...political astuteness," according to one report, "so that when these gentlemen meet as a class to elect officers, it means diamond cuts diamond. Political deals, combines, rings, in fact all the modern methods known to the politician have been used."

The Law Department was an institution of but not solely for white males. In 1870, Gabriel Franklin Hargo, an African American from western Ohio, earned his degree in law—the first black graduate of Michigan. (Hargo's admission and graduation happened without fanfare, and next to nothing is known about his later life, except that he was admitted to the bar in both Michigan and Ohio.) A year after Hargo's graduation, Sarah Killgore, became the first woman to graduate from the Law Department. (See sidebar.) But for the next century, both blacks and women would constitute only tiny fractions of the student population.

Statistically, the graduating class of 1878 can be taken as typical. Of 155 students, only one was a woman. Only 39 had attended college before entering the Law Department, 11 of these at U-M. Two students were Japanese. Residents of Michigan had paid an entrance fee of $10, out-of-staters $25; all then paid $10 per year of instruction plus a final diploma fee of $10.
FROM THE 1860S TO THE 1880S, the typical law student, not unlike his successor a century later, was an ambitious pragmatist intent on winning a respected diploma and a solid career. The professors met this demand without unduly challenging the student to contemplate the law's connections to society and culture. Thus, any student with a clear mind and a decent command of English could navigate the curriculum without undue strain. He won his diploma after two terms of six months each, October to March. He attended lectures in which professors stated a legal principle, explained its application, and recommended cases for follow-up study. (The predictability of this instructional design fueled a cottage industry in copied-and-duplicated lecture notes.) There were no quizzes for juniors (first-years) and only a few for seniors. The professors had competing obligations and too many students, so there were no written finals, only a lackadaisical oral exam that virtually no one failed. "The student had a chance to learn," wrote Alexis C. Angell, son of U-M President James B. Angell and a law graduate of 1880 who later joined the faculty. (He also married Judge Cooley's daughter.) "It was left to him to say whether he would improve his chance or not."13
Clarence Darrow: "...an appalling waste of time."

**Michigan Law** has had more than its share of distinguished alumni. But, as many a despairing student has tried hard to believe, a great career in the law is not always preceded by a great career in law school. So it was with Clarence Darrow.

Darrow's father, an abolitionist, was an Allegheny College graduate who aspired to the law. In 1864, at 46, the elder Darrow left the family's home near Youngstown, Ohio, to learn law at Michigan. But after a year he found himself too strapped to complete the degree, and he shifted his hopes to the brightest of his six children, who went off to Ann Arbor in 1877.

The younger Darrow's education to date did not augur well. After a brief stay at Allegheny, he reported, "I came back a better ball player for my higher education" and "inclined to believe that the age-long effort to keep the classics in schools and colleges has been an effort not to get knowledge but to preserve ignorance."

Like his father, he lasted only a year at Michigan. He rued the expense to his family and decided, correctly, that "reading law"—still an acceptable avenue to the profession—would suffice to get him started. His one brush with public notice in Ann Arbor came when his landlady accused him of cheating on the rent. In a public letter he defended his honor and declared: "Although poor, I value my reputation too highly to dispose of it for the small sum in controversy."

Later, when he was regarded as the nation's greatest courtroom lawyer, Darrow wrote off his whole education as "an appalling waste of time."
This comfortable regime was not to last. In the world beyond the campus, corporations were on the rise, demanding expert counsel in the administration of commercial empires. Detroit and Chicago—Ann Arbor's nearest big-city neighbors—were flexing their industrial muscles. The legal profession was getting crowded, stoking demand for top-notch training. At Harvard, President Charles Eliot declared that "to impart information and cultivate the taste are indeed sought in education, but the great desideratum is the development of power in action." Michigan, now firmly established with Harvard, Yale, and Columbia among the leading law schools, began a steady toughening of standards that would continue for decades.

The first major agent of change was Harry Burns Hutchins, no longer a homesick New Hampshire boy but the Jay Professor of Law, a seasoned authority on equity jurisprudence, "very dignified upon the rostrum," according to a student reporter, and "remarkable for fine diction." Appointed to the law faculty in 1884, Hutchins, with his colleagues—including Henry Wade Rogers (1877), the first full-time law professor—lengthened the term and demanded more proofs of learning, oral and written. "The faculty seem disposed to make the graduates of '86 earn their diplomas," a student reporter noted. "Star Chamber examinations are being held by Professors [Otto] Kirchner, Hutchins, and Rogers, and many of the boys are coming out from their interview so dazed that for an hour afterwards they can't tell their own names." The study of cases and the Socratic method were used in more and more courses, and the Regents cracked down on the sharing of lecture notes. Hutchins—who became dean in 1895, the first dean to exercise real authority—would not tolerate the rowdiness of his own student days. Year after year, one or more hung-over "laws" were tossed out for violating the "Rule in Jenkins' Case," named for an unfortunate soul whose "numerous breaches of good conduct," most of which began in Ann Arbor saloons, forced the faculty to conclude that enough was enough. Hutchins insisted on "the dignity of the Law Department."

It became common for many students to flunk out in their first year—a problem that pained Hutchins and led to one of his most important reforms. "The college graduate and the young man with the merest rudiments of an education sit side by side" in law classes, he wrote. "The presence of any considerable number of poorly equipped men must inevitably make the best results impossible." So he championed admission requirements similar to those for entering students in Literature, Science, and the Arts, ensuring that students had a better chance of success.

The toughening-up was approved by students—at least by the ones who survived. "A liberal education should be demanded of every candidate for entrance to a law school," an editorialist wrote in Res Gestae, the law students' newspaper, "and the nearer it approximates a college education, the better. The general 'stiffening' of the work has
had a wholesome effect. The Faculty may rely upon the hearty sup-
port of the students in all such reforms."19

Hutchins, named president of the University in 1910, was suc-
cceeded by Henry M. Bates, whose standards, if anything, were higher
than Hutchins's. He urged faculty to conduct research beyond the
mere compiling of cases. He advanced the careers of Professors Edson
Sunderland (1901), an expert on civil procedure who became Michi-
gan's first great legal scholar, and John B. Waite (1907), who wrote
widely on criminal law for 40 years. He advocated for courses in
jurisprudence, legal philosophy, and comparative law. Perhaps most
important, Bates set Michigan on the path of acquiring one of the
world's great law libraries.20

He also pressed Hutchins's agenda in the classroom. On his first
day of teaching in 1903, Bates had been startled to see a line of var-
sity football recruits sprawled in the front row. Inquiring among old
hands, he was appalled to learn that athletes sought out law classes in
their first year at Michigan because they could play an entire season
with no danger of flunking out.21 As dean, he made that sort of thing
impossible. By 1915, two years of college work was required for
admission to the Law Department and three academic years of nine
months each were required for the law degree. (Bates even argued—
unsuccessfully—for a fourth year of study.) In a general reorganiza-
tion of campus nomenclature, the Regents in 1915 declared the Law
Department to be the Law School—a simple change that nonetheless
signaled law's coming-of-age as a professional course of study.22

The original Law Building about 1900, after two expansions and renovations. When Law moved to Hutchins Hall in 1933, the building was renamed Haven Hall in honor of Erastus O. Haven, president 1863-1869.
“...how law is actually working...”
II. "A GREAT CENTER OF LEGAL EDUCATION..."

