In mid-March, 1971, Gloria Steinem delivered the guest speech, entitled “Why Harvard Law School Needs Women More Than Women Need It,” at the annual banquet of the Harvard Law Review. As best can be reconstructed from the somewhat incomplete records currently on hand at the Review, she was the first female ever to address the Review editors and their guests at this highfalutin affair. A biography of Steinem devotes several pages to this speech, but biographer Carolyn Heilbrun admits to a gap in her knowledge. “Exactly why the school asked Steinem is mysterious,” writes Heilbrun.

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1 Gloria Steinem, “Why Harvard Law School Needs Women More Than Women Need It” at 1 (hereafter cited as Steinem speech). I obtained a copy of this speech from the archivist at the Sophia Smith Collection at the Smith College Library. Steinem is a graduate of Smith.

2 The Review’s records show Banquets at least as far back as 1937, when Judge Learned Hand was the guest speaker and then-Professor Felix Frankfurter was the faculty Toastmaster. The records list “Lady Barbara Ward Jackson, Author, Former Foreign Editor of the Economist” as a guest in 1962, but then-Solicitor General Archibald Cox is also listed for that year, and it is not clear if Lady Jackson gave any remarks. The Review’s records contain gaps, especially for earlier years, but the only other woman listed as a guest speaker in all of the Review’s history is Linda Greenhouse, the Supreme Court reporter for the New York Times, who spoke in 1993. A Steinem biography claims that she was the first female and the first non-lawyer to address the Review. Carolyn G. Heilbrun, The Education of a Woman: The Life of Gloria Steinem 209 (Dial Press 1995). Heilbrun, a leading feminist in the English Department at Columbia University until her retirement several years ago, is also the author (under the name Amanda Cross) of the Kate Fansler mystery novels. Anne Matthews, Rage in a Tenured Position, The New York Times, sec. 6, p. 47, Nov. 8, 1992.

3 Heilbrun, note 2 supra, at 209-212.
Perhaps," she continues, "they considered only her fame, her attractiveness, and her reputation for a certain 'feminine' mildness."4

Heilbrun's speculation is rather off the mark; by her imagined criteria, the Review might just as well have invited Julie Andrews. I am able to shed some light on the mystery of the invitation to Gloria Steinem. I was a third-year student at Harvard Law School in 1970-71, and a member of the Board of Editors of the Review. As all members of the Review know, the "school" does not invite speakers to the Review's banquet; the Review's outgoing President does, after consultation of various sorts with the Review's members. What follows is the story of how Gloria Steinem came to be invited, and an account of her speech and its reception at the Review banquet. Unsurprisingly, the episode contains many elements, including a wife's profound alienation from the principles and methods reflected in her spouse's legal education, an unusually high degree of law review editor irreverence, the careful judgment of the Review's then-President, and the consciousness-raising potential of that moment in American history. Indeed, having now arrived at a time in which drinking on campus seems to be one of the few issues that will draw a crowd of student protesters,5 I more fully appreciate the role that students played in a social and cultural transformation that not very long ago was deeply resisted by major American institutions.

4 Id. at 209.


6 The one African-American in the picture, Charles Jones, was a Teaching Fellow and not a member of the tenure-track faculty. It is easy to see how such a faculty could continuously and unselfconsciously replicate its race and gender composition. See Martha Nussbaum, Cooking For A Job, 1 Green Bag 2d 253 (1998).

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preoccupation of (male) students in those years; most of us knew more about Selective Service law than we did about the law of trusts and estates. Aside from self-righteousness, the most common malady of the time was identified by Duncan Kennedy as “Hip Law Student Neurosis,”8 a condition characterized by deep ambivalence toward conventional law practice and a willingness to demonize as careerists and hypocrites those willing to engage in it.

The Hip Law Student’s conflict between political authenticity and career aspiration crystallized in the Harvard law student response to the public disclosure in May of 1970 of the American bombing of Cambodia, and to the killing of four students by National Guardsmen on the campus of Kent State University shortly thereafter. These events led to disruptive protests at Harvard and a decision by the law school administration, backed by faculty vote, that law students could take their Spring 1970 examinations either during the regular examination period, or (on a self-administered honor system) at any time thereafter up until the start of classes in the fall. This arrangement was designed to liberate students in the spring to go to Washington, D.C. or elsewhere to do political organizing. Although an unknown number of students indeed involved themselves immediately in anti-war work, I (and, I suspect, most of my classmates) found this to be an astonishingly convenient way of creating one’s own optimum exam schedule; Corporations and Constitutional Law in May, Administrative Law in mid-summer, and Federal Income Taxation on Labor Day struck me as ideal.

