

## FOREWORD

### A FOUNDER'S RETROSPECTIVE: THE *JOURNAL* AT 30 YEARS

As the *Harvard Journal of Law & Public Policy* celebrates its 30th anniversary, a brief reflection upon the *Journal's* history and achievements seems appropriate.

The environment at Harvard and most law schools in the mid-1970s was very different than it is today. Not surprisingly, liberal philosophical viewpoints dominated the HLS community at that time. Unlike today, however, there were virtually no sources of alternative argumentation. Few law professors or students were acknowledged moderates and even fewer would admit to conservative inclinations. Consequently, conservative legal thinkers had virtually no receptive legal periodicals in which to publish. At the time, Harvard offered its students the chance to work on a variety of law journals, each advancing one or another form of liberal legal analysis.

Against this backdrop, a small group of conservative Harvard students began meeting during the 1976-77 academic year to try to address the absence of diversity in the Law School's legal publications. The students were dismayed by the lack of balance in the general legal discussion on campus and frustrated that conservative students seeking to gain legal writing experience could only pursue their interests by helping to edit and publish liberal opinions.

Talk led to action and the group ultimately decided to seek Law School funds to launch a journal aimed at presenting conservative and libertarian views on legal and public policy matters. Predictably, others did not share the organizers' zeal. They were told by then-Dean Albert Sachs that Harvard funds would not be made available for the publication of a law journal that openly advocated a particular philosophical viewpoint.

Asked to explain Harvard's support for the Law School's liberal law reviews, the students were informed that those publications were facially neutral and distinguished by subject matter, not philosophy. The fact that very liberal senior editors—

who had long dominated such journals—selected only like-minded younger staffers for leadership positions, and published only ideologically-acceptable articles, was treated as sufficient grounds to separate Harvard from responsibility for the unbroken liberal slant to those periodicals.

In response, a fellow student, Steven Eberhard, and I decided to move ahead without Harvard's financial support and establish an independent publication. By the following school year we had found a benefactor willing to help us publish an initial volume and our group—newly constituted and numbering about ten—met again with the Dean.

The reaction was chilly. We were told that, of course, we could publish our own journal, but that we would not be allowed to use the Harvard name in its title because our content might in some way embarrass the institution. In response, we made a compelling argument that Harvard's failure to challenge the use of its name in conjunction with numerous other independently-funded, quasi-scholarly efforts (as well as pizza parlors, liquor stores, and other such entities), largely undermined their current position. Ultimately, we carried the day.

In the spring of 1978 the first volume of the *Harvard Journal of Law & Public Policy* was published. Our masthead consisted of a handful of HLS students and an advisor who had no connection to the University, because at the time we could not persuade any members of the faculty to openly associate their names with our venture. That first volume contained some 200 pages of mostly public policy content written by individuals largely more famous in political and policy circles than legal ones. Nonetheless, several hundred law libraries bought subscriptions and we were launched.

Financing our first few years' efforts was an ongoing challenge, so I remained in place as Publisher and chief fundraiser for the *Journal* after I graduated in 1979. All editorial decisions, though, remained in student hands and were executed effectively. Slowly our subscriber base grew and various conservative-oriented foundations aided our annual publishing efforts.

Happily, the presidency of Ronald Reagan and the emergence of conservative campus newspapers across the country began to change the environment at Harvard and other law schools. In the early 1980s we found more volunteers for *Journal* editorial posts, more outstanding conservative legal writ-

ing, and a greater receptivity within the faculty and the Law School more broadly. Meanwhile, things were changing at other law school campuses as well. In the spring of 1982, I received a call from Lee Liberman, a law student at the University of Chicago, who informed me that she and several friends at other law schools had launched campus groups aimed at providing opportunities for students to hear conservative and libertarian viewpoints on the law. Lee asked whether the *Journal* would be willing to publish the proceedings of a national symposium that the groups were planning for the upcoming fall. We subsequently published the proceedings of the first student convention of what would become the Federalist Society.

From its formation, the Federalist Society became the *Journal's* closest ally and source of support. Ultimately, a *Journal* subscription became one of the benefits of Federalist Society membership, helping make the *Journal* the second most widely distributed law review in America. As a result, our financing challenges were permanently surmounted and both organizations have thrived. Eugene Meyer and the Federalist Society deserve the utmost thanks for this support.

Today, more than 140 students at Harvard Law School work on the *Journal*, nearly 10 percent of the student body. It is a regularly-cited, authoritative source on the law, and its former editors have played significant roles in the federal and state judiciary, in the Bar, and in the public policy and government arenas. I know that everyone who was involved in the inception of the *Journal* shares the pride I have in what has transpired over the past three decades. The determined group of organizers wanted to make a difference and, viewed from today's perspective, it is clear that they succeeded.

In closing, I wish to express special thanks to some of the individuals whose commitment and dedication were most responsible for the *Journal's* launch. First, thanks to the individuals who participated in our initial organizational meetings and sessions with the Harvard administration, as well as the members of our first masthead. Thanks also to the various individuals and foundations that helped us finance the first *Journal* volumes including, especially, the late John McGoff, whose support helped us publish Volume One. I also wish to thank Clifford Taylor, now Chief Justice of the Michigan Supreme Court, who was our first advisor and played a key part in our early fundraising efforts.

Most importantly, I wish to pay tribute to the late Steven Eberhard who served as Co-Founder and as the Editor-in-Chief of our first two volumes. Steve was an exceptional person. He possessed a keen intellect and an unsurpassed capacity to carry out the most difficult academic and professional challenges. He was a great friend and a great American whose untimely death denied the conservative community and his country the services of an individual who would surely have been one of our great leaders today.

Finally, I wish to express to this year's *Journal* staff my thanks and congratulations for another outstanding effort. Like your predecessors, you have helped strengthen an enterprise which has effectively achieved its twin goals of providing law students the chance to develop editorial and analytical skills in a philosophically hospitable environment and offering conservative legal thinkers an opportunity to contribute to the scholarly debate. It will now fall to those who follow to continue the *Journal's* tradition of academic excellence and philosophical consistency. If the past thirty years are an indication, it seems certain that the best is yet to be.

*Spencer Abraham*  
*Co-Founder*