By the First World War, the Law Building at State and North University, despite major renovations and additions, was showing its age. Every morning, Dean Bates would grimace at the coats and hats that students heaped on the bookshelves. The corridors, he said, were "narrow, dark, and forbidding in appearance." When classes let out, the congestion was "almost intolerable."  

And the building was of less concern to Bates than the program itself. He had assumed the deanship in 1910 with great ambitions to expand the curriculum and broaden the range of faculty research. Legal scholars elsewhere were making sophisticated new studies of the law in action. Law firms were demanding students with broader and deeper training. "The naïve, not to say primitive conception of law teaching," Bates argued in 1921—that is, the dogmatic repetition of "the so-called leading principles to passive students"—must give way to painstaking analysis of "how law is actually working," both in the United States and abroad. But Bates could not persuade the Michigan legislature to underwrite the sabbatical leaves, library acquisitions, and clerical assistance needed for expanded research. The Law School's "gigantic" task would require the work of "generations of law teachers" who would "need not only more but a very great deal more help than we have ever had in the past." But without more state aid, Bates and the faculty were stuck in the status quo—unless, Bates said, "some generous alumnus or other friend of the School" stepped forward.  

In fact, such a "friend of the School" was about to take the stage.
COOK'S EXTRAORDINARY GIFT

The enigmatic William Wilson Cook (1882), according to one of the few Ann Arborites who came to know him at all, was "a strange composite of the urbane and the tyrannical, the generous and the suspicious, the dreamer and the dictator." Born in 1858 to a wealthy family in Hillsdale, Michigan, he attained a degree in the College of Literature, Science, and the Arts in 1880 and a second degree in the Law Department, where Judge Cooley impressed him deeply. But if Cooley, a man marked by the frontier, looked askance at the elite attorneys of the Eastern seaboard, Cook plunged into their ranks and rose quickly to the top.

In New York, Cook became close to John W. Mackay, who in the 1880s and '90s parlayed millions in silver from Nevada's Comstock Lode into an even greater fortune in transoceanic telegraph cables. As Mackay's general counsel, Cook quickly became not only an expert practitioner of corporate law but a scholar of the subject. He published a treatise when he was only five years out of law school. The work, eventually known simply as Cook on Corporations, went through eight editions, growing to 2,660 pages in three volumes. According to U-M law professor Alfred Conard, writing in the 1990s, "Cook's major innovation in corporate theory was to recognize the corporate investor as a central figure of legal concern." His book was "not only the foremost authority on the subject for three decades, but...outstanding in its originality and forward-looking values."6

Cook became a lonely and very wealthy man. His stock in the Mackay companies (combined with income from his father's estate, his books, and other lucrative investments) eventually yielded a fortune of some $20 million.7 His only marriage ended in divorce, rare for a man of his social station. Cook lived on in late Victorian comfort, dividing his time between his office in downtown Manhattan, his townhouse at 14 East 71st Street (next door to the "robber baron" Henry Clay Frick), and his clubs. He was respected but not well known. "Many lawyers who had business with him never saw him," wrote a contemporary. "His acquaintance at the bar was limited, and his intimate friendships few."8 In 1910 he agreed to fund Michigan's first dormitory for
Three graduates of the Law School have sat on the U.S. Supreme Court. Arguably the most distinguished was Frank Murphy (1912), who called his time at Michigan "years of the purest gold."

Raised in Harbor Beach in Michigan's "Thumb," Murphy became a prosecutor, a city judge, mayor of Detroit, governor-general of the Philippines, governor of Michigan, and attorney general of the United States before Franklin D. Roosevelt appointed him to the high court in 1940.

After Murphy became famous, Dean Henry Bates recalled him as the "best student I ever had." In fact, Bates gave Murphy a C in his course, while Professor Edwin Goddard (1899), would say only that Murphy had been a "very live and active student." Nonetheless, he became a public servant of the first rank, embracing what Dean Bates, when Murphy was a student, called "the opportunity for conspicuous service in the cause of social justice."

In the 199 opinions he wrote for the Court before his premature death in 1949, Murphy was a steadfast voice for American society's underdogs—so much so that Justice Felix Frankfurter privately derided him as "The Saint." Murphy strengthened the right to picket as a form of speech; foreshadowed Warren Court rulings on the exclusionary rule; and declared: "The law knows no finer hour than when it cuts through formal concepts and transitory emotions to protect unpopular citizens against discrimination and persecution."

When a majority upheld the internment of innocent Japanese Americans in World War II, Murphy famously dissented, saying his colleagues were slipping into "the ugly abyss of racism"—the first time that word was used in a Supreme Court opinion.
women—the Martha Cook Residence Hall, named for his mother—but he was never seen in Ann Arbor. As the years passed, he spent much of his time at his country estate near Port Chester, New York—the last resident of well-to-do Westchester County, according to his niece, “to give up being met at the suburban station by a span of horses and coachman.”

Soon after World War I, tuberculosis forced Cook into retirement. Reclusive and crotchety, he worked on a long, dyspeptic commentary on ten “American institutions”—including a written constitution, popular sovereignty, and equality of opportunity—which were endangered, in his view, by concentrated wealth, organized labor, sectional antagonisms, and the emigration of “millions of impossible people from southern and eastern Europe.”

(Cook’s xenophobia and racism, benighted by today’s standards, were not uncommon among the WASP elites of his era.) To safeguard the nation, he counted on higher education and the legal profession. The great colleges and universities, he wrote, were “the leaven of the lump,” giving “knowledge, discipline of mind, power of concentration, and higher principles, to the good of the public,” while the nation’s lawyers were its natural leaders. The
stakes were grave, Cook warned, pointing to the example of ancient Rome. “The American republic will fall apart or a new Caesar will seize the power and rule by force unless the American Bar holds the republic together without sacrifice of its democratic principles.”

In this mood, he had a series of private meetings with President Hutchins, who, according to an aide, “had the ‘know-how’ with Mr. Cook.” With Hutchins’s adroit urging, Cook began to imagine “a great center of legal education and of jurisprudence for the common good of the people.” The first of his gifts to the Law School was announced early in 1922. But he had no intention of simply writing a check. He meant to shape the School to his own vision.

Unabashedly elitist, Cook imagined a setting so beautiful it would lure the brightest students to study law, a place where they could mingle with professors, senior lawyers, and jurists—in effect, a fine gentlemen’s club with its own splendid clubhouse. He also shared Dean Bates’s hopes of a great expansion in faculty research. Cook had the notion that the first goal might nurture the second. That is, a Lawyers Club to house the brightest students of the Law School and the literary college might support a new endowment for faculty research. Other buildings would follow, but the Lawyers Club, in Cook’s mind, was the key. When Dean Bates pressed Cook to make a public commitment to fund a new law building—the eventual Hutchins Hall—Cook bridled. “I decline to be hurried,”

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"Now the character of the legal profession depends largely on the law schools. Hence in my opinion nothing is more important than those schools and anything that tends to elevate them tends to perpetuate American institutions. That is the reason I am doing all this."

—William H. Cook

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In the Quadrangle looking north to the central passage of the Lawyers Club.
he snapped. "I shall not write or talk or think about the Law Building until the Lawyers Club Building has been completed, occupied, and paid for."14

"I believe that the political future of the country depends largely on the legal profession...." Cook wrote to Marion LeRoy Burton, who had succeeded Hutchins as U-M president in 1920. "Now the character of the legal profession depends largely on the Law Schools. Hence in my opinion nothing is more important than those schools and anything that tends to elevate them tends to perpetuate American institutions. That is the reason I am doing all this."15

Cook and Dean Henry Bates together transformed the Law School—Cook as the donor and visionary, Bates as the shrewd administrator putting the gift to practical use—but their correspondence shows they were hardly congenial partners.

