

Inside Yale Law School, Season Two, Episode 9

Stephen Carter

[MUSIC PLAYING]

This is Inside Yale Law School, the podcast series designed to give you a peek inside to the scholars, the thinkers, the teachers, and the game changers of Yale Law School. I'm Heather Gerken, the dean, here to open a little window into the world of this remarkable place.

When I would travel to promote a novel, I'd always meet people who'd say that I think I have a novel in me, they would say, and I'd say you probably do. You just have to sit down and write it. I think everybody has stories to tell. I think that's one of the fascinating things. I totally love people and their complexity. And part of the complexity is that we all have stories, I think, that could be really interesting if we could only allow ourselves to tell them.

So as we celebrate 200 years at Yale Law School, I am thrilled to have Stephen Carter, the William Nelson Cromwell Professor of Law here with me today. Stephen, thank you so much for being here.

It's my pleasure, Heather. This is a great occasion.

Well, so I want to talk a little bit about the history of the law school before talking about your own work. And so you were here across, in the '70s.

Yes.

So I think you've known six deans at least, and have really seen the law school change quite a bit. I wonder if you might talk a little bit about what it was like then when you got here and how it's changed.

Well, there are three big changes, two of which are much for the better. And I want to talk about those two first. One is, I mean, the building is spectacular. The building then, it had a certain attractive dowdiness.

[LAUGHS]

There was something kind of Oxbridge about it. You know, old scratchy chairs and bad acoustics, and so on. And so that's a wonderful thing.

Also, the faculty was very small, and I guess that made it clubby in a way. Everybody knew each other. Everybody hung out together. But that small faculty was not very diverse, and I don't just mean in, say, gender terms or racial terms. I mean, there were so many fields, especially rapid changing-- rapidly changing and growing fields, that were not represented at all.

We had no one, for example, when I was a student or even in my first couple of years on the faculty doing any sort of critical theory, as we now think of it, in any field of law. So those things are great.

The main thing that I miss from those days, although Baker Hall is certainly a piece of the solution, is when it was all one building, and the dormitories were there. And I don't remember how many students lived in the dorms, but it was a good half of the student body or more.

And that also made for a kind of almost monkish atmosphere, as though we were off in an abbey by ourselves. Since we had the dining hall, there was no reason to leave the quadrangle at all except on weekends when the dining hall was closed.

I love that. You know, it is true that Baker Hall is a solution. I'm always charmed when we come in to teach and find students dragging their laundry across the floor to bring it downstairs.

[LAUGHS] Can you talk a little bit about what you think makes Yale Law School stand out from other law schools across its history?

I will, both in terms then and now. First of all, I mean, Yale has long been the finest law school in the land, and I don't think there is a serious competition or argument about that. And a lot of that is the work of our deans, including you, our current dean, for which I'm obviously grateful, and we all are.

Yale had a strong commitment to scholarship, serious scholarship, when other law schools were still granting tenure on the basis of one paper, and sometimes not even a published paper, and so on. We defined ourselves early on as a community of scholars, and I found that very exciting.

One of the reasons I came to teach at Yale in the 1980s where there was some ferment going on in other law schools was I wanted a place where I could basically be left alone to do my work. That's the only way I can discuss it. And yet, be collegial in the sense of workshops and sharing papers and ideas.

Another thing I think that makes Yale a really exciting place-- and I can't speak to other law schools, but going back to what I said before, I love the diversity of the Yale Law School, the faculty and also the student body. It just-- it is a remarkable-- a remarkably successful effort to find all kinds of students who are interesting for all kinds of different reasons that we just don't-- I don't think every law school looks for it that way.

And this isn't just now. It's long before. I remember there was a fellow when I was a young law professor who had been in a monastery for 12 years, and now he was a student at the law school. And he was a thoughtful guy, and his perspective was different from other students. And just looking at these different perspectives is a real delight.

I think it's really important that we continue to try to make our classrooms places, especially at a time when the campuses are roiling, as they are today, where students really feel comfortable expressing a broad range of opinions, or even invited to do that without the sense that they're going to be slapped down by their professor or other students or something like that. And that's a hard thing to do these days, but I think for the most part we pull it off pretty well. And I suspect we pull it off better than most places do.

Just a couple of years ago, you were selected by the class to speak at commencement, which is a high honor that they award their teachers. And I think this year, is it true that your students all dressed up as you on your birthday?

