A Eureka! moment came for David Bogen in 1980, more than a decade after joining the UMLaw faculty. Although he enjoyed research and writing, the T. Carroll Brown Scholar says, “Almost everything I wrote was abstract, theoretical, doctrinal.” After attending a seminar on history and the law, Bogen started probing an article written on U.S. v. Schenck. A scholar who had studied a letter written by Oliver Wendell Holmes determined that the justice had a dramatic “change of heart and mind” in the summer between that case and a later dissent in Abrams, considered a rallying cry for free speech.
Professor Bogen went in search of the original document and discovered the scholar had misinterpreted Holmes’ letter. “Holmes hadn’t changed his mind,” he says. “I started out then on a complete career change—I wanted to find out about the history behind the law, how things fit into history, and I began prepare materials on constitutional law in that way.”

David S. Bogen, who retired last spring after thirty-six years on the School of Law faculty, was inspired by Holmes and Benjamin Cardozo to study the law, albeit indirectly. After earning his bachelor’s degree at Harvard, he spent a summer at UC Berkeley studying physics and calculus.

“I was walking up the hill toward the International House,” he remembers, “and I saw the quotes from Cardozo and Holmes” on the university’s Boalt Hall, which houses the law school. The quote from Cardozo begins: “You will study the wisdom of the past, for in a wilderness of conflicting counsels, a trail has there been blazed.”

“I thought about how law school really seems basic to our society,” Bogen says. He decided to go to Harvard Law not just to become a lawyer, but because “the law seemed like interesting stuff.”

After graduation, Bogen clerked for Judge Jacob Spiegel of the Supreme Judicial Court of Massachusetts. At NYU, where he earned his L.L.M., he was an Arthur Garfield Hays graduate fellow. He spent two years as an associate with Debevoise, Plimpton, Lyons & Gates in New York before joining the Maryland faculty in 1969.

Almost four decades later, the professor continues to pursue the “the wisdom of the past”—to the benefit of his law students and his own scholarship.

Consider his Law and Indigenous Peoples Seminar, which he developed a few years ago as a special topics course. On several faculty stints and later visits to Australia and New Zealand, he had become interested in labor law and free speech there. Then, during his year as visiting professor at the University of Denver, he worked on a moot court competition dealing in Indian law. Surprised to discover that U.S. constitutional law did not apply in that realm, he began to think more about what happens to an indigenous culture when a new, dominant culture comes along. He enriches students with this research from a “quite daunting” wealth of materials on the legal issues confronting U.S. Indian tribes, the First Nation in Canada, aborigines in Australia, and Maori in New Zealand.

“It’s hard to beat being able to study and learn whatever you want to do,” Professor Bogen says of his law school teaching. “Nobody tells you this is what you have to come up with, this is what you have to do, though, of course, you do have institutional responsibilities.”

As to his research: “What it really made me realize was that the work I had been doing that looks at race and law in Maryland had not been paying attention to the clash of cultures,” he says. Much of that work surrounded Brown v. Board of Education, which relates to Maryland v. Murray, regarding Donald Murray’s admission into UMLaw in 1936. Bogen had assumed Murray to be the law school’s first African-American student, but colleague Garrett Power surprised him by remarking, “You must be writing about Harry Cummings.”

Looking into Cummings, Professor Bogen discovered an extraordinary individual who attended the law school in 1888. But he dug further, discovering a man named Edward Draper, who, despite a law prohibiting blacks from becoming lawyers, was given a certificate in 1857 by a judge stating that he was competent to practice law in Maryland “were he white.”

“I know all this stuff happened hundreds of years ago,” he acknowledges. “But the benefit from hearing about the past is the recognition that today is going to change—it has roots toward change.”

This insatiable search for the “roots” of a decision led him to study the English treatises and the legal responsibility of innkeepers of ancient Rome to better understand Plessy v. Ferguson, ultimately confirming his instinct that “the Supreme Court in the Plessy decision lied.” (He hasn’t written that paper yet, but plans to present on the topic later this year at Villanova University, where he will be a visiting professor.)