Tensions broke the surface when the architects included caricatures of Dean Bates and Shirley W. Smith, secretary of the University, among the whimsical stone figures that appear to carry the vaulted ceiling of the Lawyers Club archway on their shoulders. Cook, hearing of this, stormed over "magnifying minor University officials" and ordered the architects to hack off the offending heads—"I don't care how the removal may look. ... [L]et the gargoyles stand headless."16 (These likenesses are properly called Atlas figures, not gargoyles, though many, like Cook, have used the latter term.) In the end, only past U-M presidents were included.

Cook made another great fuss over his order that the Lawyers Club must house only the senior law students. He addressed Bates as if the dean were a fumbling associate: "There I draw the line and won't have it. ...Your plan would not work out anyway. ...Abide by the plan agreed upon. ..."17 Bates, knowing Cook's order would play havoc with Ann Arbor fraternities and likely leave the Club half-full, kept his temper when responding. But he blew off steam to others, complaining of "Mr. Cook's little pleasantries...his digs...the abject humility which he seems to like in others..." and ideas that were "pretty nearly destructive."18 (Bates was by no means the only U-M official who ran afoul of Cook. Clarence C. Little, who succeeded Marion Burton as president in 1925, became so exasperated with Cook that when the donor threatened to cut off further gifts, Little recommended calling his bluff—a rash idea that reinforced the Regents' suspicions about Little's judgment. He resigned not long afterward.)

In the end, Bates and Cook shared "ultimate objectives," and the dean's persistent desire to "make the whole venture a great success" carried it through. It's possible that more face-to-face meetings would have made the relationship easier. Long after Cook's death, his niece recalled that "most of the disturbing letters he wrote with a twinkle in his eye, but the twinkle didn't show in Ann Arbor."19
Cook, his health deteriorating throughout the 1920s, apparently never saw the rising Law Quadrangle, though a rumor circulated that he paid one surreptitious visit to get a look. Dr. Walter Sawyer, the Hillsdale regent who knew Cook well, reported that he once pleaded with Cook to come and see the fruits of his gifts, but Cook replied: "No, Doctor, you cannot persuade me. You want to spoil my dream. I shall never go to Ann Arbor."  

It took more than 10 years to build the Law Quadrangle. Cook's architects, Edward York and Philip Sawyer, were masters of the vogue for English Gothic design that changed the face of a number of American campuses, including Yale and the University of Chicago, in the late 19th and early 20th centuries. Their designs for the Law School—the dormitories and sumptuous Dining Hall of the Lawyers Club, the four-story John P. Cook Dormitory (named for Cook's father), the William W. Cook Legal Research Library, and Hutchins Hall—were originals, not copies, as sometimes has been said. But the architects acknowledged the strong influence of designs at England's Oxford and Cambridge universities. (Cook himself was directly responsible for key architectural elements, including the four massive pinnacles of the Legal Research Library, which he said would keep the building from looking "stubby." "A little sparkle and fancy will do no harm to that ponderous building," he urged. "You gifted architects are too conservative by far. ...[P]ut a little more life into the picture.")

Ann Arborites watched in awe as the nondescript residential blocks between State and Tappan sprouted soaring towers of stone, vaulted arches, elegant buttresses, and splendid stained-glass windows. Inside, inviting corridors crawled with whimsical touches and clever details—friendly and forbidding stone faces; smiling suns peering from the woodwork; stained-glass cartoon vignettes spoofing crimes such as "mayhem" (a college football kicker and tackler) and "malicious mischief" (college boys changing the street signs at State and Monroe.) The Reading Room of the Legal Research Library struck visitors with the visual force of a Gothic cathedral. Together, the buildings formed a place all their own, the most distinctive on the campus—"a cloistered world," the architectural historian Kathryn Horst later wrote, "where students and faculty could follow their scholastic pursuits together while sheltered from an active urban environment."  

The splendor of the new buildings was heralded across the country, inevitably adding cachet to the Law School's reputation. It also pervaded the experience of generations of law students whose attachment to the School was always interlaced with remembered images of its beauty.
Graduates developed a “sense of protectiveness and trusteeship” about the Quad, Dean Francis Allen once remarked. The School’s physical setting, he said, has been “just of enormous importance, and it can’t be measured, of course, in any precise way. It was always a delightful thing to go out into the Quad on a May morning [and] see a family group walking across the Quadrangle. And you knew exactly what this was. This was [a] father who had been a student here, and he is bringing his wife and his children to the Law Quadrangle, and he is pointing out where his room was and reliving his student days.”

Cook died in 1930, four years before the Law Quadrangle’s dedication. He left most of his estate to the Law School, permitting it to be used to complete the building project and support a large fund for legal research—a gift far beyond stone and mortar that vastly enlarged the Law School’s influence throughout the profession. As Elizabeth Brown, the Law School’s historian, wrote, “Bates became dean [in 1910] of a middle-western law department housed in one cramped building; he retired from a national Law School housed in the Law Quadrangle.”
"...a gift far beyond stone and mortar..."
A flourishing faculty

It is perfectly fair to say that William Cook's dream came true. In the decades after he bestowed his gifts, the Law School attracted faculty members who became nationally and internationally recognized leaders in many fields. This core of excellence, in turn, attracted many of the nation's best students. By World War II Michigan was recognized across the board as one of the small elite of great national law schools.
DEAN BATES HAD ALWAYS SAID that a great law faculty demanded a great library. This, too, Mr. Cook's gifts made possible, and it became the foundation on which the Law School did its work.

Since the 1860s, when the Law Department's library had consisted of 350 books, "a rough deal table," and "a few wooden chairs," overseen by one "raw youth" working his way through school, the materials for legal research had never had a satisfactory home. Acting President Henry S. Frieze, noting the frequent appropriations for technical equipment in scientific and medical courses, asserted that "the Law Department absolutely needs, and justly claims, a proportionate outlay for its indispensable and only apparatus of books." But "serious...deficiencies upon its shelves" continued for years. When book purchases accelerated under Dean Bates, the shelving straggled through four floors and 10 rooms of the Law Building, making "anything like either a logical or a convenient arrangement impossible," Bates said, and "the stalking fear of fire" never left his mind. Cataloguing, especially of foreign accessions, lagged years behind.

The young Hobart Coffey (1924), appointed professor of law and Law Librarian in 1926, undertook a program of accessions that brought Michigan's library to the first rank. A "gentle and compassionate" man well-liked by colleagues and students, Coffey built the collection through "imagination, foresight, and diligence..., qualities grounded in his own love for books and appreciation for the scholarship his duties left him little time to pursue."25 In the spring of 1931, Coffey oversaw the smooth transfer of some 100,000 volumes from the old Law Building to the safe stone confines of the new William W. Cook Legal Research Library. (In the 1920s, that edifice was called the Legal Research Building. In 1930, shortly after Cook's death, the Regents directed that the building, "which will always be the commanding structure of the entire Law School group, be named the "William W. Cook Legal Research Library.""

