

The History and Influence of the Law Review Institution *

by

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Judges and advocates may not relish the admission, but the sobering truth is that leadership in the march of legal thought has been passing in our day from the benches of the courts to the chairs of universities [T]he outstanding fact here is that academic scholarship is charting the line of development and progress in the untrodden regions of the law.

Benjamin Cardozo, 1931¹

I. Introduction

The "academic scholarship" to which Cardozo referred related principally to the articles appearing in law reviews of the law schools during that period in time. Almost immediately upon their establishment, the student-edited law reviews became a significant and lasting feature of legal education in the United States. Since the publication of the first student-edited law review in the 1870s, the law review institution² has advanced to the stage where today, more than 400 such periodicals are published.³ Their history, though interesting in itself, provides many insights into the development of legal education generally.

Law dictionaries have long defined a law review to be "[a] periodic publication of most law schools containing lead articles on topical subjects by law professors, judges or attorneys, and case summaries by law review member-students."⁴ However, with more recent developments and trends in American law reviews, this definition does not capture the true essence of most modern law reviews. One dynamic variation from that definition is that law reviews now exist at virtually all American Bar Association accredited law schools, not merely at most of them. Furthermore, many law schools have more than one law review, consisting of one generalist journal and one or more specialty journals.⁵ Specialty law reviews are journals that focus exclusively on a particular field or area of law, such as environmental law,⁶ international law,⁷ intellectual property law,⁸ labor law,⁹ tax law,¹⁰ and many others.¹¹ The number of specialty law journals grew rapidly after World War II, due in part to increased enrollment at many law schools.¹² Law reviews, as discussed in this chapter, are limited principally to student-edited periodicals.

The changing content of law reviews also makes early definitions out-dated. Now, law reviews contain more than just lead articles and student casenotes, but also contain essays,¹³ book reviews,¹⁴ and substantial student articles called "comments."¹⁵ Law-review members not only write shorter case summaries or casenotes, but also author comments that are similar in style and content to nonstudent lead articles.¹⁶ Thus today, a law review is more properly defined as a periodic publication which may be general in scope or may focus on a particular area of the law, edited by students, and which may contain lead articles, essays, and book reviews as well as student-written articles and case summaries.

Traditionally, law reviews contained one type of substantial non-student manuscript, known as the lead article.¹⁷ Although modern law reviews contain several different types of manuscripts, law review pages are dominated by professional non-student lead articles.¹⁸ The title "lead" derives from the articles' placement in the front of the law review, before the student publication section.¹⁹ Interestingly, some law reviews refer only to the single piece that begins an edition as the lead article.²⁰ Regardless of whether a lead article is limited to the first article to appear in an edition or to all articles located in the front of an edition, lead articles have distinct qualities that differentiate them from essays, book reviews, and student publications.

Lead articles are ordinarily written by lawyers, judges, and law professors, although there is certainly no restriction to authors only from the legal profession. Thus, government officials, professors from non-law fields, accountants, health care professionals, and others pen lead articles appearing in the law reviews.²¹ Lead articles tend to be quite substantial, containing many pages (sometimes more than 100 published pages)²² and containing many footnote references (sometimes 300 to 500 citations or more).²³ A standard model format for a lead article would include: an introduction, a scope note, a background or overview discussion, an analysis section (identifying current problems and issues, and suggesting solutions or approaches to those problems and issues), and a conclusion.

Although as noted earlier the lead article still dominates the pages of American law reviews, other manuscripts such as essays and book reviews have gained genuine acceptance and a permanent place in the law reviews. The essay form of article designates a piece that is usually shorter than a lead article, ordinarily containing a relatively small number of citations to authority.²⁴ It tends to be a "thought" piece or commentary piece, in contrast to a "research" piece, and it is often written by someone widely recognized to be an authority in the subject area of the essay. This form of manuscript is not as common as lead articles.²⁵ In fact, a law review might include at most only one essay per edition.

A third type of professional non-student article is the book review. Similar to the essay, book reviews are not as prevalent as lead articles, their placement is often between the lead articles and student publication sections or at the rear of a volume, they are shorter, and they include less documentation. A book review author discusses a book written on a particular area of law, on a legal development during a particular time, or even on the life

of a lawyer or a supreme court justice or other jurist.²⁶ A book review not only summarizes the content of the book, but also may criticize or compliment the book's author on the author's style, research, and substance, particularly the theories the book addresses. Book reviews may save the busy practitioner time. They may also provide informative supplemental material to students. However, book reviews are not very likely to be used as reference material.²⁷

The final type of manuscript to appear in law reviews is student publications. These publications appear toward the end of the law review.²⁸ Student publications consist mainly of either student comments or case summaries. Law reviews may include two, three, or more student pieces. The authors of these student publications are usually those students who are on the law review or who are seeking membership on the law review.²⁹ Typically, the student wrote the manuscript while participating in a candidacy program of the law review.³⁰

Student comments, as opposed to casenotes, now dominate the pages of the student publication section of modern law reviews and are very similar to lead articles.³¹ The comment usually seeks to reveal a legal problem and then attempts to propose a solution to that problem by the end of the comment. The student comment typically consists of a background, analysis, and proposal.³² Each of these sections almost mirror non-student lead articles, except for their shorter length. Similar to lead articles, student comments can be influential. Indeed, with some regularity, student comments have been so thorough and thoughtful that they have resulted in significant attention and impact.³³ For instance, courts and scholars often cite favorably to student articles for their research and/or analytic value.³⁴

The other type of student manuscript is a case summary. In this type of manuscript, the student analyzes a recent case that has either solved or created a legal problem.³⁵ A case summary may even focus on an older legal decision that remains law although it has a flawed premise. In that situation, the student may argue that the case should be overruled or distinguished to diminish its impact.

Another break from the traditional law review format is the growth of symposium issues of law reviews.³⁶ Historically, each issue of a law review contained pieces on a variety of subjects. A symposium law review publishes each edition with a focus on a particular area of law. The law review editors solicit articles from leading scholars and practitioners in that field.³⁷ A symposium typically contains articles from between four and nine authors.³⁸ The lowest number of articles comprising a symposium edition is two, and the highest number of authors found comprising a symposium edition was eighty-four.³⁹

There are a number of advantages of the symposium format. Because of the centralized theme, there is often greater success in attracting authors due to the projected prominence of the volume. For this reason, lawyers, judges, and law professors who specialize in the featured area have tended to place the entire issue on their shelves. Some law reviews have converted to a complete symposium format,⁴⁰ while other reviews publish one or two of their yearly editions in the symposium format.⁴¹ This type of law review format is

becoming more popular, especially at less renowned journals.⁴² Between 1980 and 1990, the Legal Resource Index on the Lexis database listed almost 14,000 symposium articles.⁴³

The first law review symposium was published in 1889 by the *American Law Review*.⁴⁴ The focus of this symposium issue was the future of legal publishing.⁴⁵ Some of the first student-edited law reviews to publish issues resembling the modern symposium format include the first edition of the *Yale Law Journal* in 1892 and a series of *Harvard Law Review* editions published in 1893.⁴⁶ The *Yale Law Journal*'s first edition contained four articles from various professors about legal pedagogy.⁴⁷ The first time the *Harvard Law Review* published an edition that resembled a symposium occurred when the editors published an article in four consecutive months in which the authors wrote on the Torrens land transfer system.⁴⁸ The articles built upon the earlier ones in the four-some.⁴⁹ In 1931, both the *Harvard Law Review* and the *Yale Law Journal* published symposium editions paying tribute to Oliver Wendall Holmes.⁵⁰

One of the other earliest occasions for a law review to dedicate its entire format to publishing symposium issues occurred in 1933 at the Duke University Law School.⁵¹ The faculty began publishing a journal titled *Law and Contemporary Problems*.⁵² The Foreword of the first edition explicitly distinguished the journal's format from the standard law-review format by explaining that the journal "is organized in symposium form and that contributions to it have been solicited not only from lawyers but also from those who, whatever their profession, possess the knowledge and experience which vouches for the significance of their commentary on the subject under discussion."⁵³ Interestingly, the editors also explicitly distinguished the journal from the editorial make-up of student-run law reviews. The editors declared in the forward that "[t]he department of student work usual in 'law reviews' will not be included in *Law and Contemporary Problems*"⁵⁴ The focus of the first edition of *Law and Contemporary Problems* was *The Protection of the Consumer of Food and Drugs*.⁵⁵

