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## Foreword: The New York Law School Centennial Conference in Honor of Justice John Marshall Harlan

James F. Simon  
*New York Law School*

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FOREWORD: THE NEW YORK LAW SCHOOL  
CENTENNIAL CONFERENCE IN HONOR OF  
JUSTICE JOHN MARSHALL HARLAN

JAMES F. SIMON\*

In the first decade of New York Law School's one-hundred-year existence, a future President of the United States, Woodrow Wilson, taught constitutional law, and a future Chief Justice of the United States, Charles Evans Hughes, taught bankruptcy. Among its graduates the school has counted a Secretary of State, Bainbridge Colby, a distinguished United States Senator, Robert F. Wagner, and a Pulitzer Prize-winning poet, Wallace Stevens. But no faculty member or graduate has honored the school more by his accomplishments than Associate Justice John Marshall Harlan of the Supreme Court of the United States, class of 1924. And it is Justice Harlan we have chosen to pay tribute to in this centennial issue of the *New York Law School Law Review*.

Law and public service had for generations been the most outstanding characteristics of the Harlan family. Justice John Marshall Harlan was named for his grandfather, an eminent member of the United States Supreme Court for thirty-four years, who had himself been named for a non-relation, John Marshall, the great Chief Justice of the United States. John Marshall Harlan was born in Chicago, where his father served as the reform-minded mayor of the city. Harlan graduated from Princeton and later from Oxford, as a Rhodes Scholar. Upon his return to the United States from Oxford, Harlan joined one of Wall Street's most prominent law firms, Root, Clark, Buckner & Howland, which boasted such legal luminaries as Emory Buckner and, later, Thomas E. Dewey. While at the law firm, he attended New York Law School, graduating in the class of 1924.

With only a brief stint as assistant to Buckner when he was U.S. Attorney in New York, Harlan made his living and formidable reputation as a trial lawyer. In the courtroom he left no relevant argument untouched, no judicial precedent unstudied. As with most great trial lawyers, Harlan owed his success to two rather unspectacular traits: thorough preparation and impeccable organization of his case.

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\* Dean and Professor of Law, New York Law School. The information in this foreword is drawn from JAMES F. SIMON, *IN HIS OWN IMAGE: THE SUPREME COURT IN RICHARD NIXON'S AMERICA* 163-66 (1973); JOHN V. THORNTON, *NEW YORK LAW SCHOOL: A HERITAGE* (1978); James F. Simon, *John Marshall Harlan*, in 11 *COLLIER'S ENCYCLOPEDIA* 654 (1988).

At the beginning of World War II, Harlan turned his great energy and intellect to the allied military effort, heading the section of the Eighth Army that had active responsibility for bombing operations in Europe. Time and again Harlan observed bombing operations first hand and often made recommendations for bombing method changes that were soon implemented. He returned from the war with the rank of Colonel and was the recipient of the Legion of Merit from the United States government and the Croix de Guerre from the French.

After the war, Harlan devoted most of his time to the practice of law with his old firm, but took eight months off in 1951 to serve as Chief Counsel for Governor Dewey's New York State Crime Commission. Three years later, President Eisenhower appointed Harlan to the United States Court of Appeals for the Second Circuit. Less than a year after the appointment to the appellate court, the President elevated Harlan to the Supreme Court.

After his confirmation to the Court, Harlan immediately transferred the spartan work habits of his private practice to the Court's business. He labored for prodigiously long periods and, though a naturally amiable man, tolerated no diversions from his staff. That did not mean, however, that he was inaccessible. Harlan encouraged his clerks to argue over the fine points of a case and, in fact, this give-and-take made a Harlan clerkship one of the most coveted among all of the Justices. Harlan's attention to all of the cases, even the "peeweeps," as he called the less significant ones, was well known to his colleagues. At the regular Friday conference of the Court, Harlan always entered with carefully prepared positions on each case. But though his thoughts had been meticulously organized beforehand, Harlan was always open-minded to the better argument of a colleague.

Harlan was so impartial in his approach to the facts of each case, it was said, that neither shrewd defense attorney nor prosecutor would, given the choice, single out Harlan to decide the case. But if defense and prosecution *together* had to choose, Harlan would be their choice.

And he is the ideal choice as the subject for the centennial issue of the *Law Review*. It is remarkable, given Justice Harlan's accomplishments, that so little study has been devoted to his life and work. The distinguished jurists and scholars who have contributed to this issue impressively correct that oversight. They offer an extraordinary series of studies of John Marshall Harlan, the man and the judge.