As areas of the law multiplied, Coffey's purchases kept pace. By the time of his retirement in the mid-1960s, Coffey had grown the collection from 55,000 volumes to some 330,000 (a number that would more than double by 1990 under his successors, Beverly J. Pooley and Margaret A. Leary). These ranged from up-to-date statutes, digests, reports, and treatises to rare historical materials, including a sizable body documenting the law of Native
The library's international collections both supported and reflected two of the School's emerging strengths in the interwar period—comparative law and international law.

Since the Law Department's beginnings, Michigan's setting on an international border and the Great Lakes had engendered a special interest in maritime and admiralty law. In the late 1800s, a steady stream of students from other countries where law schools were in short supply—including, notably, Japan—enrolled in the program. Then, the United States's rise to global economic and military power, capped by World War I, persuaded Dean Bates that U.S. students must at least be exposed to legal systems beyond the Anglo American. This led to the hiring in 1919 of Edwin Dickinson (1911), a prolific scholar and gifted teacher who made international law a major component of the Law School's program. Students who would never practice in the international arena took Dickinson's courses in large numbers simply for the experience.

After Dickinson's departure in 1933, several figures of the next 30 years accounted for Michigan's reputation in these areas. The first hired was Hessel E. Yntema, a scowling Dutch-American native of small-town Michigan who became wholly comfortable in multiple European and Latin American cultures. After a Rhodes Scholarship in the 1920s, Yntema—"an idealist with a rugged honesty of purpose," as one colleague described him—set out to combat the parochialism of American law. In his various roles—teacher, writer, consultant to the U.S. Departments of State, Treasury, and Justice, and founding editor of the American Journal of Comparative Law—he strove for greater understanding of diverse theories of jurisprudence and for greater practical unity among the world's legal systems. (Though widely traveled, Yntema, thanks to U-M's massive library collection, could do much of his work without leaving the Legal Research Library.)

To Yntema's expertise in comparative law was added William Warner Bishop Jr.'s in international law. Bishop (1933) combined...
local and global knowledge in equal measure. As the son of the University librarian from 1915 to 1941, Bishop knew the University's intricacies as well as anyone of his generation. (He also knew every U-M president from James B. Angell to Lee C. Bollinger.) But in his work he went far afield, serving—after stints at Harvard and Princeton—with the State Department throughout World War II. He advised the U.S. delegation to the Paris peace conference. Appointed professor at U-M in 1948, Bishop compiled a casebook in international law—covering such complex new agreements as the United Nations Charter and the NATO treaty—that schooled a generation of Cold War-era diplomats. In the classroom, his colleague John H. Jackson (1959), said, Bishop was “revered as a professor in the ‘anti-Kingsfield’ model, being one who cared about his students and who treated them with kindness and courtesy.” (Bishop nevertheless loved to construct confounding puzzles for students in his international law courses, such as: “It was a simple little case in which a Spanish sailor slugged a Swedish visitor on an English vessel anchored in American waters on a national holiday and…”)

Michigan's internationalist tradition was extended by Jackson himself, a key figure in international trade law; by Eric Stein, an authority on the Common Market and weapons control; by Dean E. Blythe Stason, who wrote on the regulation of atomic energy; by the founding of the Michigan Yearbook of International Legal Studies (later the Michigan Journal of International Law); and by a 1955 Ford Foundation grant to expand courses, fund the training of foreign students, and support comparative research in legal systems around the world.

“...it was a simple little case in which a Spanish sailor slugged a Swedish visitor on an English vessel anchored in American waters on a national holiday...”

—William W. Bishop Jr. (1933)
The Law Quad at War

The Law School had been fully transplanted to the Law Quadrangle for only a few years when it faced a test of its sheer physical capacities. With the coming of World War II, the University invited the U.S. Army’s Judge Advocate General (JAG) Corps to set up shop in Ann Arbor. With many law students abandoning their studies for military service, the School now filled with olive-drab uniforms. Of the 30,000 lawyers enlisted in the armed forces, 2,684 were chosen for JAG and trained in Hutchins Hall classrooms. Courses included military justice (including practice courts-martial), war powers, military jurisdiction, military government, and international law. To house the newcomers, a hundred sets of bunk beds were crammed into the rooms of the Lawyers Club, and drills were run daily in the Law Quad, where the JAG men sometimes crossed paths with Italian prisoners of war who worked in the mess and kicked around soccer balls under guard.
Peace in 1945 brought a flood of applicants eager to make up for time lost at war. Enrollment soared from 641 in 1940-41 to 1,107 in 1947-48—roughly the size of today's student body. These classes and those that followed in the 1950s, including another bulge after the Korean War, studied a curriculum that was adjusting to accelerating change in society and government, from the regulatory structures put in place by Franklin D. Roosevelt's New Deal to the end of America's isolation in world affairs to the daunting challenges of coping with atomic energy and other new technologies.

These postwar students were taught by a faculty breaking away from the traditionally heavy reliance on the case method. Seminars in special topics became popular. The teaching of technical skills such as legal writing, conveyancing and research, long slighted in the case-study era, made a comeback. Syllabi expanded to include readings not dealing specifically with the law—for example, the Harvard historian Oscar Handlin's *Race and Nationality in American Life* in Professor Spencer Kimball's Law and Society course.29

Innovations in teaching were especially notable in the careers of Professors Paul G. Kauper (1932), and L. Hart Wright (LL.M. 1942). They advanced the Law School's view that the legal sphere was now shaped as much by statutes as by judge-made law; therefore students must have a thorough understanding of legislation. Kauper's and Wright's casebook on federal income taxation, for example, supplemented the usual diet of cases with “a careful, painstaking analysis of the statute itself [the Internal Revenue Code], as it is, after all, the basic datum of study in federal income tax affairs.”
Wright—who was “very likely the most popular teacher of that era,” a colleague said—grew increasingly skeptical of the long-revered case method. In its place he argued for the problem method of teaching, by which students are presented with legal puzzles that must be solved through research and discussion. This approach, he argued, encouraged students not so much to “learn the law,” as the case method promised, but to think as lawyers—the essential skill of practice in a fast-changing legal environment. Wright also believed that a teacher of law, to be great, must undertake his or her own research, for, as he put it, “the very thing you are trying to teach is understanding, and you can acquire this for yourself only through research and, ultimately, research of all kinds. This inseparable link between good teaching and research is the reason the Law School’s first obligation, in the scale of priorities, is to cater to the individual’s research needs—that is, to the training program of each individual professor.”

His demands of his students were as rigorous as those he urged for his colleagues. A legal researcher recalled that Wright often taught by sheer, hectoring insistence, demanding of her: “‘Now, think about it! Think about it! Think!’ Well, I started... not always inwardly graciously... to think. And I’m a far better lawyer than I ever would have been if I had not dealt with Hart Wright, because he would badger me until I came out where he thought I ought to come out. It was like climbing mountain peaks.”

Paul Kauper brought an entirely different style to the classroom. A devout Lutheran elder, Kauper was “a deeply moral man,” as his colleague and friend, U-M President Robben W. Fleming, put it. His values pervaded his teaching and often provided an anchor for faculty debate. His courses on constitutional law were perennially oversubscribed. Three of his students recalled that he brought “an overriding devotion to the study of law that truly inspired his students.” Kauper’s enthusiasm persuaded “students that he, as much as they, had come not merely to discuss cases but to explore the Constitution and to understand the Supreme Court as an institution. He utilized the Socratic method to illuminate, not to intimidate.” Kauper’s influence on the law extended far beyond the classes he taught from 1936 to 1974. In addition to the casebook on taxation that he produced with Wright, he wrote important works on the Constitution and civil liberties—and he raised a son, Thomas E. Kauper (1960), who became a distinguished member of the law faculty in his own right and an international authority on antitrust law.
Numerous fields were shaped by the writing of Michigan faculty members in the middle decades of the century. These included John P. Dawson (1924), the leading U.S. expert of his era on restitution; Lewis Simes, who drafted a model probate code and wrote the leading treatise on future interests; Russell A. Smith, whose casebook in labor law became a standard; John W. Reed and Charles W. Joiner, who made important contributions in practice and procedure; Eric Stein (1942), who carried forward the School’s leadership in international law; and Alfred F. Conard, whose study of automobile accidents helped to lay the foundation for no-fault insurance.