II. Purposes and Importance of the Law Review

Law reviews serve several important purposes and functions. Law reviews educate the authors, student editors and readers. Law reviews help to develop and reform the law by recognizing and exposing problem areas in the law and suggesting solutions to those problems. Law reviews also serve a critical function for the researching practitioner who can obtain a synopsis of an area of law and the relevant statutory and case law needed to deal with a current legal dispute. Thus, the purposes of law reviews are great and their influence encompasses students, practitioners, judges, the law, and society.⁵⁶

A major purpose of law reviews is their influence and impact on the development of the law.⁵⁷ Although a law review is often one of the sources for a change in the law, an influential law review article is usually not written in proximity to the change in legal thought. A law review article which may eventually influence an area of law is often rejected at first by courts and scholars, is not fully appreciated, or is simply not read at all.⁵⁸ However, the law review article's legal theory or idea may gradually gain

acceptance, and an article once discarded or ignored then becomes a leading treatise on that area of law and one of the driving forces behind change. For instance, *The Right to Privacy* by Louis Brandeis and Samuel Warren published in 1890 in the *Harvard Law Review*, did not gain judicial acceptance until 1905 when the Georgia Supreme Court recognized a right of privacy.⁵⁹

Law review articles which influence changes in the law are often written to criticize legislation or a court's analysis or holding on a particular issue.⁶⁰ The author explains the problem with the legislation or the case in great detail, provides the possible or actual ramifications of a particular legal problem, and proposes a solution. A practitioner who discovers this law review article while researching a similar legal problem may choose to cite to the article or adopt the reasoning of that article in a brief submitted to a court. The law review article becomes influential when a court accepts its analysis and either overrules a case, strikes down a statute, or evaluates a legal problem in a different light. Sometimes, members of an organization may learn of a law review article's analysis and adopt it in deciding policy questions. Thus, a law review's proposed resolution to a legal problem will most likely not be accepted as the standard when published. However as time passes, the article may become one of the influential works in an area of law.

Law review articles can also have an impact on legislation. Evidence of this influence appears in legislative histories and annotated statutes.⁶¹ Generally, an annotated statute will provide citations to law review articles that are relevant to the statute.⁶² Not only do publishers of annotated statutes cite to law reviews, but legislatures themselves may rely on law reviews when enacting a statute. Even if a sponsoring legislator does not directly credit a law review as an influencing factor for enactment of a statute, it may be obvious that the idea for the statute or solution sought to be achieved by the statute came from a particular law review article. Thus, not only do law reviews influence the judiciary in changing the law, but law reviews may also influence the drafters of the law.⁶³

Another primary purpose of American law reviews is their function as reference material. It is not a realistic purpose of a modern law review article to be read immediately upon publication.⁶⁴ Rather, the major purpose of a law review article is to be read later by a student or professional who is researching a similar topic.⁶⁵ Essentially, law reviews serve as reference material particularly in these days of computer-assisted research.⁶⁶ An insightful, well-written, and well-researched law review article may save the practitioner, judge, or law student time by providing the relevant statutory and case law and other relevant articles or treatises. It may also provide the legal analysis and possible approaches which may aid the practitioner in resolving a relevant legal problem.⁶⁷

Finally, an important aspect of law reviews is their function of training future lawyers, judges, and law professors.⁶⁸ This often-forgotten function of law reviews may have been the original purpose of student-run law reviews.⁶⁹ The work that engages law review students is unique to any other work or activity they encounter in law school because of the direct influence it has on the law.⁷⁰ This practical aspect of law review membership exposes students to the legal profession before graduation.⁷¹ Indeed, the de facto

participation of law review students in the legal profession was a significant factor contributing to the development and adoption of a model code of ethics for law reviews.⁷²

Although law review articles do not ordinarily have an immediate effect on the law, they immediately impact their authors and readers. The writing process educates not only the authors of the articles, but also the student editors working on the articles.⁷³ In the cases of law professors and practitioners, authoring a law review article increases the authors' knowledge and proficiency in their profession.⁷⁴ A professor's writing experience may very well indirectly help to educate that professor's students.⁷⁵ Law review manuscript authors increase their knowledge of the areas of law about which their articles focus through extensive research.⁷⁶ Authors of law review articles spend a great amount of time researching the legal problems they seek to resolve. Their research not only involves investigation of current legal problems but also requires inspection of analogous and distinct lines of inquiry. This in-depth research educates the author, and eventually the reader, about other areas of law that are influential on the current subject.

III. Law Reviews and the Judiciary

The judiciary was not uniform in its acceptance of student-edited law review articles. For instance, in the early 1900s, a lawyer arguing before the United States Supreme Court referred to a law review article,⁷⁷ and Justice Oliver Wendell Holmes admonished the attorney that law review articles were the "work of boys."⁷⁸ Justice Holmes also "thought the limit had been reached when what he said in his judicial opinions was approved by the students as being 'a correct statement of the law.'"⁷⁹

Nevertheless, law reviews of the late nineteenth and early twentieth centuries had an especially significant impact on the development of the law.⁸⁰ A clear indication of this impact occurred in 1897 when for the first time a United States Supreme Court Justice cited to a law review article in one of his written opinions.⁸¹ The justice was Edward White, and in his dissenting opinion in the case *United States v. Trans-Missouri Freight Assoc.*,⁸² he cited to an article published in the *Harvard Law Review* titled *On Contracts in Restraint of Trade*.⁸³ An even more significant citation to a law review article occurred in 1899 when for the first time a United States Supreme Court majority opinion cited to a law review article. Chief Justice Melville Fuller cited to a *Harvard Law Review* article entitled *Two Theories of Consideration*⁸⁴ in the case of *Chicago, Milwaukee and St. Paul Railway Co. v. Clark*.⁸⁵ Although neither of these articles served as the foundation for either Justice White's dissenting opinion or Chief Justice Fuller's majority opinion, both added credibility to student-edited law reviews.⁸⁶ In the years ahead, judges at all levels began to pay greater heed to the views expressed in law review articles.

Supreme Court citations to law reviews increased dramatically during the 1939 court term. During that term, twenty-seven opinions contained citations to sixty-six such periodicals.⁸⁷ This was a significant increase compared to the 1938 court term in which only seven opinions contained citations to twenty-seven legal periodicals.⁸⁸ From the October 1939 term through the October 1943 term, the Supreme Court cited legal

periodicals in 17% of its opinions.⁸⁹ That percentage increased to 28% for the period from October 1944 through 1948.⁹⁰ A driving force behind the change in the practice of citing to law reviews was the replacement of nine Supreme Court Justices by President Franklin D. Roosevelt.⁹¹ Soon after that change in the make-up of the Court, "citing to law review articles became the norm."⁹² As of 1957 the United States Supreme Court cited sixty-six law review articles in twenty-four opinions during one court term.⁹³

Two judges in particular fostered the acceptance of law review articles and their influence on the shaping of American law. One of the leading advocates of law review articles was United States Supreme Court Justice Louis Brandeis.⁹⁴ The first time Justice Brandeis cited to a law review article in a Supreme Court opinion was in dissent in the 1917 case of *Adams v. Tanner*.⁹⁵ Later, Justice Brandeis cited to law reviews in opinions that significantly changed the law. For instance, in the landmark case of *Erie Railroad v. Tompkins*,⁹⁶ Justice Brandeis cited to twenty-eight law review articles in his majority opinion.⁹⁷ More significant than Justice Brandeis' citations to twenty-eight law review articles was his reliance on one of those articles. An article published in the *Harvard Law Review* by Charles Warren titled *New Light on the History of the Federal Judiciary Act of 1789*⁹⁸ clearly influenced Justice Brandeis' opinion.⁹⁹