Professor Bogen’s belief that no question has a simple answer has a predictable effect in the classroom. “Students know they will never get a straight answer out of me,” he says. He pushes those students to think on their feet. “The brunt of the [first-year Contracts] class is harassing students,” he says. In classes such as Legal Analysis and Writing, his exacting standards have pushed students, such as Son Nguyen, who came to the U.S. as a refugee from Vietnam. He’s now an associate with Arnold Porter in Washington. “He saw what would be waiting for us and he wanted to make sure we were prepared,” says Nguyen, pointing to Professor Bogen as a mentor. “He asked me about my future goals in life, related the experiences he had, and offered a lot of insight,” he says. “He is a very caring person, all around, not only as a teacher but as a person.”

From the administration’s point of view..
view, the law school loses a faculty member who "has done more than his fair share of committee work, served as a very good associate dean, and has been very willing to teach first-year required courses," says professor Alice Brumbaugh, who joined the law school the same year as Bogen.

"He's always been a good friend and a good colleague, and he has been a voice of reason on the faculty," Brumbaugh notes. "When suggestions are made for changes in the curriculum, or other matters that come up for debate, he is never at the far end of the spectrum. And I've never found him one who believes in change for the sake of change—a very good quality."

His colleague and friend, Garrett Power, adds: "Some of the most original and important historical work of the history of the law school as it relates to race relations and the education of black students has been uncovered and disclosed by David Bogen. He brought that into context and explained it in terms of the unhappy segregatory policies of the law school."

The two colleagues share other interests, including Orioles' season tickets. "He is the only person I know who is constitutionally incapable of leaving the game before the last out," he says. "I have occasionally left him at the ballpark in a cotton shirt, on a frigid night, in a game where the Orioles are nine runs behind."

And while he is "civil and courteous in all academic matters," when he competes in athletics (basketball, squash, or softball), Power notes, Bogen is "aggressive, mean and all elbows."

After spending the fall term at Villanova, Professor Bogen plans to conduct additional research on law and New Zealand and Australia's indigenous peoples. He hopes to teach at a school—as yet to be determined—with a strong program in Indian Law, though it would be nice for him and his wife, Patricia, if that program were in a sunny and warm retirement state.

His long-term project is to research race and law in Maryland, with an eye toward writing a book—a project he expects will bring him home to the law school frequently.

Freelance writer Rosemary Harty has worked for many years in higher education communications.

Practice in the Public Interest
Associate Professor Chris Brown Retires

Although he had half-time status for many of his thirty years as an associate professor at the School of Law, Chris Brown made a full-time impact. Sharing duties in the classroom and as a partner at Brown, Goldstein and Levy, which became the leading civil rights firm in the state, Brown brought outstanding practical knowledge to a generation of students.

A 1968 graduate of Georgetown Law School, where he was editor of the Law Journal, Brown clerked on the D.C. Circuit Court of Appeals and spent several years as the chief attorney of the Baltimore Legal Aid Bureau's Law Reform Unit before joining the faculty in 1975.

Brown established his own firm in 1982, and for many years occupied offices across the street from the law school as part of the school's plan to create a relationship with the practicing bar. Many of the firm's talented attorneys became mainstay adjunct faculty members, and Brown brought true excellence in advocacy to the school. He argued three cases before the Supreme Court of the United States and achieved notable success in Maryland, including the case establishing the standard of liability for landlords in child lead poisoning cases.

"As a teacher at the law school, Chris Brown has inspired generations with his advocacy skill and devotion to the public interest," says fellow retiring professor David Bogen.

Brown taught numerous courses, including Civil Procedures, Torts, Evidence, and Maryland Practice and Procedure. He is the author of the book Introduction to Maryland Civil Litigation and numerous articles, including two pieces written for the Maryland Historical Magazine, which arose from his research on African-American politics on Maryland's Eastern Shore.

Brown has played a leading role in public service. He was president of the ACLU of Maryland for several years and continues to serve as its general counsel. He is on the Board of Directors of the Maryland Legal Aid Bureau and is chair of the Maryland Coalition for Civil Justice. "Chris has been a unique and special member of the faculty for thirty years," says Professor Garrett Power. "An outstanding teacher, an interesting scholar, and a selfless pro bono litigator, he has left a legacy of students, now practitioners, who have benefited greatly from his example."