In these years, William J. Pierce (1949), became known as “a mastermind of legal reform” for his work on uniform state laws—a result, in part, of the Law School’s establishment in 1952 of the Legislative Research Center. Pierce began as professor and assistant director of the Center, then became director in 1957. For some 40 years he was the leading figure of the National Conference on Uniform State Law, which undertook the protean work of regularizing and clarifying the nation’s patchwork quilt of state laws. He was known for an encyclopedic memory and for sheer, dogged industry. “Bill Pierce gets things done,” Dean Theodore St. Antoine (1954), would write. “If some Great Scorer came along to assess the achievements of Bill’s generation, few if any other academic lawyers would be found to have had a greater or more salutary impact on the whole range of American law.”

Pierce would typically spend weekdays teaching in Ann Arbor, then fly to various destinations for the weekend to draft legislation with his uniform-laws colleagues, academics, and practitioners alike. He labored endlessly to make legislative language precise, writing and rewriting passages on index cards, then shuffling and reshuffling the cards to ensure clarity and proper order. Pierce
justly took pride in the painstaking process that he called “my great love”—the actual drafting and redrafting of statutes to improve the legal system. “Most legal writing goes on forever,” he once told an interviewer, “and to what end? Take, for example, the conventional law review. There are hundreds of articles every year—predominantly by law professors, but a number [by] practicing lawyers—in which they will come to the end and say, ‘The law ought to be changed.’ But do they tell you how to change the law? The answer is no. ... They can yell all they want to about it, but I actually do something about it.”

Much of the credit for hiring and retaining this extraordinary faculty must go to the modest, quiet E. Blythe Stason, dean from 1939 to 1960. An Iowan who first trained as an electrical engineer at MIT, Stason had been a dark-horse candidate to succeed the outgoing Henry Bates. But he proved an excellent choice—“a giant,” said Charles Joiner, who served briefly as acting dean himself before his appointment to the federal bench—managing the School through the tumultuous war years and the major postwar expansion.

At the Law School’s centennial celebration in 1959, Stason, born in the previous century, foresew great changes coming. “We are moving from a commercial world into a scientific and technological world. Legal education must adjust itself accordingly. The substantive content of our curriculum will be changing very rapidly in years to come.”

“...the substantive content of our curriculum will be changing very rapidly in years to come.”

—E. Blythe Stason (1922)
Mr. Wilkins and Prof. Harvey

In the fall of 1953, a trio of professors lumped contracts, equity, and damages into a single, dense course that students soon were calling "The Mystery Hour." One day after class, a first-year student named Roger Wilkins knocked on the office door of the contracts authority, William Burnett Harvey (1949) to seek clarification.

Wilkins was uncomfortable. He was the nephew of Roy Wilkins, executive director of the National Association for the Advancement of Colored People, while Professor Harvey spoke with the soft accent of his native Tennessee. "The South," Wilkins later wrote, "was a place I hated and feared."

Wilkins had been a student leader as an undergraduate at Michigan, but his grades had been spotty. He knew it was Professor Harvey, as the Law School's admissions officer, who had accepted his application.

Harvey patiently answered Wilkins's questions about contracts. Then Wilkins mentioned his Law School application and ventured: "I must have had the lowest undergraduate average in this class."

He thought Harvey would reassure him that this wasn't so. But the professor replied: "That's right, Mr. Wilkins."

Wilkins flared in anger: "Well, why did you admit me?"

Harvey's tone remained even. "If you had gone to some other college, you surely wouldn't have gotten in here," he said. "But we could check with your professors and we have had some sense of your extracurricular activities. They all judged you to have far more academic ability than you displayed, so we took a chance."

"We here think the Negro people in this country need leaders—well-trained leaders. And we want to do our part in helping to train them. So we took a chance on you. Now, that doesn't mean you won't have to do the work. You will.

If you don't, you won't stay. But that's why we took a chance."39

In his celebrated memoir, A Man's Life (1982), Wilkins said these few words from Harvey—"this Tennessee man who was the instrument of the Law School's...affirmative action program for 1953"—spurred him to far surpass his undergraduate record. He became a civil rights leader, an assistant U.S. attorney-general, a Pulitzer Prize-winning journalist, and a professor of history.

William Burnett Harvey became dean of the law faculty of the University of Ghana. Expelled for criticizing the repressive regime of President Kwame Nkrumah, he became dean of the Indiana University Law School.

Roger W. Wilkins (1956)
III. OPENING UP

FOR ALL ITS BEAUTY, the University of Michigan Law Quadrangle has occasionally put observers in mind of “fortifications equipped to resist penetration by alien thinkers,” as Paul D. Carrington, who left Michigan to become dean of the Duke Law School in 1978, once put it.1 Whatever their architecture, nearly all the major law schools before 1960 gave the same impression. “American law schools in the first 100 years of their existence tended to be very aloof from the university,” remarked Francis A. Allen, dean at Michigan from 1966 to 1971. “They were on the campus but not of the campus. The members of the law faculty didn’t know very much about what was going on in the university, and the university, Lord knows, didn’t know what was going on in the law school. [At Michigan in the 1960s] we all felt that was a situation that needed fairly drastic remedying.”

In Allen’s view, it was his predecessor, Allan F. Smith (LL.M. 1941, S.J.D. 1950), dean from 1959 to 1965, who set the remedies in motion. Dean Allen called Dean Smith “the start of the modern Law School. He infused an ambition in the faculty to [reach] a higher level of intellectual achievement. The Law School was always good, but before that time, its emphasis was very largely utilitarian and practical. That’s important; you need that in a law school. But concern with general ideas and...with broad issues of public policy, while it was not lacking in the old Michigan Law School, was not its dominant note.”

Dean Smith, Dean Allen, and their colleagues on the faculty amplified that note and added many others to form a rich harmony. They initiated broad and vigorous engagement with other disciplines; with previously excluded groups of students and scholars; with new ideas about teaching; and with law’s variegated relationships to all of human society. That era continues today.
LEADERSHIP in the "utilitarian and practical" aspects of legal education became, if anything, even more notable among the generation of professors who joined the faculty in the 1960s. These included Jerold H. Israel, a nationally renowned authority on criminal law; James J. White (1962), a superb teacher who wrote the standard treatise on the uniform commercial code; John H. Jackson, a scholar of international trade law who became a leading voice on the General Agreement on Tariffs and Trade (GATT); Douglas A. Kahn, who would publish widely in tax law; Frank R. Kennedy, who made major contributions in the law of bankruptcy; and Beverley J. Pooley, who succeeded the long-serving Hobart Coffey as director of the Law Library and vastly expanded its holdings.