By the time he retired from the Supreme Court, Justice Brandeis wrote forty-seven opinions that contained citations to law review articles.¹⁰⁰ Brandeis did not rely on the parties' briefs to obtain citations to law review articles. Rather, Brandeis had his law clerks search law reviews for relevant information.¹⁰¹ In fact, from the October 1924 court term to the October 1956 court term, Justice Brandeis' majority opinions cited to fifty-eight law review articles.¹⁰² Of these fifty-eight articles, only five were cited in either of the parties' briefs.¹⁰³ The difference is even greater in Justice Brandeis' dissenting and concurring opinions, in which he cited to sixty-nine law review articles, none of which were referenced in either parties' briefs.¹⁰⁴ A possible reason one commentator has provided for Justice Brandeis' extensive use of law reviews was that he "saw the periodicals as both stimulating discussions in themselves and as potential educators of the legal community."¹⁰⁵

Another judge who was an advocate of law reviews was Benjamin Cardozo. Consistent with his comment that introduced this chapter, Justice Cardozo characterized law reviews as "the repositories of much of modern legal scholarship,"¹⁰⁶ and he sought to dispel some of the prejudice directed at early law reviews. He attributed this prejudice to the fact that law reviews at the time were not bound like books but were merely "pamphlets" and because law review articles' authors ordinarily were teachers, not practitioners.¹⁰⁷ In 1931, Justice Cardozo wrote that such prejudice had been diminishing in the preceding ten to fifteen years.¹⁰⁸ Cardozo believed that with the enormous increase in legal precedent, courts were turning to law reviews to "canalize the stream [of legal precedent] and redeem the inundated fields."¹⁰⁹ Not only did law reviews organize and make useful the growing amount of case law, but also charted "the line of development and progress on the untrodden regions of the law."¹¹⁰ The vanishing of the prejudice against law reviews was best summed up by Justice Cardozo when he remarked, "[j]udges have at

last awakened, or at all events a number of them not wholly negligible, to the treasures buried in law reviews."¹¹¹

Although the Justices of the United States Supreme Court were not uniform in their citation to law review articles, there were some commonalities between those Justices who did cite to law review articles and those who did not. For instance, Justices Frankfurter, Douglas, Black, Jackson, Rutledge, Reed, and Murphy (seven justices who most frequently cited to legal periodicals), were all appointed by President Franklin D. Roosevelt.¹¹² During the 1930s, Justices Brandeis, Stone, and Cardozo, known as the "dissenters", cited to law review articles more often than the other members of the Court who were pre-Roosevelt appointees.¹¹³ Furthermore, Justices McReynolds, Van Devanter, Butler, Sutherland, and Roberts, all justices who opposed the New Deal, rarely cited to law review articles.¹¹⁴

One of the first law review articles to have a profound impact on the judiciary and the law was an article, noted previously, written by Samuel Warren and Louis Brandeis.¹¹⁵ The article titled *The Right to Privacy* appeared in the *Harvard Law Review* in 1890.¹¹⁶ In 1890, a New York trial judge, in an unreported opinion, allowed recovery based on the right of privacy.¹¹⁷ From 1891 to 1895, three New York courts and one federal court in Massachusetts also appeared willing to accept that there was a right of privacy.¹¹⁸ However, in 1899, the Michigan Supreme Court rejected this right¹¹⁹ in the case of *Atkinson v. John E. Doherty & Co.*¹²⁰ In 1902, following Michigan's lead, the New York Court of Appeals rejected the right of privacy in the case of *Roberson v. Rochester Folding-Box Co.*¹²¹ Although the New York Court of Appeals held that a right of privacy did not exist and thus overruled the lower courts' decisions, Chief Judge Alton Parker conceded that the theory of Warren and Brandeis "was presented with attractiveness, and no inconsiderable ability."¹²² The immediate result of the *Roberson* decision was public outrage.¹²³ This outrage led the New York legislature to enact a statute that made the use of the "name, portrait or picture of any person for 'advertising purposes or for the purposes of trade' without his written consent" a misdemeanor and a tort.¹²⁴

Regardless of the refusals of the Michigan Supreme Court and the New York Court of Appeals to recognize the right to privacy, the article and the theory that it espoused eventually became widely recognized.¹²⁵ The pivotal case for the acceptance of a right of privacy was a Georgia Supreme Court case titled *Pavesich v. New England Life Ins. Co.*¹²⁶ In this 1905 case, the Georgia Supreme Court rejected the New York Court of Appeals decision in *Roberson*, accepted the views of Warren and Brandeis, and recognized such a right.¹²⁷ In 1960, Professor William Prosser stated that "The Right to Privacy" "has come to be regarded as the outstanding example of the influence of legal periodicals upon American law."¹²⁸ In 1925, Judge Learned Hand, while addressing the Association of American Law Schools, predicted that law professors would "be recognized in another generation . . . as the only body which can be relied upon to state a doctrine, with a complete knowledge of its origin, its authority and its meaning."¹²⁹

IV. The Early Law Reviews

The first legal periodical published in the United States appeared in 1808 and was known as *The American Law Journal and Miscellaneous Repertory* ("Repertory").¹³⁰ The *Repertory*, a non-student edited legal periodical, appeared after the development of case reporter publications, but before legal magazines.¹³¹ The *Repertory* contained lengthy excerpts of judicial opinions, a short biography, notices and descriptions of recent law books, and an editorial section.¹³² It was published until 1817, issuing a total of six volumes.¹³³ The *Repertory's* significance is that it is "the original American antecedent of today's legal periodicals."¹³⁴ Other similar journals published in the early 1800s included the *Carolina Law Repository*,¹³⁵ the *New York Judicial Repository*,¹³⁶ and the *United States Law Journal and Civilian's Magazine*.¹³⁷ These three publications, similar to the *Repertory*, were short-lived. One reason for the short lives of this style of early American periodical was that they were very similar to the numerous case law reporters.¹³⁸ Another reason was that their attempts to obtain a wide range of readership made them too general for practicing attorneys and too technical for lay people.¹³⁹

The next breed of legal periodical to develop in America began in 1829 with the publication of the *United States Law Intelligencer and Review*.¹⁴⁰ This journal has been called the "first publication displaying the distinctive features of the law magazine" that exists today.¹⁴¹ One feature of the *United States Law Intelligencer and Review* was that it contained what is now termed "lead articles."¹⁴² This journal also contained case reports, but ceased publication after only three volumes due to financial problems.¹⁴³ This journal was not edited by students.¹⁴⁴ The failure of this early legal periodical was typical. Approximately thirty law journals had been launched by 1850, but only ten survived.¹⁴⁵

Regardless of the past failures of legal periodicals, the mid-1800s saw a new type of law journal emerge that was nationally oriented and "more sophisticated."¹⁴⁶ Two journals of this new type were the *American Law Register* which began in 1852 and the *American Law Review* which began in 1866.¹⁴⁷ At their inception, these journals were not edited by students.¹⁴⁸

The *American Law Register* was a monthly publication that contained a greater number of scholarly articles than other journals.¹⁴⁹ Originally, it attempted to summarize the growing body of case law in the United States.¹⁵⁰ The first article to appear was entitled *Gifts in View of Death*.¹⁵¹ This short eleven page article included citations in just thirty-seven footnotes.¹⁵² This journal survived longer than other periodicals.¹⁵³ In 1908, its name was changed to the *University of Pennsylvania Law Review and American Law Register*.¹⁵⁴ In 1945, the name changed again to its final form, the *University of Pennsylvania Law Review*.¹⁵⁵ This law review is the oldest continuously published legal periodical in America.¹⁵⁶

The second journal of this new breed of American legal periodical was the *American Law Review* which was a quarterly publication, as opposed to the *American Law Register's* monthly publication schedule.¹⁵⁷ Similar to modern law reviews, the *American Law Review's* first issue contained five lead articles.¹⁵⁸ Along with lead articles, the *American Law Review* contained critical book reviews, news of regional and national legal events, and other contributions from practitioners and scholars.¹⁵⁹ The *American Law Review*

was one of the most important legal periodicals of the 1800s and served as a model for the student-edited law reviews of the late nineteenth and early twentieth centuries.¹⁶⁰