The 31 members of the Board of Editors of Volume 84 of the Harvard Law Review contained the usual collection of extraordinary legal talent. Seven of them went on to clerk for the U.S. Supreme Court. The class produced a Deputy Solicitor General, the current Assistant Attorney General for Antitrust, several eminent legal scholars, and the usual hordes of big law firm partners.

Sometime in the autumn of 1970, Review President Allen Snyder (now a distinguished lawyer and a partner at Hogan & Hartson in D.C.) put a notice on the Law Review bulletin board at Gannett House, where the Review’s editorial offices are located. The notice reminded the editors that the annual banquet would be held in March of 1971, and sought suggestions for the banquet’s guest speaker. As I recall, the notice gave the flavor of the sort of person we might consider by listing the names of those who had spoken for the preceding several years. That group included Justice Hugo Black, Nixon Administration Cabinet Member Elliot Richardson, Solicitor General Archibald Cox, U.S. District Court Judge Charles Wyzanski, Yale Law Dean Louis Pollack, Boston Mayor Kevin White,9 Richard Goodwin, and – a sign of a changing student milieu – radical lawyer and anti-war activist William Kunstler, who spoke at the Banquet in 1969.

The editors’ suggestions for the 1971 Banquet contained a number of the usual Law Review Banquet suspects, and a larger number of unusual ones. I recall Justice Brennan’s name being on the list, which was posted next

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9 In Anthony Lukas’s book Common Ground, which focuses on the experience of three families in the Boston school desegregation crisis, the author notes that White’s speech influenced then-Review member Colin Diver (now Dean at Penn Law School) to withdraw from an associate’s position at Wilmer, Cutler & Pickering in Washington, D.C. and go to work instead for the White administration. Colin and I were colleagues at Boston University Law School some years back, and he confirmed this account in conversations with me at the time Common Ground was published.
to the original call for suggestions on the Gannett House bulletin board, and Judge Henry Friendly’s as well. Review editors had a practice of putting check marks next to list names that they supported; neither Brennan nor Friendly attracted much attention. I also recall some other names on the list, including Vice President Spiro Agnew, FBI Director J. Edgar Hoover, conservative intellectual William F. Buckley, rock star Country Joe (of Country Joe and the Fish), and Black Panther leader Huey Newton. Agnew and Hoover, viewed by most editors as Enemies of the People, were clearly intended as jokes and attracted little support. The rumor mill had it that the Review’s maven of counter-culture, Articles Editor Philip Bakes, had put Country Joe and Huey Newton on the list, and had personally provided each of them with a number of check marks.

My then-wife, Jana Sax, was no fan of the Harvard Law School or the Harvard Law Review. One of her first exposures to the School had been at a meeting of the wives of entering law students in the fall of 1968, at which Professor Abram Chayes had urged the assembled women to suffer in silence as their husbands disappeared into their studies; the riches accruing to the spouses of law firm partners would be their ultimate reward. Jana was understandably jealous of the time I invested in legal studies in general and the Review in particular. She was uninterested in law, hostile to what she saw as the dehumanizing style of legal analysis and legal education, and quite in the thrall of the emerging feminist movement. She had chosen not to attend the Review Banquet in 1970 (when I was a 2L, and former Kennedy aide Richard Goodwin had been the guest speaker), and I had accordingly skipped it as well. When I told her in the fall of 1970 that I wanted to attend the 1971 Banquet, she asked me who the guest speaker would be. When I explained that the Editors made recommendations to the Review’s President, she asked me to propose Gloria Steinem as a guest speaker.

Steinem was then a rising and quite prominent star in a feminist movement that was attracting substantial attention throughout the popular culture. I myself was attracted to her message, which promised women equal professional opportunity and held out to men the possibility of liberation from the John Wayne stereotype of silent masculine strength. My marriage was forever thick with disagreement, but on this there was none; I happily added Steinem’s name to the list on the Gannett House bulletin board.