[LAUGHS]

In my Contracts class, they did. I wear-- I teach in a tie, and you know, I dress for class. I'm very old-fashioned. And usually-- I always wear suspenders, and sometimes I wear a vest, and sometimes I don't. So they wore-- say, 2/3 of them in my Contracts class wore a tie or a vest or suspenders, and some were two of those or even all three.

And I was surprised. But I have to tell you-- and this is also a measure of how, for lack of a better word, I'm not always as in touch with what's going on around me as others are-- I didn't notice. The students had pointed it out to me during the question and answer period at the break before I realized. One of them raised her hand and said, Professor Carter, have you noticed anything about the way that we're dressed today?

[LAUGHTER]

But I'm glad the students enjoy my class. I find teaching a real delight. I really do. Even-- I mean, I'm older than I was and I don't have the energy I once did. But going in the classroom lights me up.

And I was thinking about this. I was telling someone recently, there's a Raymond Chandler novel where at the end he's talking about this case that he's just solved. And he says something like. This isn't exactly right, but roughly this. He says, it's like when you wake up in the morning and you remember that yesterday you wrote a perfect and beautiful poem, but you can't remember it. You just know it was great, but you also know you'll never write it again, so you're happy and you're sad.

And every year, after the last day of class, that's how I feel because I think of the teaching as a literary project. It is a poem in progress. And I'm happy when it goes well. And I always believe I can never duplicate that. But then the next year, I feel the same way. It's something that I just love doing.

So I love that you compare it to a literary project because I also want to talk about your writing. You are extraordinarily wide-ranging. I mean, I always talk about the Yale's polymaths, but you write traditional law, you write about religion, you write about race, and you're an extraordinarily accomplished fiction writer. So there are not many people who can say that. And what's also astonishing is just the pace of it, how much you end up writing. So I wonder if you could talk a little bit about your writing process, how you decide how you're going to devote your time to a given project.

I was always attracted to something that Richard Posner once said-- and he is, of course, far more prolific than I ever was. But he once was asked about how he wrote so much. He said, whenever I have nothing to do, I sit down and write something.

My wife, Enola, would tell you that writing is my hobby. Other people collect this or they garden or they go out and do that. But when I have nothing to do, I sit down and try to write. Again, I can't write at quite the pace that I used to, but I really love to.

And so as you pointed out, I write fiction. I write nonfiction. I started writing fiction in addition to nonfiction in large part because I simply wanted to explore ideas that I could only explore, I thought-- or I don't only, but which I could better explore-- I wanted to explore ideas that I could better explore through fiction. And that's been a lot of fun.

So for example, I wrote a novel a little more than a decade ago called *The Impeachment of Abraham Lincoln*, in which Lincoln survives assassination and faces an impeachment trial. And in writing it, it was fun to write because I liked writing fiction and it was fun doing the research, but I was interested in the underlying ideas.

Lincoln is, I think, our greatest president. I suspect most people would agree. Some wouldn't. But did he actually commit impeachable offenses in the effort to win the Civil War? I think that's an intellectually stimulating question, and I wrote the book in part to explore that question.

And a lot of my books like that, my fiction is-- not always, but often my fiction is trying to talk about ideas. I'm working on a novel now that, for lack of a better way to put it, tries to take seriously and explore decolonial theory. But I'm doing it through fiction, which has been a lot of fun and also very sobering as well.

So I want to talk to you about one piece of fiction-- of nonfiction that you wrote, which is about your own-- your own grandmother who was-- so it's called *Invisible, The Forgotten Story of the Black Woman Lawyer Who Took Down America's Most Powerful Mobster*. So Eunice Hunton Carter took down Lucky Luciano, which is a great name. And you wrote a book about her in 2018. And it was a labor of love, but it was also a family affair, and I wonder if you might talk a little bit about that.

Well, I'm glad you mentioned that it was a family affair as well as a labor of love. And I want to mention the family part of it because not only did it involve research and stories from all the family, but my daughter, Leah Carter, also a graduate of Yale Law School--

And my student.

--and your student, yes, who still talks about you, left her law firm to work on this book as the principal researcher and traveled all over the country to various archives, and so on. But the book itself was in part an exploration of the time period and in part an exploration of legal issues. But also, it was an exploration of my family.