A slightly different type of legal periodical began gaining prominence in the 1870s.¹⁶¹ Rather than publishing articles with a strong academic orientation, like the *American Law Review* and the *American Law Register*, these new periodicals were designed to provide practical information.¹⁶² The articles contained in these periodicals discussed "recent decisions, developments in law and legal education, efforts at codification, and news in a journalistic rather than in a scholarly style."¹⁶³ These "practitioner-oriented" journals did not have many "lead" articles because the articles were placed in the middle, not at the beginning, of the journal.¹⁶⁴ Rather, these journals "typically began with comments or editorials, followed by brief articles, case reports, digests, and concluded with book notices."¹⁶⁵

One of the most successful of the practitioner-oriented journals was the *Albany Law Journal*.¹⁶⁶ This journal began in 1870 and was published weekly for almost forty years.¹⁶⁷ The *Albany Law Journal* had the largest circulation of any legal periodical during that time and was a tremendous success.¹⁶⁸ Other journals appearing in the 1870s included: the *Central Law Journal* in St. Louis, Missouri; the *Western Jurist* in Des Moines, Iowa; the *Chicago Legal News*; the *Louisiana Law Journal*; the *Pittsburgh Legal Journal*; the *American Law Record* in Cincinnati, Ohio; the *Forum* in St. Louis, Missouri; the *Washington Report* in the District of Columbia; and the *Monthly Western Jurist* in Bloomington, Illinois.¹⁶⁹ Interestingly, the 1870s saw specialized journals similar to those growing rapidly today.¹⁷⁰ Examples included the *Insurance Law Journal* and the *Medico-Legal Journal*.¹⁷¹ In 1870 there were seventeen legal periodicals, and by 1886 there were forty-two.¹⁷²

The first American law periodical to be published by students instead of practitioners was the *Albany Law School Journal* in 1875.¹⁷³ The journal contained "a few short articles, reports of moot court dispositions, news items, and information about the law school's clubs."¹⁷⁴ However, the *Albany Law School Journal* lasted only one academic year.¹⁷⁵

The second student-run legal periodical appeared at the Columbia Law School.¹⁷⁶ This student-edited journal, created by six students, was known as the *Columbia Jurist*.¹⁷⁷ This weekly publication included "notes from class lectures, moot court decisions, plus 'all news that can interest Law Men'."¹⁷⁸ The editors also published casenotes and lead articles by practitioners inside and outside Columbia University.¹⁷⁹ However, the *Columbia Jurist* ended after approximately two years.¹⁸⁰

One of the major influences the *Columbia Jurist* had on the development of legal periodicals was its impact on a few students at the Harvard Law School.¹⁸¹ The *Columbia Jurist* motivated those students to create the *Harvard Law Review*.¹⁸² In 1887, the *Harvard Law Review* published its first edition.¹⁸³ Although the *Columbia Jurist* may have motivated students at Harvard to create a law review, there were other factors that contributed to the venture and its eventual success and impact.

One such factor that contributed to the birth of the *Harvard Law Review* was a student club at the Harvard Law School known as the Langdell Society ("Society").¹⁸⁴ The Society had eight members, all third year students.¹⁸⁵ The purpose of the Society was to discuss legal topics, hold mock trials, and write legal essays.¹⁸⁶ These students decided that they wanted a larger audience for their essays than just the Society, and created the *Harvard Law Review* to achieve that end.¹⁸⁷ These students approached the law school faculty with the idea and received support from some of the faculty, but especially from Professor James Barr Ames.¹⁸⁸ A goal of the *Harvard Law Review* editors was to provide a forum for the Harvard Law School faculty to publish their scholarship.¹⁸⁹ Although at first these students requested assistance from the faculty in managing the law review, the faculty did not aid in its management.¹⁹⁰

The *Harvard Law Review* was not an official school program and thus needed outside financial support.¹⁹¹ Professor Ames suggested that the students contact alumnus Louis Brandeis, Secretary of the Harvard Law School Association.¹⁹² Brandeis obtained financial support for the project and placed the students in contact with members of the Boston Bar Association.¹⁹³ Jay McKelvey, the editor-in-chief of the review, solicited nearly 300 alumnus.¹⁹⁴ With financial support and the advisement of Professor Ames, the *Harvard Law Review* published its first edition in the spring of 1887.¹⁹⁵

The success of the *Harvard Law Review* prompted other schools to create student-edited law reviews.¹⁹⁶ Some of the law schools that created legal periodicals modeled after the *Harvard Law Review* included Yale University in 1891, the University of Pennsylvania in 1896, Columbia University in 1901, the University of Michigan in 1902, and Northwestern University in 1906.¹⁹⁷ These schools created law reviews not only to keep up with Harvard but also for the educational benefit they provided to student editors.¹⁹⁸ Furthermore, it was believed that a law review at a law school was a sign of a "mature educational institution," because law reviews demonstrated a school's commitment to legal scholarship.¹⁹⁹

The next law school to develop a law review similar to the *Harvard Law Review* was the Yale Law School.²⁰⁰ The *Yale Law Journal* was first published in 1891.²⁰¹ This journal, unlike the *Harvard Law Review*, did not have financial difficulty at its inception.²⁰² The financial stability of the *Yale Law Journal* was solidified in 1920 when it gained financial support from the Yale Law Alumni Association.²⁰³ The only other school to publish a legal periodical during the 1800s that is truly what is today considered a law review is the University of Pennsylvania.²⁰⁴ The law review at this law school began in 1896.²⁰⁵

In the beginning of the twentieth century, prominent law schools developed law reviews. Three law schools that developed law reviews early were Columbia University, the University of Michigan, and Northwestern University.²⁰⁶ The *Columbia Law Review* was founded in 1901.²⁰⁷ The student editors at the *Columbia Law Review* sought advice from the members of the *Harvard Law Review*.²⁰⁸

The *Michigan Law Review* published its first edition in 1902.²⁰⁹ Unlike the law reviews at Harvard, the University of Pennsylvania, and Columbia University, the *Michigan Law Review* was first operated by faculty, not students.²¹⁰ The faculty both managed and edited the *Michigan Law Review*.²¹¹ Students merely served as editorial assistants.²¹² Slowly the faculty turned over more editorial work to the students until the late 1930s when the students became responsible for the law review and the faculty undertook an advisory role.²¹³

Similar to the University of Michigan, Northwestern University, which began its law review in 1906, was initially run by the faculty with student assistance.²¹⁴ Five individuals created the *Illinois Law Review*, including John Wigmore and Frederic Woodward.²¹⁵ Woodward served as the law review's first editor-in-chief.²¹⁶ Roscoe Pound followed Woodward as the second editor-in-chief.²¹⁷ Interestingly, alumni also participated on the law review as associate editors.²¹⁸ Northwestern University first called its law review the *Illinois Law Review* because it was designed to address issues and the needs of the Illinois legal community.²¹⁹

In 1921, the *Illinois Law Review* created more space for student work.²²⁰ This student section was limited to the "expository statement of cases."²²¹ One reason students did not write comments containing constructive criticism of recent judicial decisions was faculty editor Albert Kocourck's view of student work. Kocourck stated in 1926 that "[s]tudent notes cannot build up a body of doctrine. They will always lack that breadth of legal knowledge and maturity of view which can only come to one who has lived with a specialty for many years."²²² Six years later, the notes and comments section began publishing student work.²²³ Finally, in 1938 the law review dropped the recent cases section and divided the non-lead article section into a comment and case note section.²²⁴