My recollection is that Country Joe attracted the most check marks from student editors, followed closely by Huey Newton and Gloria Steinem (in that order). Allen Snyder, with whom I recently spoke, does not recall any clear priority or ranking among the names. Moreover, he was appropriately suspicious of support padding in the cases of Country Joe and Huey Newton. In any event, feeling responsible to the Review’s members and its traditions, as well as to the faculty,
other guests, and Review alumni who would show up at the Banquet, Allen treated the list as advisory only. Allen, whose politics then struck me as traditional left-liberal Democrat, made the calculation that Gloria Steinem was the best choice—a voice calling for fundamental institutional change in the name of gender justice, yet not one associated with more radical, angry, anti-male elements of the feminist movement. He called and invited her, and after some hesitation, she accepted.

Those of us on the Review paid little attention to the upcoming Banquet and its invited guest speaker until early March, 1971. Then rumors began to circulate that Brenda Feigen Fasteau, a 1969 graduate of the law school and a political ally of Steinem’s in New York, was escorting Steinem to meetings in Cambridge with current female Harvard law students. Excitement and unease began to fill the air as word spread that Steinem was planning to give a Banquet speech, not about the feminist agenda in general, but rather about the treatment of women at the Harvard Law School in particular.

For reasons that remain obscure, the 1971 Banquet of the Harvard Law Review was held at Boston’s Sheraton-Plaza Hotel, rather than at its usual site, the Harvard Club of Boston. The change of venue did little to alter the atmosphere; the hotel’s ballroom, where the Review’s banquet took place, was the stuffy, windowless, traditionally wallpapered, carpeted, and chandeliered chamber one would expect for an event of this character.

I believe the Banquet in 1971 drew upwards of 200 people. Unquestionably, the invitation to Steinem had added a touch of glamor and political attraction to what was usually an enervating evening. In addition to the members of the Review, guests included Gloria Steinem and her small entourage, the spouses and dates of editors, law faculty and a few of their wives (recall that the faculty was then all-male).

12 I’m told by current employees of the Review that Presidents still treat these lists in the same way—i.e., suggestions from which the President must make an executive decision. I have a recollection of hearing stories that Bakes had confronted Snyder over the choice of Steinem rather than Country Joe or Huey Newton, but Snyder says no such confrontation ever took place.

13 The Steinem biography claims that she initially turned down the invitation when Allen Snyder called to extend it. Heilbrun, note 2 supra, at 209. Allen has no recollection of this whatsoever, and it’s the sort of thing one would remember; had she turned him down, he would have immediately called someone else. Perhaps Steinem intended to so decline, and was persuaded (as suggested in the biography) by friends and political associates instead to accept. Id. at 209-10 (suggesting that Brenda Feigen, a Steinem associate and recent Harvard Law graduate, as well as other unnamed “women law students” from Harvard, persuaded Steinem to accept). Indeed, the text of the speech refers in its opening paragraphs to the author’s state of mind in contemplating the invitation: “... I was so sure that there must be some whimsy or error or irrelevancy behind my invitation, that I was about to refuse.” The text goes on to recite Steinem’s reasons for accepting: “First, I learned that other guest speakers proposed for this year included William Buckley, J. Edgar Hoover, and Vice President Agnew; not a group likely to make anyone, even a woman, feel humble. Second, I was persuaded by a recent Harvard Law School graduate, Brenda Feigen Fasteau ...” Steinem Speech at 2.

14 In 1970-71, Feigen Fasteau was the legislative vice-president of the National Organization for Women. Steinem Speech at 2. According to a 1997 issue of the Harvard Law Bulletin, Brenda has dropped the Fasteau from her name and is currently a Hollywood talent agent.

15 The text of the Steinem speech suggests that the move had something to do with a conscious decision by the University authorities to evict this particular event because of what Steinem asserted to be a Club policy of not permitting women to enter through the Club’s main entrance on Commonwealth Avenue. Steinem Speech at 1.
authors of articles published in that Volume, and some Review alumni. The last group was the only one that had to pay to attend, and so was probably rather small.

The banquet itself was preceded by a cocktail hour in a room off the hotel ballroom. The dress code for the event was optional black tie, and a good number of editors, faculty, and spouses of both dressed formally. Despite what one in retrospect might expect from students in that period, no one showed up in hippie garb, or otherwise dressed casually or provocatively. I do not recall seeing Steinem and her friends from the feminist movement at this mingling, pre-dinner session.

At 7:30 or 8:00, the crowd was ushered into the Ballroom and took seats at the various tables. Other than the head table, seating was unassigned, although faculty members had been asked to spread out among the tables. In keeping with the longstanding tradition of the Review, the evening’s toastmaster was a member of the faculty; on this particular evening, to the ultimate misfortune of the faculty, the appointed master was Professor Vern Countryman.