But in other names from the cohort of 1960s hires, one sees the beginnings of that extraordinary expansion into matters of "law and society" to which Dean Allen referred. The year 1966 brought

By 1970, hair in the Law Quad had grown long.
Terrance Sandalow, who was studying reform in city and state governments; Layman E. Allen, who had ideas about applying mathematics and logic to the study of law; and Joseph Sax, who, four years before the first “Earth Day,” had the notion that law might be invoked to protect an unusual client—the environment. Two years later came Charles Donahue Jr., who was soon teaching students about marriage in medieval Europe, and three scholars who, along with law degrees, brought Ph.D.s in other disciplines—Richard O. Lempert (1968), a sociologist; Donald H. Regan, a philosopher; and Peter O. Steiner, an economist. The next year brought David Chambers, fresh from the staff of the National Advisory Commission on Civil Disorders, who would conduct major inquiries in new areas of family law such as child support and same-sex marriage; and Joseph Vining, a legal philosopher whose writings would range far into science and the humanities.

There is some irony in the call for greater “relevance” that student protesters raised in the late 1960s, since many students often attested later, far into lawyerly careers, that their interdisciplinary classes served them at least as well later in life as their professional training. And certainly no one could say Michigan Law hasn’t been engaged in the nitty-gritty of everyday life in modern America. Any such complaint could be blown apart by citing the work of many on the faculty—indeed, by citing the work of one recent giant alone.
Yale Kamisar’s transformative impact on the law began with a hunch that law students were learning too little about criminal procedure. The Supreme Court of the 1950s had been groping, piecemeal, toward a new doctrine in police interrogation. But case materials were outdated, and in the early ’60s the subject was being taught as an afterthought. Kamisar persuaded West Publishing to put out a short paperback. Only a few hundred copies sold, and West planned to cancel it. In the meantime, Kamisar had been writing vividly about police interrogation. For example:

The courtroom is a splendid place where defense attorneys bellow and strut and prosecuting attorneys are hemmed in at many turns. But what happens before an accused reaches the safety and enjoys the comfort of this veritable mansion? Ah, there’s the rub. Typically he must pass through a much less pretentious edifice, a police station with bare back rooms and locked doors. In this ‘gatehouse’ of American criminal procedure... the enemy of the state is... ‘game’ to be stalked and cornered. Here ideals are checked at the door...

Then, in 1966, a year after Kamisar joined the Michigan faculty, the Warren Court cited two of Kamisar’s articles in its historic decision in *Miranda v. Arizona*, and suddenly Kamisar was little known no more. Law schools rushed to create courses in criminal procedure. The casebook began to sell by the thousands, and Kamisar—with his co-authors, Michigan’s Jerold Israel and Wayne LaFave of the University of Illinois College of Law—expanded and bolstered it in new editions. He became known as “the father of *Miranda*.”

Those achievements alone would have made a distinguished career. But they were only the beginning of a long struggle to protect the rights of the accused. In scores of articles and books, Kamisar kept defending these rights, culminating in the Supreme Court’s 2000 decision to uphold the constitutionality of *Miranda* in *Dickerson v. United States*. That decision, said his U-M colleague and former student, Professor David A. Moran (1991), “was a testament to all the work Yale had done in the 34 years after *Miranda*. His view prevailed. There’s no question he’s been the most influential criminal procedure academic of the last 40 years—which makes him the most important of all time, because there really wasn’t much of a field of criminal procedure until Yale.”

Yet this, too, was only part of Kamisar’s contribution. He also became a leading voice on constitutional law (in which he co-authored 10 editions of a second casebook); on the exclusionary rule and the rights of indigent defendants; and on assisted suicide. Among students, Kamisar—who officially retired in 2004 but continued a rigorous schedule of writing and teaching—is renowned for his passionate intensity in the classroom. His voice—a “stentorian voice...
huge voice,” one colleague said—left impressions never forgotten.
When Dean Allen moved to Florida, a friend asked: “Aren’t you going
to miss Yale Kamisar’s voice?” Allen replied: “What makes you think I
won’t hear it in Gainesville?”

Eve Brensike Primus (2001), another Kamisar student who became
his colleague on the faculty, once recalled a typical classroom scene in
which Kamisar posed a Socratic question about *Miranda* to a quak-
ing student, one “Smith.” Before “Smith” could frame a coherent
reply, Kamisar left the rostrum and charged the student, demanding
to know what the legal scholar Fred E. Inbau—a great adversary of
Kamisar’s in the long national argument over police interrogation—
had meant by the term “unhurried interview.”

   By the time he had finished the question, Kamisar was
leaning in so close that Smith must have felt Kamisar’s breath
on his face. ... Kamisar burst out the answer to his own question.
   “I’ll tell you what he means. He wants to give the police free
rein to interrogate! An interview suggests a certain amount of
freedom. This isn’t an interview! It’s not a chat! These cops are
out for blood!”
   Kamisar’s face was fiery red at this point. His hand gesticulat-
ed wildly next to his head as he continued to rant, getting louder
by the minute: “We cannot trust the prosecutors or the police or
anyone else! That is why we have the Bill of Rights!”
   He paused only long enough for the blood to start circulating
to his face again. Then he leaned forward as though perched and
ready for round two.
   “Okay,” he said, “back to you.”

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*The long arm of Yale Kamisar.*
The Unicorn in the Garden

It has often been said that once, long ago, a large number of law students saw a unicorn in the inner courtyard of Hutchins Hall. The truth is difficult to discern through layers of myth and legend. These are the facts not in dispute:

- In the 1950s, no student was allowed to enter the inner courtyard, reputedly by order of Dean E. Blythe Stason, whose office overlooked the space. On fine spring mornings, the dean was known to open his windows and admire the unspoiled greenery below. So students referred to the space as "The Dean's Garden."

- In April 1954, an animated short film based on a parable by the humorist James Thurber, "The Unicorn in the Garden," was enjoying a vogue.

- That spring, Ted W. Swift (1955), a second-year recently elected to the Barristers, the Law School's unofficial honorary society, was ordered to drum up interest in the approaching Crease Ball.

- At 8 a.m. on April 27, three days before the dance, a law student on his way to class glanced through a window to the courtyard and was heard to say: "I'll be a son of a bitch. There's a unicorn in the dean's garden."

- By 10 a.m., most law students, many undergraduates and a Michigan Daily photographer could attest that a large animal was grazing in the locked courtyard. It wore a sign urging attendance at the Crease Ball. A conical straw hat vaguely resembling the horn of a unicorn lay on the ground.

- James "Buck" Buchanan (1954), president of the Barristers, was called to the dean's office. Buchanan denied any Barrister role but volunteered the society's help in restoring order.

- The door was unlocked and the animal was led through a corridor to a Washtenaw County farmer waiting on Monroe Street with a truck and wagon.

- Theodore J. St. Antoine (1954), editor-in-chief of the Michigan Law Review, was observed disposing of items the animal had left behind. He wore a sign declaring his intention to attend the Crease Ball.

- On the following Sunday, the Daily published a letter from Ted Swift, who criticized the editors for publicizing the sophomoric hijinks of "some misguided and juvenile law student of limited mental capabilities." Swift, by his own account ("There's a Unicorn in the Garden: An 'Animal House' Caper Revisited," Law Quadrangle Notes, Fall 1981) soon received a telephone call from Dean Stason, who thanked Swift for his letter to the Daily and praised his good judgment.
"An entirely new experience..."