One difference between the *Illinois Law Review* and other law reviews of that time, and even law reviews of today, was that from 1924 through 1932, the *Illinois Law Review* was published with the combined work of three law schools. Joining Northwestern University in publishing the *Illinois Law Review* were the University of Illinois and the University of Chicago.²²⁵ In 1932 not only did Northwestern University take exclusive control of the review,²²⁶ but the University turned the law review over to the students.²²⁷ With the change in control of the law review came the first student editor-in-chief of the *Illinois Law Review*.²²⁸ In the 1950s, beginning with Volume 47, Northwestern University changed the name of the law review from the *Illinois Law Review* to the *Northwestern University Law Review*.²²⁹

The formation of these law reviews signaled a trend that would continue to see law schools create law reviews. By 1930, forty-three schools had law reviews.²³⁰ The proportion of faculty and student participation and control varied between schools. By 1942, there were fifty-five law reviews.²³¹ In 1955, there were seventy-eight law reviews.²³² Currently, there are over 400 law reviews.²³³ These publications consume over 150,000 printed pages annually.²³⁴ Half of these pages are devoted to student articles.²³⁵ These numbers constitute dramatic increases. Not only has the number of law

reviews increased, but the size of an issue is now longer.²³⁶ For instance, between 1954 and 1984, Harvard's law review increased in size by thirty-four percent.²³⁷

V. Development of Specialty Law Reviews

A recent area of intensive growth in law reviews is specialty law reviews.²³⁸ As noted earlier, these law reviews focus on a specific area of law.²³⁹ The articles in specialty law reviews are limited to addressing issues within the scope of that specialty law review.²⁴⁰ These reviews provide practitioners and authors in a particular area of law a forum to exchange ideas and arguments. Today, there are more than 200 specialty law reviews.

There are several reasons for the tremendous growth of specialty law reviews. One reason is that students who were not invited to participate on the generalist law review but who wish to participate in the law review experience have helped create additional law reviews at their law schools. The more journals a law school has, the better the opportunity for students to participate on a law review.²⁴¹

Another reason for the growth of specialty law reviews is that authors of articles about obscure or specialized areas of the law may have a difficult time finding a home for articles on their narrow topics.²⁴² A highly particularized area of law provides an excellent opportunity for the creation of a specialty law review because not only will it provide a forum for authors, but also a reference source for those practitioners who concentrate on that particular field of law.²⁴³ Since law review articles are published to be written but not necessarily read, creating more places in which to publish manuscripts has provided practitioners and students the opportunity to write law review articles and hence experience this educational activity.²⁴⁴

Finally, with the need for professors to publish while on the tenure track, as well as practitioners' desire to publish to further their careers, many law review articles are written. But at times there was a limited space in which to publish those works. Specialty law reviews have increased the space in which an author may find a home for his or her article.

There are some disadvantages of specialty law reviews in comparison to generalist law reviews. One disadvantage is that, depending on the area of law, there may be substantial droughts of manuscript submissions.²⁴⁵ If an area of law stops growing or is too limited, the specialty law review may either not have any manuscripts to publish or may not have high quality manuscripts to choose for upcoming editions. This limited quantity of submissions makes it difficult for specialty law reviews to equal the quality or reputation of the generalist law reviews.²⁴⁶ Furthermore, the "generalist journals"²⁴⁷ are usually more influential than these specialty journals at similarly positioned institutions.²⁴⁸

Another disadvantage is the amount of financial support and faculty support for a specialty law review. Many specialty law reviews are considered the law school's secondary or inferior journal and thus may not have as much support from the law school as that of the generalist journal. A law review that focuses on a certain area or field of

law may not be widely read, depending on the breadth of the field, but may provide practitioners involved in that field a helpful source in which to find an answer to a relevant problem.

VI. Foreign Law Reviews

In response to the success of the American law review, law schools in several other countries began to create their own law reviews.²⁴⁹ Almost all seem to have been based on the American model, often using student editors and staff and containing principal articles, casenotes, and sometimes book reviews. Whatever system was adopted, however, each law school began publishing a law review with the purpose of furthering both the education of its students and the development of the law. Additionally, each law school saw the birth of its law review as a sign of its progression in the field of legal education.

Many times a law review will acknowledge the American influence on its creation. For instance, the first issue of the *Cambridge Law Journal* in England appeared in 1921. All of the editors of the journal, except one, were students of the law school at Cambridge.²⁵⁰ In the Foreword to its first issue, the editor announced his hope that the success of the student-edited *Harvard Law Review* would be a sign that the *Cambridge Law Journal* might also enjoy success.²⁵¹

American influence on foreign law reviews is demonstrated in Australian publications as well. Justice Felix Frankfurter was actually the reason the University of Tasmania began publishing its law review in 1958. In a conversation between Justice Frankfurter and R.W. Baker (who was to become the review's first general editor), Justice Frankfurter stressed the necessity of a law review "particularly as a teaching tool for students."²⁵² The law review that was born as a result of this exchange contained articles, casenotes, legislative summaries, and book reviews, but was not student-edited. Justice Frankfurter wrote a short note of encouragement which is included in the Foreword to the first issue and which reads in part as follows:

[I]t seems to me almost indispensable for a University Law School, devoted as such an institution is to the philosophic study of law, to have an organ for work done within it which it hopes will afford enlightenment and stimulus outside its walls. I congratulate the Law School of the University of Tasmania on the establishment of its Law Review and wish it the kind of influence that a learned periodical may rightly covet.²⁵³

Also in Australia, two years later, the student-edited *Melbourne University Law Review* was first published. The review was designed along American lines. Many instructors from Melbourne University had visited and taught in American law schools, and they had observed American instructional techniques, including American law reviews.²⁵⁴ The *Melbourne University Law Review* includes articles, casenotes, and book reviews.

The Australian *Monash University Law Review* also was created in response to the growing trend American law reviews had set into motion.²⁵⁵ The editor of the first issue

discussed the influences behind the formation of the law review, noting that it was "[t]he tradition in the United States of America for all Law Schools to have a law review and for these to be staffed and controlled by students."²⁵⁶ The student-edited *Monash University Law Review* began publishing in August of 1974, and its pages contain articles, casenotes, and book reviews.²⁵⁷

Other student-edited Australian law reviews include the *Sydney Law Review* which was started in April of 1953,²⁵⁸ the *Otago Law Review* which began in 1965,²⁵⁹ and the *University of New South Wales Law Journal* which originated in 1975.²⁶⁰ When the *University of Queensland Law Journal* was inaugurated in 1948, all of its editors were law professors.²⁶¹

Many student-edited law reviews have also emerged in Canada. In December of 1947, the students of the University of New Brunswick introduced the *University of New Brunswick Law School Journal*.²⁶² The journal was named *Oyez-Oyez*.²⁶³ The format was unusual in that it was divided into two sections, the first section contained articles contributed by outside sources and the second section contained articles written either by students or about student affairs.²⁶⁴ Other student-edited Canadian law reviews include the *Queen's University Law Journal*²⁶⁵ and the *University of British Columbia Law Review*.²⁶⁶ The editorial board of the *University of Toronto Law Journal*, which began in 1935, was composed of teachers as well as students.²⁶⁷

The *New Zealand Universities Law Review* was launched in 1963.²⁶⁸ It was unique in that it was the creation not of a single law school but of the combined efforts of the law faculties of the four universities of New Zealand.²⁶⁹ The publication contains articles and book reviews, and it is not student-edited.²⁷⁰

VII. The Operation of Law Reviews

A unique aspect of law reviews compared to other academic journals is that law reviews are run almost exclusively by students. Students control every aspect of the law review, including article selection, publication, membership selection, and the selection of the editorial board. Even though law schools provide financial support, office space, and professors as advisors, the students on the law review have a great deal of autonomy and discretion.²⁷¹ Student management of the law review not only exposes law review members to a wide range of academic activity, but also instills management skills in the students who are members of the editorial board. These skills help develop future attorneys who are efficient and effective.