Once virtually all were seated, Steinem and her entourage made their own entrance. And glorious Steinem was – intelligent-looking and simultaneously statuesque, smashing and demure in a long, high-necked, close-fitting brown velvet gown. It was obvious that this outfit had been chosen to maximize her attractiveness without cheapening it in any respect. Her friends Brenda Feigen Fasteau, and Marc Fasteau (also from the Harvard Law School class of 1969), seemed the embodiment of radical chic – youthful, hip, good-looking, formally and beautifully dressed, smug in their foreknowledge of the speech and the apprehensions surrounding it, preening in their apparent connection to the person upon whom all eyes were trained.

Dinner passed in edgy anticipation of the Steinem attack on the ethos and practices of the Harvard Law School. When dessert and coffee arrived at the tables, the evening’s festivities began. After the usual sneering references to Justice Bradley’s infamous

16 See Tom Wolfe, Radical Chic and Mau-Mauing the Flak Catchers 56-72 (Farrar, Straus and Giroux 1970) (describing an appearance by Black Panther leaders at an elegant Manhattan party hosted by conductor-composer Leonard Bernstein). Well before Bonfire of the Vanities, Wolfe had shown himself to be an essayist with an unusually perceptive eye concerning the New York glitterati and their political affiliations.

17 Professor Louis Jaffe, an elderly and distinguished scholar of administrative law, was the faculty member seated at my table. I believe it reflects accurately on Jaffe’s attitudes about women and law that he wrote, in an essay introducing the 1969 Harvard Law School Yearbook, that “[t]he above-described new opportunities for relevant law and relevant lawyering would signify little if there were not young men who seek them.” Louis L. Jaffe, The Relevance of Law and Legal Education: 1969 Harvard Law School Yearbook 5, 7. I was astonished to hear myself ask him over dinner why there were no women on the faculty of the Harvard Law School. This was exactly the sort of useless and banal challenge that members of my student cohort were forever hurling at authority figures, and I prided myself on being too mature and worldly-wise to get into this sort of food fight. Perhaps some combination of wine, the heady political moment drawing near, an urge to impress my wife, and the aftereffects of the Steinem entourage strolling by and smiling down from the dais overcame me.

In any event, Jaffe surprised me by giving a response lamer than the question. The gist of it was that the School did not have a policy of excluding women from the faculty, but it did have high standards to maintain and it was of course looking for women who met these standards. It was a sign of my then-characteristic timidity, and of the deference paid by students to faculty members, that I and others at the table accepted this answer as complete and satisfactory.
concurring opinion in *Bradwell v. Illinois*, Jonathan Marks, the newly elected President of Volume 85, introduced Gloria Steinem. Her delivery was rhetorically unimpressive; she seemed nervous, and spoke quietly and without sharp affect or physical punctuation. She read from a prepared text for most of the speech. The copy I obtained runs for 16 double-spaced pages, and the address probably lasted 20-25 minutes. What we were all waiting for was the attack on particular, named professors at the school; that part of the speech came very close to the end, and Steinem ultimately chose to pull her punches a bit.

Early in the speech Steinem revealed an historical awareness of the moment:

> It does seem odd to be speaking before an august body such as this. It was not part of my life expectations – nor part of most women’s, whatever our age or training – to be asked for serious instruction by such a respected and powerful branch of the white male Establishment.

The speech then proceeded to its more general, humanist/feminist themes:

> Child-bearing shouldn’t mean child-rearing. Motherhood is not all-consuming, nor is fatherhood a sometime thing. In fact, there are tribes in which the fathers rear the children, and the famous mother instinct turns out to be largely cultural.

> The problem is achieving a compassionate balance, something this society has not done. It’s clear that most American children suffer from too much mother and too little father.

Women don’t want to imitate the male pattern of obsessive work ending up with a heart attack and an engraved wrist watch. We want to humanize the work pattern, to make new, egalitarian life styles.

Steinem then turned her attention to the experience of women at the Harvard Law School:

> With this humanist vision in mind, you can imagine how a female human being suffers at Harvard Law School. She spends much of her time feeling lonely – since the maids, and male classmates often regard her as a freak. She spends the rest of it feeling mad as hell.

Much more seriously, the catalog betrays no interest in her half of the human race. There’s a course on *Racism and American Law*, but none on sexism.