I had always heard from my parents these stories about my grandmother and this prosecutor and things that she did, but I'd never really focused on them. I've never really considered how extraordinary it was. They were speaking about a Black woman in the 1930s who was an organized crime prosecutor as part of Tom Dewey's special organized crime unit. There were 19 white males and this one Black woman. And so you have to imagine first this Black woman with an ambition-- I'm going to be a lawyer in the 1930s-- who at that time had only been-- we don't actually have an accurate count, but there had probably been three Black women lawyers in the history of the United States at that time. Maybe four. It's hard to figure out exactly.

So first, she wanted to be a lawyer, and then she was able to get this job with Dewey. And then, of course, the theory on which Lucky Luciano was taken down was that he profited from organized prostitution in New York. And that was her theory, which the rest of the staff, to be frank, openly derided. It was a theory she came up with. She researched. She did the interviews. She did pretty much all the work to make that prosecution possible, including organizing the police raid that got the key evidence. And then of course, she was not allowed to try the case. That was for white males who were involved in the actual-- in the actual trial.

And that I also thought was a story that's really worth telling. The remarkable not so much courage, although that's part of it. It's perseverance and determination that we're talking about.

We think about the barriers that people face now. Think about the 1930s and the barriers that she would have faced, and yet what she was able to accomplish. It's a wonderful and I hope an inspiring story. It certainly inspires me.

And is it true it's going to be a movie?

We sold the movie rights, but it's like a lot of things in Hollywood. Is it going to happen? Who knows? We will-- we will find out. I do think it's the kind of story that it'll be nice to bring to a larger audience, put it that way.

What I'm also interested in is just how wide-ranging your short work is. So I was just thinking, you write a column from Bloomberg. And I always think the death of a writer is writing a column because it's just impossible to generate enough interesting content over time. And eventually, people just sort of fizzle out, but you don't. And you-- I mean, based on the newsfeed that comes through the law school-- let's see. Dunkin' Donuts, oat milk pricing, TikTok, and then some of the most serious issues of the day. And I wonder, just how do you generate ideas for it? How do you manage to keep the pace?

Well, keeping the pace is hard. These columns are 800 to 1,000 words. And even though I've been doing it for years, that's a very hard length to write when you're accustomed to writing books or long articles or lectures, and things like that. It's very hard to create-- to do ideas that way. And often, my editors have to head me off from going down various rabbit holes to make it makes sense. Happily, a lot of the ideas that I write about are suggested by my editor, but I also come up with a lot of them myself.

I spend a lot of time just out of curiosity as I do the columns looking for recently decided cases on odd issues that people aren't paying any attention. Sometimes I use them as examples of my classes.

Sometimes they end up being about something that ends up being quite interesting.

You mentioned the Dunkin' Donuts case and this whole question about, who should be allowed to use which ingredients and so on? Who should be forced to use which ingredients at fast food places, which I think of Dunkin' Donuts as? I think it's a really interesting question. It is fascinating.

Like so many questions we don't pay a lot of attention to, it is a fascinating tension between our sense of regulation, which we could call government power, and our sense of freedom, I guess, or liberty or something-- or something like that, which is a good and constant tension in government, in everyday life, and a tension that attracts-- that I am interested in writing about a lot. I don't know. I don't have a politics and ideology that let me tell you the right answers to all these questions, but I'm interested in the questions that lie on that border.

And a lot of my columns, if you look at them, end up being about that issue where that border is because I'm not someone who thinks there shouldn't be any government. I'm not someone who thinks there shouldn't be a big healthy private sphere. And the question is, how do you get both? And I think that's not an easy question to answer. And so I have fun looking into it.

I also-- the other thing is I'm interested in language. I'm interested in words, where they came from, and what their usage is. And I've written a lot of columns about that over the years. That's just an interest of mine, but it's fun to try to tie that interest to various current events, whatever they may-- they may be. So a lot of my work is about that as well.

I wonder if you could talk about-- so I mentioned a few minutes ago that the students had elected you to be speaker at commencement. It was one of the most beautiful commencement addresses I can remember. And you organized it around three anecdotes about your old boss, Thurgood

Marshall, and about the way that he sought out ideas from other people and listened to other people. And I wonder if you might just share a little bit of that.