Student control and editing of law reviews has existed since the 1870s, when the students at the Albany Law School created the *Albany Law School Journal*.²⁷² As noted earlier, although this journal survived for only one year, it was the first law review to be started and edited by students.²⁷³ In 1885, six students at Columbia Law School created the *Columbia Jurist*. Once these students graduated, they chose their successors from the student body based on competitive essays.²⁷⁴

Law reviews are organized in a hierarchical manner. The general hierarchy consists of an editor-in-chief, executive editors, an editorial board, and student members at large. The editor-in-chief and executive editors (such as the lead articles editor, the candidacy editor, and the managing editor) serve on the editorial board which may also include assistant editors and/or other law review staff members. Faculty are usually not included in the hierarchy, but rather serve an advisory role.

An editorial board heads the law review. The editorial board has responsibility and control over every aspect of the law review, from selecting members to producing a final publishable edition. More specifically, the editorial board coordinates staff assignments, generates topics for student publications, selects lead articles and other non-student manuscripts for publication, and edits every article.²⁷⁵ Most members of law review editorial boards serve a one-year term.²⁷⁶ This term usually begins toward the end of the second year of law school or during the summer after the second year. Law review editorial boards usually contain between five and fifteen members.²⁷⁷ Editorial board members are usually chosen by their predecessors.²⁷⁸ However, some law reviews allow the staff members to choose the editorial board.²⁷⁹

Most law schools provide members of the law review editorial board with academic credit hours.²⁸⁰ Some schools also provide a scholarship or stipend for the editorial board members. These stipends are usually provided to editorial board members during the academic year.²⁸¹ However, some schools also provide these stipends during the summer term preceding the third year of law school.²⁸²

The editorial board of a law review is similar to editorial divisions of magazines, newspapers, and other scholastic and professional journals. Although the structure of editorial boards varies among law reviews, there is a general structure that most law reviews employ. This structure includes an Editor-in-Chief, Managing Editor, Executive Editor, Student-Work Editors, Lead Articles Editors, and a Research Editor (although the titles may vary from school to school).²⁸³ There may also be assistant editors in one or more of these areas.

The Editor-in-Chief is essentially the CEO of the law review. The Editor-in-Chief supervises and organizes the members of the editorial board and the rest of the members of the law review. The Editor-in-Chief possesses the final editorial responsibility for the law review.²⁸⁴ Other tasks include topic generation for student works, lead articles, and symposium issues.²⁸⁵ The Editor-in-Chief may also be responsible for soliciting and selecting non-student articles for publication, as well as the editing of those articles.²⁸⁶ At some law reviews, the Editor-in-Chief also manages the business aspects of the law review.²⁸⁷

Another common position on a law review editorial board is the Managing Editor. Although most law reviews have only one Managing Editor, some law reviews employ two or three Managing Editors.²⁸⁸ Many law reviews allocate the responsibility for "checking citations, footnotes, and substantive accuracy of lead articles or student pieces"²⁸⁹ to the Managing Editor. Other responsibilities include recording suggestions

for substantive and citation corrections by other members of the law review.²⁹⁰ Some Managing Editors also coordinate general members' assignments.²⁹¹ Managing Editors may also control the law review's finances, perform the business functions, and maintain relations with the publisher.²⁹² Most Managing Editors are responsible for the "smooth functioning of the review and the presentation of the finished product."²⁹³ However, most Managing Editors do not have much input into the substantive content of the law review.

The Executive Editor's main responsibility is to check the accuracy of citations and the substantive content of articles.²⁹⁴ The Executive Editor may also be responsible for recording the changes to the citations or text.²⁹⁵ Again, since law review editorial boards vary, the Executive Editor may also be involved in student-works, as well as other functions of the law review.

Another position common to many law review editorial boards is the Student-Work Editor or Candidacy Editor. Two main functions of this position include developing and editing student manuscripts.²⁹⁶ Developing student manuscripts requires the Student-Work Editor to serve as advisor during the writing process. The Student-Work Editor aids and supervises the completion of outlines, drafts, arguments, and proper citation style.²⁹⁷ Editing student manuscripts occurs after the development stage of a student piece.²⁹⁸ Many Student-Work Editors are responsible for editing those student manuscripts that the law review has decided to publish. Student-Work Editors may also be responsible for generating student-topics.²⁹⁹ The number of Student-Work Editors varies between law reviews. Some law reviews have only one Student-Work Editor while others have twenty.³⁰⁰ A majority of law reviews employ four to seven Student-Work Editors.³⁰¹

Articles Editors select and edit solicited and unsolicited lead articles, essays, and book reviews. Articles Editors may also be responsible for the "generation of topics for solicitation."³⁰² A related function is the generation of symposium issues.³⁰³ Articles Editors may also check for accuracy of citations and substantive content.³⁰⁴ Articles Editors serve as the liaison between the law review and the non-student authors. Articles Editors communicate with authors about changes in the text and citations of an article.

The Article Editor's duties include editing the article for grammar, punctuation, and content. The Lead Article Editor must also cite check the article to insure for accuracy and to protect against publishing plagiarized material. Inherent in the Lead Articles Editor's duties is continual communication with the author. The Lead Articles Editor must suggest changes and request clarification while balancing the author's demands and the standards of the law review. Since law reviews are measured by the quality of their lead articles, the Lead Articles Editor's job is demanding and one of the most critical aspects of a successful law review.

Both lead articles editors and student articles editors have the similar objectives when reviewing manuscripts. The three primary objectives when reviewing manuscripts are: "[f]irst, to insure that no article inferior to the journal's minimal standards is published; second, to select from the pool of publishable manuscripts those of the highest quality for

which the journal has a reasonable chance to acquire publication rights; and third, to satisfy in the article selection process whatever topical imperatives the board (or tradition) has assigned to a particular volume or issue."³⁰⁵

Finally, most law reviews employ a Research Editor.³⁰⁶ Usually a single law review member performs the tasks associated with this position.³⁰⁷ The Research Editor generates student topics, symposium topics, and topics for solicitation of lead articles, essays, and book reviews.³⁰⁸ The Research Editor may also read slip opinions or advance sheets and other law reviews.³⁰⁹ These tasks constitute the main function of the Research Editor which is "sensing trends and developing issues, assimilating the most recent cases, and discovering similar or preclusive articles in other journals."³¹⁰

Membership on the law review is usually based on invitation.³¹¹ Originally, membership was based solely on academic performance in the first year or first semester of law school. However, the methods for inviting members have changed.³¹² Currently, most journals, along with the "grade-on" or academic route to membership, also offer one or more ways to "write-on" to the law review.³¹³ One form of write-on consists of the writing of a closed research project.³¹⁴ Another type of write-on program involves students writing and submitting a note or comment to the law review editors.³¹⁵ If this work is "deemed publishable, the writer is invited to join"³¹⁶ the law review staff.

Many journals maintain a fixed ratio between members grading-on and writing-on to the law review.³¹⁷ For instance, some journals invite a certain larger percentage of law review candidates based on class rank and then fill the remaining positions through a write-on process.³¹⁸ Some journals reverse this approach and place more emphasis on the write-on program and less emphasis on grades.³¹⁹ Other journals provide composite scores based on points assigned to a student's grade point average and the writing competition.³²⁰ However, the trend supports an "increasing reliance on writing competitions."³²¹ Some law reviews have attempted to achieve a more diverse membership by creating affirmative action policies.³²² Law review affirmative action policies seek to increase minority membership. For instance, the *University of Virginia Law Review* did not have an African-American member in its seventy-three year history until 1987 when it adopted an affirmative action policy.³²³ Law review affirmative action plans generally employ one of two methods: a strict quota plan or a goal plan.³²⁴

A strict quota plan sets aside a specific number of places for affirmative action candidates.³²⁵ These places are limited to only those affirmative action candidates. Under this type of plan, the number of minority student members is not limited to the specified number under the plan. Minority students who obtain membership either through academics or a writing competition do not affect the number of students who gain membership under the plan. These programs may or may not employ any academic criteria.

A goals plan involves the current law review members choosing a specific percentage of minority students to invite to participate on the law review.³²⁶ Thus, unlike the strict quota plan, minority students who gain membership to the law review through academics

or a writing competition partially fill the specific percentage. Thus, the number of minority students who gain membership to the law review through the goals plan decreases according to the number of minority students who gain membership through academics and a writing competition.