Women’s law problems are brought up, usually by women. But, to use examples as reported by women students, an eminent professor of administrative law said as late as last night that he didn’t know what the Equal Employment Opportunities Commission or the OFCC was. The same man replied to a request that at least one female full-time professor be hired, by answering that women faculty brought problems because of “sexual vibrations.” Another professor suggested in his Family Law class that it was all right for a public restaurant – Locke-Ober’s in this case – to keep women out; and an eminent securities law expert used descriptions of stupid widows and wives to explain sample cases of stock loss and the like. The nation’s leading constitutional lawyer ridiculed the case of *Goesart v. Cleary*, which concerns a barmaid’s right to work without her husband’s or father’s...
consent. He was also Sam Ervin’s star witness against the ERA.

Professors may joke about the “reasonable man” test, explaining that there is no such thing as a reasonable woman. They may describe rape as “a very small assault;” gape at bosoms and legs in the front row; encourage the hissing and booing from male students that often follows a female colleague’s classroom remarks on women’s rights; and use stupid-woman stories or sex jokes that humiliate women to illustrate some legal point. …

Sometimes, women are simply not called upon. Ladies Day has only recently discontinued. Or a professor questions women with obvious condescension, as if afraid the student might cry.23

Finally, Steinem returned to more general, feminist themes, and their powerful connection to the everyday life as lived by most people in the room:

We are not more moral, we are only less corrupted by power. But we haven’t been culturally trained to feel our identity depends on money, manipulative power, or a gun. For that reason, until the sex roles get depolarized, we will be valuable in leadership roles.

From now on, no man can call himself liberal or radical, or even a conservative advocate of fair play, if his work depends in any way on the unpaid or underpaid labor of women at home, or in the office. Politics doesn’t begin in Washington. Politics begins with those who are oppressed right here.24

At the end of the speech, with its forceful concluding reminder that the personal is political, the crowd applauded respectfully. Steinem’s biographer suggests that the women were wildly enthusiastic while the men were reserved.25 My recollection is a bit different. There was little wild enthusiasm; this was a formal banquet address, the hour was late, the contents of the speech well-expected, and the delivery competent but uncharismatic. Many of the men in the room, especially but not limited to the older ones, did seem uncomfortable. Steinem’s remarks had attacked not only the Harvard Law School as an institution, but the main organizing principles of gender relations as most men in the room had witnessed and lived them for much or all of their lives.

Discomfort with this overarching aspect of Steinem’s critique found expression in the person of Professor Vernon Countryman, a specialist in debtor-creditor relations and the evening’s Toastmaster. Countryman, originally from Montana and then in his mid-50s, had served as an officer in the Army Air Force during World War II. Although the early 1970s were not a time when military bearing helped win friends in the Ivy League, Countryman’s closely cropped hair and trim physique made him look like he could reanimate his commission.

Countryman rose after the Steinem speech; rather than simply thanking the speaker for her remarks, he replied to them. As described by Steinem’s biographer, “An eminent professor … red-faced and sputtering … tried to rebut the speech. To Feigen, he seemed in a state of hysteria, and the audience was embarrassed.”26 Though I cannot find anyone who can recall the particulars of Countryman’s remarks, no one has yet disputed the biographer’s characterization. I remember being shocked that a Harvard Law Professor could publicly appear so incoherent and out of control. His remarks seemed designed to put Steinem in her place as a young woman untutored in

23 Id. at 11-12.
24 Id. at 15.
25 Heilbrun, note 2 supra, at 211.
26 Id. at 211-12.
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the facts and values of the Harvard Law School, rather than to rebut her comments in any rigorous way. The banquet ended with the quietly held yet widespread sense that Countryman had underlined Steinem's theme of male boorishness and disrespect for women in a way that her words alone could not do.

Since that speech was delivered, the Harvard Law School has changed. Two women have been elected president of the Review, a number of women have been appointed to the faculty, the percentage of women in the student body has grown appreciably, and the content of legal education there (as elsewhere) has been significantly reshaped by the twentieth century women's movement. I am not in a position to know whether the Steinem speech had any direct and immediate consequence for hiring or admissions at the School, but it may well have served as a catalyst for change and as a public legitimation of the egalitarian feminist message that Steinem carried. At Harvard Law School in 1970-71, the cast supporting that change included the disgruntled spouse of a law student, a celebrity feminist, disaffected recent graduates and then-current female students, an angry faculty Toastmaster, and a Law Review President determined to select a Banquet speaker who would intelligently and respectfully challenge her audience without assaulting it. On that night in March, Gloria Steinem got under the skin.