In the mid-1970s, second-year students published a guidebook for first-years entitled *Survival at the University of Michigan Law School*. Its editors solicited anonymous comments and advice from students and professors alike. The result is a revealing snapshot of Law Quad culture in that era of the School's history—perhaps in every era.

**Students propose...**
"...this will be an entirely new experience. The atmosphere is heady, the subject matter is foreign, and the teaching methods are strange. Just like the jungle, it is an easy place to get lost."

"...this law school is but a reflection of a socio-political-economic order which does not have the interests of most Americans at heart..."

"The competitive atmosphere brought on by the Socratic Method is suppressive at best and down-right dehumanizing at worst."

"Professors...harass their students mercilessly. They are...egotistical, elitist, and power-seeking..."

"Law School is intimidating only to those who allow themselves to be intimidated."

"You are not stupid and incompetent. Remember that."

**Professors dispose...**
"The title of this handbook contains an inarticulate premise that I reject, namely that law school is a place where one can only 'survive,' that law school will necessarily be a bitter and unpleasant experience."

"There is a popular mythology that the first year of law school is a painful, boring experience..... I've spoken with a sizable number [of students] who found their first year intellectually exciting and extremely enjoyable..."

"The competitive element of law school is vastly overstated, but a predisposition to finding an ugly form of competition may well foster that very situation."

"It can be and should be an exciting challenge, an opportunity for confronting new ideas, for experiencing the excitement of mastering new material, and for meeting life-long friends."

"Students should do all they can to resist the forces that deprive them of the pleasure of learning law."
INNOVATION, GROWTH, AND DIVERSITY

Although the old apprenticeship model had long long since given way to accredited law schools as the sole route to the profession, the old skepticism about the schools’ ability to teach practical lawyering persisted. As early as World War II, a survey by the Association of American Law Schools declared that “current case-instruction is somehow failing to do the job of producing reliable professional competence.” By the 1960s, students and younger faculty across the country were enlarging that complaint, charging, as another AALS committee put it, that “legal education is too rigid, too uniform, too narrow, too repetitious.”

Of all the efforts to address these problems—including classes in specific skills, problem-based teaching, and so-called problem cases—the most enduring was the clinical law movement, which was embraced at Michigan in the late 1960s and soon became a permanent and popular part of the curriculum. Under faculty supervision, students earned credit for helping actual clients in civil and criminal matters. Early on, under the direction of J.J. White, the program teamed clinical instructors with tenure-track faculty, who took turns devoting a semester to the work. In 1975, Steven D. Pepe (1968), a veteran of Neighborhood Legal Services in Wash-
ington, D.C., was hired as an associate professor to lead the effort on a full-time basis. Since then it has diversified and grown into one of the nation’s leading clinical programs, with its own associate dean and more than a dozen clinics in specialized areas, including child advocacy, environmental law, juvenile justice, and urban communities.

As the clinics flourished during the deanships of Theodore J. St. Antoine, Terrance Sandalow, Lee C. Bollinger Jr., Jeffrey S. Lehman (1981), and Evan Caminker, so did other innovations—seminars, team teaching on special topics, foreign study. If the curriculum during Dean Stason’s long tenure had become a little hidebound, experimentation in the classroom was now welcome. “If a faculty member wants to try something different,” David Chambers remarked, “and it’s not completely loony, the deans here have…always been supportive. The deans’ posture [has been], ‘What can we do to make this work?’”

It was no longer possible, St. Antoine wrote in 1971, near the start of his first term as dean, to endow students with “anything like a total mastery of the ballooning body of legal doctrine.

We are shooting at a moving target, and our aim must be to prepare our students to be experts tomorrow in fields that may not exist today. We have to concentrate on teaching them not so much ‘the law’ as what I would describe…as ‘the law of the law’…those underlying principles which govern the direction of the legal process, which determine the way the legal system will respond to each new societal demand.”

In the decades after 1960, this eagerness to embrace and anticipate the future fostered extraordinary growth and change.

At mid-century, the Law School still had been administered by the dean himself, a tiny staff of secretaries (all of them women, and all treated “with great politeness and consideration,” according to research associate Elizabeth Gaspar Brown), and faculty members who, along with their scholarship and teaching, fit in all the work of recruiting, admissions, curricular planning, student affairs and advising, career placement, and alumni relations. By 2009, an able and extensive staff of professionals—led by two associate deans and eight assistant deans—had long since relieved the faculty of most of this administrative work, vastly augmenting services to students and other constituents of the School.

One symbol of the School’s spectacular growth was simultaneously its most conspicuous and its least conspicuous—the Law Library addition constructed un-
derground in the early 1980s. The William W. Cook Legal Research Library, aesthetically splendid as ever after 50 years, was simply too small for its ever-multiplying holdings. “We had the greatest law library west of the Appalachian Mountains and [it was] unusable by students,” recalled William J. Pierce, then serving as associate dean. “Only 30,000 volumes [were] available in the Reading Room.” Getting materials from the closed stacks meant filling out forms and long waits. Dean St. Antoine recalled that the future of the School itself was at stake. “While we certainly were very well regarded,” he said, “we were in serious trouble with regard to our library. ... If we couldn’t come up with the appropriate research tools, this was going to very seriously affect both students’ quality of education and, even more severely, the research capabilities of the faculty, on which the reputation of a truly great law school very much depends.”

An addition in the 1950s not only failed to provide enough space for expansion; it also offended the eye of nearly every observer. Its blue metal cladding clashed so violently with the Quad’s stone facades that at least one professor called it “an abomination.” Another addition was essential. But alumni and faculty alike were determined not to mar—or even distract from—the architectural beauty of the Quad. The selected architect, Michigan-based Gunnar Birkerts, presented one above-ground idea after another, only to have each rejected. At last, Birkerts concluded the Law School would be satisfied with nothing less than an invisible building. So his final design envisioned a three-story structure entirely below ground level. Two of its features were especially striking: it was saturated with natural light, and if offered new and spectacular
views of the above-ground York & Sawyer masterpiece. Not everyone was pleased—one faculty member quit the planning committee and vowed never to enter the structure—but over time the addition, named for former Dean Allan Smith and his wife, Alene, became a cherished campus landmark. It was built almost entirely with private funding. This is a testament to the generosity of the Law School’s alumni, including Calvin Souther (1929), of Portland, Oregon, and of the Kresge Foundation, the Herbert H. and Grace A. Dow Foundation, and the Claude Worthington Benedum Foundation.
Before the 1970s and '80s, a stranger blundering into a meeting of the Law School faculty or, indeed, of the student body, might easily have mistaken the gathering for a men's club—an overwhelmingly white one, at that. By the year 1990 no one could make such a mistake. Significant efforts to recruit African-American students began in the mid-1960s and accelerated in the 1970s. Starting with the hiring in 1970 of Harry T. Edwards (1965)—a labor law expert who later became judge, then chief judge, of the U.S. Court of Appeals for the District of Columbia Circuit—African-American and Hispanic-American scholars joined the faculty in rising numbers. In 1976, the first women were hired for the tenure track—Christina B. Whitman (1974), a scholar whose interests included constitutional litigation, torts, and feminist jurisprudence, and Sallyanne Payton, an expert on administrative law, health law, and transportation. Both became integral members of the faculty. By 2000, in classrooms where women of earlier days had felt engulfed in a male ocean, women were approaching full gender equity both on the teaching rostrums and in the students' seats. The influence of women has been seen nowhere more clearly.
than in the scholarship of Catharine A. MacKinnon, a legal theorist who joined the faculty in 1990. MacKinnon’s earlier writings made a profound impact on debates over sexual harassment and pornography; her more recent work has had similar effects on gender issues in the sphere of international law and war crimes.