VII. National Conference of Law Reviews

The National Conference of Law Reviews (NCLR) is a voluntary membership organization of both general and specialty law reviews, and has as one of its primary purposes the organization and supervision of an annual meeting of student representatives from the law reviews. The NCLR first met in 1949 at the Northwestern University School of Law.³²⁷ Although the NCLR has existed for over forty years, extensive historical information does not exist. The main reason for the lack of historical data is that the NCLR had no central office until it established one in 1992.³²⁸ Until 1992, the law review which hosted the annual meeting essentially served as the NCLR's temporary traveling headquarters. Accordingly, the NCLR lacked a centralized repository for historical information and an extensive history of the NCLR is elusive.

The Constitution of the NCLR does provide some insight into the purpose and structure of today's NCLR. Specifically, the Constitution provides that the ultimate goal of the NCLR "shall be to assist its members in better serving the academic and professional legal community."³²⁹ One way the NCLR attempts to meet this purpose is through its annual meeting. Some of the activities which take place at the annual meeting include the training of newly appointed law review editors, the selection of the host review for the second succeeding year, and the conduct of a business meeting which may include voting to amend the Constitution and Bylaws.

Membership in the NCLR is open to "[a]ny student-edited review of the law published at regular intervals in conjunction with any professionally approved law school."³³⁰ To become a member, reviews which meet the above criteria must indicate their interest by notifying the Executive Board of the NCLR and paying an annual fee.³³¹ Once a law review is a member it must attend an annual meeting at least once every three years.³³² Failure to attend an Annual Meeting for three successive years can result in dismissal.³³³ One benefit of membership in the NCLR is that the member reviews are entitled to indicate their affiliation with the NCLR on their law review's masthead.³³⁴

The NCLR's organizational structure consists of a National Headquarters, an Executive Board, and an Assembly. This structure constitutes a substantial change from the structure that existed most of the time since the NCLR's inception in the early 1950s. During the early years and until 1993, the centralization of the NCLR rotated with the National Conference to the host review school. However, in 1993, the NCLR established its first national headquarters at the University of Memphis.³³⁵ This designation is to last for five years, and at the 1997 National Conference, the NCLR will choose a new school to house the national headquarters beginning in 1998.³³⁶ Some of the responsibilities of the National Headquarters include collecting membership fees and reporting all

proceedings, discussions and resolutions adopted by the Assembly, as well as distributing such a report to all member reviews.³³⁷

Another organ of the NCLR is the Executive Board. The Executive Board is made up of ten reviews serving two-year terms, five of which are elected in alternate years.³³⁸ The newly elected host review serves as an ex-officio member of the Executive Board for a three-year term beginning with that review's election.³³⁹ The National Headquarters Review also holds a seat on the Executive Board. Altogether, the Executive Board consists of fourteen reviews. The NCLR attempts to have the membership of the Executive Board as geographically representative as possible, and the Executive Board must include at least two reviews publishing at least four times annually.³⁴⁰

The Executive Board has the responsibility of recommending to the Assembly a member review to serve as the National Headquarters Review and recommending to the Assembly a member review to serve as host review for the second succeeding year.³⁴¹ The Executive Board's purposes are to provide long range continuity, to advise the host school Conference Committee and the member reviews, and to advise the Assembly on permanent structure and policies.³⁴² It is also responsible for the establishment of procedures for creating a central information center.³⁴³ This center is designed to collect, tabulate, and disseminate information and data obtained through questionnaire responses requested by the members.³⁴⁴ This procedure should greatly aid in the historical account of the NCLR.

Finally, the last component of the NCLR organizational structure is the Assembly. The Assembly is the legislative organ of the Conference.³⁴⁵ It determines the NCLR's policies and procedures.³⁴⁶ It also selects the host review for the second succeeding year from the bids submitted.³⁴⁷ The Assembly consists of all member law reviews in attendance at the annual meeting.³⁴⁸ For instance, in 1996, 106 member reviews attended the Conference out of the 110 total member reviews.³⁴⁹ Each review has one vote and a majority vote of all reviews attending the Assembly is required to adopt legislative acts and resolutions.³⁵⁰

VIII. Code of Ethics

From the beginning of the law review institution in the 1870s and for more than 100 years, there was no code of conduct that had been developed expressly to guide the members of the law reviews. Then, during a speech to the National Conference of Law Reviews (NCLR) Annual Meeting in Chicago in 1987, Professor Michael Closen suggested that the law reviews and their members constitute an important part of the legal system and that they therefore ought to abide by a published set of standards of professional conduct.³⁵¹ At about the same time, Professor Robert Jarvis was developing a code of conduct for law review authors.³⁵² Hence, the NCLR asked Professors Closen and Jarvis to pool their ideas and to draft a single code of ethics. Closen and Jarvis undertook the project, made reports on their progress at the NCLR meetings in Toledo in 1989 and Detroit in 1991,³⁵³ and presented a first draft of a code of ethics. That first draft was published in the *Detroit College of Law Review* and then distributed widely to the law reviews (both members and non-members of the NCLR) throughout the

country for their comments.³⁵⁴ Numerous comments were received and considered for incorporation into the code of ethics.³⁵⁵

The final draft of the code of ethics was prepared by Professors Closen and Jarvis, along with comments to expand upon the enumerated standards. That document was presented to the NCLR Annual Meeting in Los Angeles in 1992, was discussed and debated by the delegates, and was voted on and approved as the National Conference of Law Reviews Model Code of Ethics.³⁵⁶ The Model Code as printed in the *Marquette Law Review*, of course, is available for adoption by both members and non-members of the NCLR, and numerous reviews have adopted it as their official code of conduct.³⁵⁷

IX. Conclusion

The law review has successfully withstood the test of time. It can be expected that the law review institution will survive and will continue to provide significant benefits to legal education, to the legal profession, and to society at large.³⁵⁸ Yet, we cannot expect any sizable growth in the number of law reviews, for the marketplace is approaching a level of saturation which, purely for the reason of economics, would make it infeasible for a substantial number of new reviews to survive.³⁵⁹

The American law review properly has been called the most remarkable institution of the law school world. To a lawyer, its articles and comments may be indispensable professional tools. To a judge . . . the review may be both a severe critic and a helpful guide. But perhaps most important, the review affords invaluable training to the students.

. . .

[L]aw reviews perform the indispensable function of criticism for an important institution [and they also] help make the future path of the law.

Earl Warren, 1953/56³⁶⁰

* This article is adapted from a chapter entitled *The Law Review* by Professor Michael Closten and is scheduled to appear in *The History of Legal Education in the United States* (Salem Press, forthcoming 1997).

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1. Benjamin N. Cardozo, *Introduction*, in *Selected Readings in the Law of Contracts* vii, ix (George J. Thompson et al. eds., 1931).

2. Of course, just when the status of law reviews became so well established to be characterized as an institution is uncertain, and although the authors have not attempted a thorough investigation of the first reference to the institutional standing of law reviews, we know of such a reference as early as 1937. John J. McKelvey, *The Law School Review: 1887-1937*, 50 Harv. L. Rev. 868, 873, 880 (1937). By analogy, the law review was compared to other important institutions of government and business at least as early as 1935. Frederick E. Crane, *Law School Reviews and the Courts*, 4 Fordham L. Rev. 1, 1 (1935).

3. See 1996 Directory of Law Reviews and Scholarly Legal Periodicals (1996) (showing that there are 171 general law reviews, and 234 specialty law reviews). Almost all of the more than 400 law reviews are student-edited. However, there has been a continuing debate about the wisdom of increasing the law faculty involvement in the editorial process, and it should be noted that a few reviews are faculty-edited in whole or in part. See John G. Kester, *Faculty Participation in the Student-Edited Law Review*, 36 J. Legal Educ. 14 (1986); David M. Richardson, *Improving the Law Review Model: A Case in Point*, 44 J. Legal Educ. 6 (1994).