Oh, I would love to. So I was a law clerk for Thurgood Marshall, 1980 to '81. Sorry to pause to remember. It's been a while. And then the year after he retired, I was the interviewer for his oral history, which we didn't finish because he died. But we got 30 or 40 hours of tapes before he died, so we got a lot of it done. And one thing that struck me, here was a guy-- I don't think there have been many justices of the Supreme Court in the 20th century who would have been in the legal hall of fame if they hadn't been on the Supreme Court. But here's a guy who clearly would have been.

He had argued all these cases before the Supreme Court. Even before he was solicitor general, and he was doing civil rights cases, he tried all the civil rights cases all over the country, including, of course, all over the South, often literally at risk to his life, including changing cars in the middle of the night to escape mobs and things like that.

And with all of that, what struck me was his remarkable generosity of spirit in talking about people with whom-- who were on the other side, let's say, of what was the greatest moral divide in America in the 20th century, the race line. And so there are all these ardent segregationists, politicians, lawyers, others. And what struck me and what taught me perhaps the most important of the many lessons I learned from him was that he always was generous in talking about them. He thought they were mistaken. He thought they were wrong. But he never seemed to think they were evil. He saw people in a complexity that I could never see people quite as complex as he did. But he would do that.

And he would tell us these stories about playing cards in back rooms of Southern bars with these segregationist politicians, these white segregationist politicians, sitting around a card table and making deals to settle a lawsuit or to avoid a protest, or something like that. And I think the lesson he was trying to teach-- and I don't know how often this actually happened. The stories tended to change a lot.

But I think the lesson he was trying to teach us was that if you see these people who you disagree with only as evil, then you can't do business with them. And he thought that the law is about-- it's not about winning or losing. It's about doing business. It's about working out a solution. And that was really his view about litigation. That was his view about legislation generally.

And that was, for someone like me, just out of law school, having a very narrow, good guy, bad guy view of the world, that was a real eye-opener. And I've never been able to live up to that the way that he could, but it's something that I've aspired to. I talked about it in that commencement address in part because it's something that I myself have tried to do. I haven't always succeeded, of course. But I do try to do that.

And when you look at people in their complexity, you can find not justifications or excuses for things, but you can realize that the old pluralist theories of democracy were right in a sense, that there are very few people-- used to be, at least, maybe we're more polarized today-- who are on the-- who are lined up completely with their party or their cause on every single issue, that people are a complexity. And when you believe that, then you have space to do business.

Hmm. I wonder if I could just talk about how you got from here to there. To me, you just seem like you were built to be a scholar. Just-- that's who you are. And yet, I know that many years before you got to the Yale Law school, when you were in 7th grade you were on the vocational track and thought not to be--

Where did you find that out? [LAUGHS]

--**thought not to be college material.**

That's true.

So how did you get from here to there?

I didn't know anyone knew about that story. Yes, that is true. When I arrived for 7th grade and sat down-- and it was my first experience in an all-white school. Before that, I went to mostly Black schools. We moved to a new neighborhood of Washington. Went to an almost all-white junior high school.

Sat down in the summer with the counselor. And the counselor said, no, you can't take this class. You can't take this class. You can't take this class. And sent me to vocational education, which meant print shop where we used to learn to do the Linotype machines. Very useless skill. Wood shop where we learned to turn things on a lathe, and so on, which I was terrible at. And typing, which I was really good at and has been a skill that I'm glad to have that. That's still with me. I can still touch type.

And it was clearly a racial decision. And my parents spent a year fighting me out of there and into-- there was only-- there were only at that time at my junior high school, I think there were only two tracks. There was a vocational track and the college track and not all these different tracks like some schools had later.

But they fought really hard. And I did emerge, and I did quite well in junior high. And then I got to high school, and it wasn't quite as bad. That was in Ithaca, New York. And again, there was an effort to track me lower than where I should have been. And getting out of that. Took a while as well, but I got out.

And the thing about it, though, is without regard to how I got tracked, what I discovered at those-- in grade school-- well, in junior high school and high school was how much I loved school. I loved going to school. I loved being the first student to arrive for the day and often the last student to leave at the end of the day. I loved reading. I loved writing. I loved doing math and science. Everything about school, I just loved. I just-- all of a sudden, I wanted to just know everything.

I had these little notebooks I used to keep when I was in high school where I would just write down interesting facts that I found during the-- I just-- thousands and thousands and thousands of utterly useless and trivial facts, but I would write them down. I just loved knowing things.