The Law School’s belief in the value of racial diversity was put to an extraordinary test in Grutter v. Bollinger, a lawsuit in which Barbara Grutter, a white applicant denied admission in 1996, sued the University (of which Lee C. Bollinger Jr., former dean of law, had become president), alleging discrimination on the basis of race. The University lost in federal district court, then won on appeal in the Sixth Circuit—a ruling upheld in 2003 by the U.S. Supreme Court, which, in a landmark affirmative-action decision, declared the Law School had acted legally in seeking a “critical mass” of students from racial minorities. The Law School, Justice Sandra Day O’Connor wrote for the majority, had demonstrated “a compelling interest in obtaining the educational benefits that flow from a diverse student body.”

The audience watches a session of the Henry M. Campbell Moot Court Competition.
The advent of racial and gender diversity was matched by rich intellectual diversity. Not only were burgeoning new fields of practice being studied and taught, from intellectual property in cyberspace to international terrorism, but there were also remarkable explorations of the multi-layered fabric of law and society—the broadening of intellectual interests that Deans Smith and Allen had foreseen. A small sample of course titles reveals the trend—Donald Regan’s “The One, the Many, and the Good,” Rebecca S. Eisenberg’s “Genetics and the Law,” James Boyd White’s “Meaning in Law and Literature,” Jessica D. Litman’s “The Law in Cyberspace,” Don Herzog’s “Conservatism and Democracy” and “Liberalism and Its Critics,” and Joseph Vining’s “Evil and the Problem of Punishment.”

Indeed, one scholar’s work alone demonstrates how much the faculty’s work has broadened since the day in 1859 when Professor Walker promised a school dedicated to the making of “practical lawyers.”

In 1984, William I. Miller, a visiting instructor from the University of Houston, gave a talk at the Law School on the lawless world of 10th-century Icelandic blood feuds. From his intensive study of the Icelandic saga literature, Miller brought that world vividly to life, and afterward, a respected veteran of the Michigan faculty admitted to Miller that the talk had been “interesting, even entertaining.” But “can you tell me,” the professor asked, “what in the world is the point of studying that? And why, in any event, should we have someone doing that in a law school?”

Miller, admittedly hoping for a job offer, responded guardedly at first, saying: “One could say that a law school might find it interesting to look at materials that show law operating at degree zero—law with no state, where you have to enforce your own judgments; moreover, bargaining problems get more interesting and people get smarter about them when they are negotiating for their lives—whether Egil, for instance, is going to bury an axe in your head—rather than over legislative redistricting or proxy control.”

Then Miller offered a more direct answer.

“I do it,” he said, “because I love the sagas.”

He got the job. Twenty-five years later, former students well into their careers tell him they may have forgotten much of what they studied about torts and contracts, but what they learned about human interactions in Miller’s blood-feuds class helps them in the office every day. Miller has gone on to write prolifically—and to teach—on such topics as courage, disgust, and hatred. His classes are perennially oversubscribed.
Global Leadership in Law

The University of Michigan’s connections beyond American shores began in the 19th century, when U-M President James B. Angell served as U.S. minister to China (1880-81) and to Turkey (1897-98). Those associations, among others, helped to nurture a Law School tradition of strong attention to transnational and comparative law.

Even before Angell went to Asia, two Japanese students attained their degrees in law in Ann Arbor, and many more foreign students soon followed. One of these was Wu Ching-hsiung (John Wu), a Chinese graduate of the Comparative Law School of China in Shanghai who came to the Law School for further study in 1918. At the age of only 21, Wu published an article in the Michigan Law Review entitled “Readings from Ancient Chinese Codes and Other Sources of Chinese Law and Legal Ideas.” This led to a long and friendly correspondence between Wu and Justice Oliver Wendell Holmes, Wu’s senior by some 60 years. In 1930 Wu returned to China, where he became a prominent lawyer and judge.

Under Dean Henry M. Bates the law faculty—particularly Hessel E. Yntema and William W. Bishop Jr.—made Michigan known around the world for the study of international and comparative law. These interests have broadened and deepened in the decades since.

In 2001, recognizing the growing importance of global economic and political relations, Michigan became the first major U.S. law school to require all students to take at least one course in transnational law. New clinics have been developed to train students to conduct international transactions and to help foreign nationals with U.S. tax matters. And new externships enabled students to gain legal experience in South Africa and Switzerland.

By the time of the sesquicentennial, many members of the faculty had taught in Japan through an exchange program with the University of Tokyo, and many students took courses in the Japanese Legal Studies Program, which allowed many to study at the Waseda University Law School.

"Knowing U.S. law no longer is enough, and studying U.S. law in isolation is not the best way to learn U.S. law," remarked Mark D. West, Nippon Life Professor of Law and director of the Japanese Legal Studies Program. "Whether teacher or practitioner, you’ve got to have a sense of how U.S. law interacts with other countries’ legal systems. How would you expect to serve process in Belgium? What might a Chinese client’s expectations of legal professionals be? … It’s not so important that students understand every nuance of every question in every country, but anticipating these kinds of questions will make them much more effective as lawyers."
GROWTH AND DIVERSITY, of course, have brought storm and stress, as in any institution in which minds are fully awake and democratic discourse reigns. During the late 1960s and early 1970s, in particular, the Law School saw passionate arguments over profound issues of social justice and war. Yet in the following years there was a remarkable flowering of collaborative ventures among faculty and students alike. It is said again and again that a long collegial tradition still prevails in the Michigan Law School—a place of which professors at other elite law schools have been known to say: “Michigan—that’s the place where people actually like each other.” David Chambers, who retired from a distinguished career in 2008, remarked not long ago: “My principal sense of this institution all the years I’ve been here...is that there’s very little territoriality among the faculty. People come, are encouraged to teach what they want to, encouraged to have passions and create new ideas and projects, and everybody else is just happy that there’s a lot going on.”

Under Evan Caminker, appointed dean in 2003, the Law School strengthened its interdisciplinary scholarship and teaching, enhanced its clinical programs, and augmented its commitment to the study of transnational law and of legal systems around the world. At the time of its sesquicentennial celebration in 2009, Michigan Law entered the next stage of its physical growth—an ambitious plan, made possible principally by generous alumni, to revitalize the School’s physical plant and to build a new Student Commons and Academic Building on the south side of Monroe Street. But the new building, like William Cook’s Law Quadrangle, will be merely a workplace. It is the work itself—the work of many minds—that counts.

At a Bar Association gathering in 2005, John W. Reed, the Thomas M. Cooley Professor of Law Emeritus, recalled Justice Holmes’ retort to a train conductor: “Young man, the question is not ‘Where is my ticket?’ The question is ‘Where am I going?’”

“The question we neglect is one of destination,” Reed said. “Unless we keep posing that question, all of our reforms and changes will be nothing but an improved means to an unimproved end.”

“Do not commit the error, common among the young, of assuming that if you cannot save the whole of mankind, you have failed. All that is required is constant inquiry and creativity and unselfishness in addressing the challenges that bear upon us.”
Michigan Law is meeting the needs of 21st-century legal education by extending and enhancing the School's campus with a new Student Commons and Academic Building, above, designed by Hartman-Cox Architects of Washington, D.C.
FROM THE WILL OF
WILLIAM W. COOK

Notes

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