

PREFACE TO THE CONCLUSION OF THE 50TH VOLUME Seasoned Experimentation

Launched in 1964, the Harvard Journal on Legislation built on an already vibrant student practice providing research and drafting to support state and federal legislative initiatives in the United States. Dean Erwin Griswold commended this work and supported the creation of the Journal to offer the work in a form more permanent than mimeographed copies and to create a forum offering resources to all concerned with legislative drafting and legislative thought in any area.¹ In the intervening fifty years, the Harvard Journal on Legislation has ably achieved these goals and more.

The students who created and produced the Journal offered a prod to legal education itself. Long focused on courts, law schools have only gradually devoted substantial class-time and research attention to legislation. Contracts, torts, and property still occupy first-year students but now they include consumer protection statutes, product liability and damage cap laws, public accommodations and intellectual property regulations, and more. In 2006, Harvard Law School established Legislation and Regulation as a required first-year course, forty-two years after the start of this Journal, and new generations of students wonder how did law school operate without this crucial and foundational field.

Animated from the start by a spirit of reform, the Journal has attracted student leaders who do it not only to edit valuable articles, but who also work to set the agenda for specific legislative action and for reform and improvement of law-making generally. By organizing symposia and soliciting contributions from leading scholars, sitting legislators, and other experts, the Journal has jump-started the hard work of devising detailed solutions to tough problems—and building the intellectual and bi-partisan collaborations crucial to real and effective reforms.

The 2013 Symposium is a fine example. The editors successfully engaged students and faculty across political and methodological camps; the symposium's co-sponsors included The Federalist Society, The American Constitutional Society, the HLS Democrats, and the Harvard Civil Rights-Civil Liberties Law Review. The topic, Class in America, focused attention on the issues of electoral mechanics and process—voter registration and ID requirements, and the role of Super PACs in the electoral system—as well as the role of the tax system in the nation's socioeconomic structure and self-understandings.

¹ Erwin N. Griswold, *Preface*, 1 HARV. J. ON LEGIS. 3, 4 (1964).

From its start, the Journal has elicited important contributions from legislators and offered a highly visible platform for introducing, advancing, and critiquing legislative initiatives. Over time, the Journal's focus has rightly turned to study Congress, state legislatures, and the legislative process, often viewed as more dysfunctional now than in the past. In the years ahead, the Journal will offer a valuable setting for exploration of experiments to improve the legislative process as well as to devise particular pieces of legislation. The possibility of drafting uniform acts and state compacts has long offered a dynamic alternative to stalled federal efforts. Similar initiatives can play a powerful role across national jurisdictions. The craft of legislative drafting also offers promise for governance beyond public institutions, as nongovernmental organizations, networks of central bankers, and consortia of Internet actors devise solutions to local and global problems and seem to govern their own worlds of communication and exchange.

This is an inflection moment in human history and it holds great challenges but also great promise. In the United States, public decisions about money in politics, divestment in courts and other public infrastructures, electoral districting, and political party governance raise severe questions about the effectiveness and governance of legislative processes. Globally, the accelerating degradation of our environment makes climate change and access to uncontaminated water urgent subjects; for these reasons and also due to economic and political dislocations, migrations of people and resulting clashes over citizenship and political membership will put pressure on wealthier nations. At the same time, the digital revolution reduces the significance of place for communication, education, and distribution of anything that can be digitized. Hence, tremendous opportunities are emerging to equalize access to knowledge and to distribute productive and creative work, pushing competition onto a flatter world. Art, news, and knowledge can be easily shared but new regimes governing ownership, control, and earnings await development as the old intellectual property laws and business models shatter. The laws and politics of war will be upended by these new technologies. New targets are electrical grids, city traffic, and other civilian settings as new weapons emerge in computer viruses, remote-controlled circuits, and micro-robots. Bio-technology and genetic research hold unprecedented possibilities for the health of humans, production of food, and the development of a built environment powered by circuits and mechanisms previously known only in nature. What will this mean for privacy, ethical practice, and access, and who will be responsible for unanticipated side-effects? These developments hint at opportunities and dangers ahead. Wanted: leaders with peripheral vision, courage, and humility!

Anyone who predicts the future steps out on a bridge before it is anchored, but nonetheless I offer these predictions, and also echo Dean Griswold when he forecast success for the Harvard Journal of Legislation as "a

constructive and helpful influence in the development of the law.”² I predict that this Journal and the students who direct it will nurture this valuable forum and support the next generations pursuing solutions to our shared problems.

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² *Id.* at 4.