I don't know where that love came from, but I'm grateful for it. The love of knowledge came first, and the love of ideas as opposed to knowledge, that was more developed in college, and of course, polished in law school. Ideas and the notion of rational argument as the path to truth didn't come to me so much in high school as it did as an undergraduate. And then I was able to put it to use in law school.

But it was really-- the sense that I had, that I gained was through each of these schools I went to, I learned a little more about how to do that. When I finished law school, I still wasn't interested in being a professor. That came as a surprise to me that I ended up back three years later.

But I knew that whatever I did, I wanted to do something where I would be writing and something I would be arguing. The truth is I thought I might end up as a journalist or something like that. I wasn't sure at all what I was going to do. But then things took this different road, and I'm really grateful.

When I started teaching in 1982, I walked through the doors of Yale Law School as a professor instead of a student six years after I'd walked through the same doors as a student. And I didn't know if I wanted to be a law professor. That was a long-term thing. I certainly didn't expect that if I was a law professor, I'd spend my whole career at Yale.

I assumed I'd be peripatetic as my father had moved around different places and so on when we were coming along. I assumed that's what I would do. I never dreamed that I would spend-- it's now-- I just finished 42 years teaching law, and all of them at Yale Law School. I turned down every visiting offer I ever got because I just-- I just love it here.

It's a gift to all of us that you were here.

Well, it's a gift to me to be able to be here. I'm very grateful.

I wonder if I could talk a little bit about the stuff that you've written that you love the most or that you think is the most enduring, because you have been writing for 42 years. And I wonder, as you look back, what is the stuff that mattered the most to you, and why?

That is a great question that I've never really thought about. Like a lot of writers, I'm always thinking about the next project, not the last project. So I'm going to answer a slightly different question.

I look back at the stuff I've written in the past and I ask myself, what are the things that I still hear from people about? People read something and send me a note. And I would say after all these years, the answer to that is the book I wrote about civility back in the 1990s. That's probably the one I hear the most about.

And one of the things I tried to argue in the book, and something that people appreciated-- they said things like, I didn't think about it that way-- was I tried to explain in the book, civility is not a matter of one's manners, although I do believe in good manners. I said that civility is the sum of the sacrifices that we make for the sake of living a common life.

And I really believe that. I think that's crucial in any society, and certainly in a democratic society. And I don't know if I could say that is the book that's meant the most to me, but if the endurance of an idea is people are still looking at it all these years later, then that's certainly one of what I've produced that has been the most enduring.

I also-- I did a lot-- a big cluster of writing about law and religion from the early '90s to the early 2000s. And a few years ago, I ran into another law professor who asked me why I had stopped. And I said, I ran out of things to say, that I was just recycling the same idea. And so I stopped going to the conferences, and I stopped writing for the symposia and so on because I had said what I had to say.

And in retrospect, I realize that was probably an intellectual error because the way that you keep your own work alive in the minds of others is you keep going back to it. I don't mean repeating the same thing, but using those ideas in various different ways. And my view, as I said, has always been, I've thought about the next thing and not the last thing.

And so that was probably a mistake, but it was still the reason that I stopped doing that work. That work meant a great deal to me. There's some of it that I would do differently now, but most of it is still what I think I believe. But I think that stepping away from that writing might not have been the best thing to do. The last law and religion piece I wrote was a long piece about Ronald Dworkin and Paul Tillich that I published about 10 years ago, I think. And I was very proud of the piece. But I think that's the last serious writing that I did about law and religion.

What's so remarkable is that-- I mean, if I think of three of your biggest sort of topics, law and religion, law and race, and then the civility, these are still questions we are wrestling with every day. And I wonder-- I mean, I write about federalism. And over the last six to eight years I've watched my research agenda unfold, even as I'm unable to talk about it because I'm the dean and mostly confined to speaking for the school.

But I wonder-- I mean, it's remarkable that you put your finger on something that was going to be important for so long. And I wonder-- you talked about the religion work continues to remain salient. The civility work obviously remains silent. What do you think about your work on race and whether that remains salient for the moment that we're in?

Well, race is certainly salient, to borrow from my dean. It's the sense in which we've realized it's race all the way down, that-- I mean, it's interesting.

So I remember, I wrote a piece back in the 1980s about the Bernhard Goetz trial, which critical race theorists, a lot of them actually still cite today. And of all the things I've written about race over the years, that's the one that also stays with me the most.

I think that critical race theory at its best-- and like every kind of theory, there's good stuff and bad stuff-- but its best, it doesn't just mimic kind of the old critical theory where everything is ultimately about capitalism. It tries to understand the significance of race as a kind of ideological force of its own without regard to whether the rich are the winners or the poor. It's that race itself has a force. And that's a really important insight, I think, about critical race theory that often gets missed.

And it's not something we're very good at talking about today. I don't mean we can't have conversations about race. We have conversations about race. We have arguments about race. But the notion of race as an independent force, that is-- that is distinct from the issues of what kind of economy you want or who you want to be in the White House, we tend to talk about things-- race is part of something else as opposed to, it's important in its importance in and of itself.

We have spent in America, you know, 400 years trying to figure this out, in a sense. And I find that one of the things I try to do is in my Contracts class, because they're first-year students, I do talk about race, but I don't have a, let's talk about race week. What I do is some of the fundamental principles that are usually taught through what we might, for lack of a better term, call plain vanilla cases, I'll talk about some cases with a searing theme about race.

So when we talk about contract default rules, I give my students a case from the 1920s where a landlord in Birmingham rented an apartment to a white family. The white family, after moving in, discovered they had to share the bathroom with a Black family, which they didn't know. Nobody had told them. And so they sue to get out of the lease.

Now, you understand that at that time, there was no municipal ordinance in Birmingham requiring racial segregation, and the contract was silent about race. But the white family still won. And the court found there was a default rule that white families shouldn't have to share intimate parts of their lives with Black families.

Now, that's a useful way of teaching about default rules and also the risks of letting courts create them. But I also use it for another purpose, which is to teach them a little bit of economics. I try to figure out, why would the landlord rent to both races, and explain about the inefficiencies of discrimination and why you need laws requiring discrimination in order to tax the people who don't want to discriminate to support

the people who do, and things like that, which are things that for the most part I think they don't-- the students haven't thought about much before.

So I have a number of cases that I use that way. And so the way that we get to the salience of race as a thing, as an ideology of its own, is by looking at cases that have actually been decided around ways where race is an ideology of its own. But again, they're scattered throughout the course. There's three or four of them out of 100-and-some cases that we read.

Can we talk a little bit about-- just thinking about critical race theory, one of the threads of it is to use storytelling as a means of pushing forward the analysis. And in a funny way, actually, your fiction work, which is, of course, separate and apart or not from law, is really often about the Black middle class and upper class, some of your characters, The Emperor of Ocean Park, and others. And I wonder, was that conscious? Was that just writing the story where it led you? I'm curious about that piece of your fiction work.

That's the right question. It's a hard one to answer, and I'll tell you why, although I think I'm going to answer it, but I'll tell you why it's hard. When I started writing fiction, at first before I had the ideas that I wanted to explore, I had characters who were in my mind. And the pressure to write fiction over the years was the pressure to give these characters a story. And my wife could tell you that I was trying all the way back in the early '80s to give them a story now and then, and I couldn't figure it out.

But then the idea that I could develop ideas within the story, including ideas about race-- in the story in my second novel when this Black professor becomes president of the unnamed university where the stories take place, he's interviewed by The New York Times. And he's asked what he's going to do about diversity when he takes over. And he says, I'm going to take the job.

And this firestorm erupts of controversy. And of course, a little bit tongue in cheek. But also-- but I do think that there is a tendency of a lot of people thinking about these issues to be utterly unself-conscious, and I was trying to illustrate that a little bit.

But in the same novel-- so now he and his wife live in this fancy suburb, and so on. But there's a few chapters later we discover that one winter, his wife is-- and a friend of hers who's also Black who's come to visit her are walking down to the town beach, and the guard won't let them on the beach because it's for residents only, and the guard won't believe that she lives in town.

And those little bits, I think, are really important to the complexity of the story a lot of times. I'm not one who's going to say things haven't changed in America. They've changed enormously. And I think people who say they haven't aren't looking at history seriously.

But when people ask-- you know, they look at a Black person who's earned a lot of money, has a fancy house or two houses or whatever and say, why does this person still complaining about race, that's why, because things like that really happen. You really can find-- there's the shop that won't open the door when you buzz. And you really do find that there is the beach that you're entitled to be on because you live in the town where they won't let you go, and so on and so on.

I love that you start with the characters and not the storyline. I don't know if that's true of most authors, but I am curious why you think that is so.

I think that I start with the characters only because of a quirk of how my mind works. Over the years since I've started writing fiction, I've gotten to know a lot of novelists. And some of them start with the characters. Most of them have a story they want to tell. And some have continuing characters, which is different. But people write a different novel every time. They tend to have a story they want to tell, an interesting story that comes to mind. And then the question is, who are they going to populate it with? And I'm more-- there's a novel by-- there's a Kurt Vonnegut novel that I really enjoyed years ago. I think it's *Breakfast of Champions*, which is about a novelist who's trying to write, but he can't write because his characters start jumping off the page and trying to live their own lives. And he was trying to get at this notion that if you write fiction that is even in part character-driven, the characters are going to want to do what they're going to want to do, and it's not always what you expect them to do.

I really find that I get to know the characters better as I write the story, and I really don't feel that they're mine to command. And it really bothers me when I'm reading a novel or watching a movie and someone does something completely out of character just to move the plot along. And I just-- I recognize that it has to be done.

One of my editors once said, if you write fiction, you have to use contrivance. And I get it, but it still drives me crazy because you go to all the trouble developing somebody a certain way, and they do something crazy. And you say, that is not a thing they would do. And I try not to have my characters do that because I try to be true to who they have taught me that they are.

Having said that, one has to write a story, and it has to have a beginning and a middle and an end. We no longer live in an era when people read a novel just because the characters are interesting. You have to have a theory. You have to-- I'm sorry. You have to have a story. You have to have-- we could say a plot, but I think story works better because I said a beginning, a middle, and an end.

There has to be a goal that someone is trying to get to. There has to be tension about whether they're going to get there or not. And then we have to-- they either get there or they don't. And that's the one thing I still like about current fiction is you can have books where people don't get to the goal, which used to be a big thing in some old fiction, but not so much today.

It's funny. So I am not a writer, but I have written nine vampire novels for my daughter, a reader of one, but because--

Really? I think that's wonderful.

I wrote the first four for her, and then she wanted more, so I had to flip the character line and change it. But it gave me a chance to rewrite characters. And so by the time I got to book 5 and 6, I had a much better love triangle going.

[LAUGHS]

And I also learned that the characters that made my daughter laugh who I had sprinkled in just a little bit were the boys I grew up with. And that-- and so I actually just put them front and center in the second five books because they were slightly transgressive and a lot more fun than the earnest hero character--

Are you going to publish these novels?

No, never. [LAUGHS]

You should. I mean, that sounds wonderful.

They were just for my daughter. But I do-- I do appreciate how for me, it was such a different exercise in being a law professor. And yet somehow, you've managed to make them integrate in a way that I think most people fail.

In a way, maybe, although I do feel often that it exercises a different part of my brain. And the truth is, when I was little, I wrote stories too. I told you about the notebooks I had in high school where I wrote down facts.

When I was in elementary school, I had these little 10-cent notebooks that you would get at the-- now we would call it a convenience store. It was a little Five & Dime store near our house. And I got these little notebooks, little spiral notebooks about a quarter-inch thick or something.

And I would just write these stories in them. You know, stories about aliens are attacking the Earth or dinosaurs are attacking the Earth. And there was always a plucky little kid who saved the world.

[LAUGHS] **Well, that's not much different from most Disney movies.**

No, I know. And Steven Spielberg got all those ideas from me.

[LAUGHS]

But I mean, I do think that for people to try to write stories is important. I'm glad that you've done that.

When I would travel to promote a novel, I'd always meet people who'd say that I think I have a novel in me, they would say, and I think you probably do. You just have to sit down and write it.

I think everybody has stories to tell. I think that's one of the fascinating things. I totally love people and their complexity. And part of the complexity is that we all have stories, I think, that could be really interesting if we could only allow ourselves to tell them.

Stephen, I cannot imagine a better way to end this interview than that phrase, although I do just want to close by saying something that I said when I introduced you at that commencement, which was the phrase "gentleman scholar" is an outdated phrase, but I actually cannot think of a phrase that more perfectly captures you and why we all love and admire you. And it is just such an honor to dean the school that houses you, and I'm so grateful for your time today. Thank you.

It's been a lot of fun, Heather. Thank you so much.

[MUSIC PLAYING]