4. Black's Law Dictionary 887 (6th ed. 1990).

5. Jordan H. Leibman & James P. White, *How the Student-Edited Law Journals Make Their Publication Decisions*, 39 J. Legal Educ. 387, 387 (1989).

6. See, e.g., *Boston College Environmental Affairs Law Review*, *Columbia Journal of Environmental Law*, *Georgetown International Environmental Law Review*, *Harvard Environmental Law Review*, *Pace Environmental Law Review*, *Stanford Environmental Law Journal*, and *Wisconsin Environmental Law Journal*.

7. See, e.g., *American Journal of International Law*, *Arizona Journal of International & Comparative Law*, *Brooklyn Journal of International Law*, *Cornell International Law Journal*, *Florida Journal of International Law*, *Michigan Journal of International Law*, *Northwestern Journal of International Law & Business*, *Syracuse Journal of International Law & Commerce*, and *Yale Journal of International Law*.

8. See, e.g., *American Intellectual Property Law Association Quarterly Journal*, *Cardozo Arts & Entertainment Law Journal*, *Columbia-VLA Journal of Law & the Arts*, and *Texas Intellectual Property Law Journal*.

9. See, e.g., *Berkeley Journal of Employment & Labor Law*, *Comparative Labor Law Journal*, and *Hofstra Labor Law Journal*.

10. See, e.g., *Akron Tax Journal*, *Boston University Journal of Tax Law*, *Journal of Taxation*, and *Virginia Tax Review*.

11. See, e.g., *Albany Journal of Science & Technology*, *American Indian Law Review*, *Antitrust Law Journal*, *George Mason University Civil Rights Law Journal*, *Issues in Law & Medicine*, *John Marshall Journal of Computer & Information Law*, *Journal of Criminal Law & Criminology*, *Law & Sexuality*, *Notre Dame Journal of Law Ethics & Public Policy*, *Transportation Law Journal*, and *University of San Francisco Maritime Law Journal*.

12. Jean Stefanic, *The Law Review Symposium Issue: Community of Meaning or Reinscription of Hierarchy?*, 63 U. Colo. L. Rev. 651, 655 (1992).

13. See, e.g., Michael L. Closen, *HIV-AIDS in the 1990s*, 27 J. Marshall L. Rev. 239 (1994); Michael S. Jacobs, *An Essay on the Normative Foundations of Antitrust Economics*, 74 N.C. L. Rev. 219 (1995); Graham C. Lilly, *Essay, Law schools Without Lawyers? Winds of Changes in Legal Education.*, 81 Va. L. Rev. 1421 (1995). Not all published pieces can easily be characterized as falling within one of the enumerated categories. See e.g., Robert M. Jarvis, *An Anecdotal History of the Bar Exam*, 9 Geo. J. Leg. Ethics 359 (1996) (telling the story of the bar exam in the interesting format of a bar examination, complete with essay questions and multiple choice items).

14. See, e.g., Scott Burris, *Book Review*, 16 J. Legal Med. 447 (1995); Gerald L. Conway & Stuart Orsher, *Book Review*, 13 J. of Legal Med. 267 (1992); Paul R. Joseph, *Toward A Course on AIDS Law*, 9 St. Louis U. Pub. L. Rev. 635 (1990) (reviewing Michael Closen et al., *AIDS: Cases And Materials* (1989)); Elizabeth Kopelman, *The Modern Machiavelli: Legitimacy, Conflict and Power in the International Legal Order*, 43 U.C.L.A. L. Rev. 139 (1995) (reviewing Henry Kissinger, *Diplomacy* (1994)); see also McKelvey, *supra* note 2, at 874.

15. See, e.g., Robert J. Dzielak, *Comment, Physicians Lose the Tug-Of-War to Pull the Plug: The Debate About Continued Futile Medical Care*, 28 J. Marshall L. Rev. 733 (1995); Christina E. Wells, *Comment, Mandatory Student Fees: First Amendment Concerns and University Discretion*, 55 U. Chi. L. Rev. 363 (1988); see also McKelvey, *supra* note 2, at 874.

16. Roger C. Cramton, *The Most Remarkable Institution: The American Law Review*, 36 J. Legal Educ. 1, 8 (1986).

17. *See id.* at 4 (describing early versions of the *Harvard Law Review* that contained articles from the Harvard Law School faculty).
18. Leibman & White, *supra* note 5, at 396.
19. *Id.*
20. *Id.*
21. *See, e.g.*, Denzil Y. Causey (DBM, JD, CPA) & Sandra Causey (CPA, BS), *The Accounting Profession in the Courts*, 12 Miss. C. L. Rev. 7 (1991); Robert M. Taylor (AB, MD) & John D. Lantos (BA, MD), *The Politics of Medical Futility*, 11 Issues L. & Med. 3 (1995).
22. *See, e.g.*, Dennis E. Cichon, *The Right to "Just Say No": A History and Analysis of the Right to Refuse Antipsychotic Drugs*, 53 La. L. Rev. 283 (1992) (containing over 140 published pages); Michael L. Closen, *Limited Partnership Reform: A Commentary Upon the Proposed Illinois Statute and the 1976 and 1985 Versions of the Uniform Limited Partnership Act*, 6 N.I.U. L. Rev. 205 (1986) (containing more than 110 pages); Suzanne Sangree, *Control of Childbearing by HIV-Positive Women: Some Responses to Emerging Legal Policies*, 41 Buff. L. Rev. 309 (1993) (containing 140 published pages).
23. *See, e.g.*, Jonathan B. Cleveland, *School Choice: American Elementary and Secondary Education Enter the "Adapt or Die" Environment of a Competitive Marketplace*, 29 J. Marshall L. Rev. 75 (1995) (containing 635 footnotes); Michael L. Closen, et. al., *AIDS: Testing Democracy Irrational Responses to the Public Health Crisis and the Need for Privacy in Serologic Testing*, 19 J. Marshall L. Rev. 835 (1986) (containing 409 footnotes); Robert B. Leflar, *Informed Consent and Patients' Rights in Japan*, 33 Hous. L. Rev. 1 (1996) (containing 522 footnotes).
24. Leibman & White, *supra* note 5, at 397.
25. *Id.*
26. *See supra* note 14.
27. Book reviews tend to be only a few pages in length and to contain only a few references themselves. *See, e.g.*, Preston M. Torbert, *China's Internal Debate*, 28 J. Marshall L. Rev. 639 (1995) (containing five pages, with eleven footnotes) (reviewing Ronald Kieth, *China's Struggle For The Rule of Law* (1994)); Mark E. Wojcik, Book Review, 27 J. Marshall L. Rev. 949 (1994) (containing four pages, with eleven footnotes) (reviewing David Stott, *Essential Legal Skills: Legal Research* (1993)). *But see*, Helen Leskovac, *To the Citadel and Back*, 40 N.Y.L. Sch. L. Rev. 537 (1996) (containing 28 pages and 146 footnotes) (reviewing Derrick Bell, *Confronting Authority: Reflections of an Ardent Protester* (1994)).

28. Leibman & White, *supra* note 5, at 396.
29. James D. Gordon, *Law Review & the Modern Mind*, 33 *Ariz. L. Rev.* 265, 266-67 (1991).
30. *Id.* at 268.
31. *See Law Reviews and Legal Progress: Herein of Past Services and Future Responsibilities*, 51 *Nw. U. L. Rev.* 2, 8 (1956) (discussion by the student editors of the *Northwestern University Law Review's* change from student casenotes to student comments).
32. *Id.*
33. *See generally*, Bart Sloan, Note, *What Are We Writing For? Student Works As Authority and Their Citation by the Federal Bench, 1986-1990*, 61 *Geo. Wash. L. Rev.* 221 (1992).
34. *Id.*
35. *See, e.g.*, Nicole Giallonardo, Note, *Steve Jackson Games v. United States Secret Service: The Government's Unauthorized Seizure of Private E-Mail Warrants More Than the Fifth Circuit's Slap on the Wrist*, 14 *J. Marshall J. of Computer & Info. L.* 179 (1995); Eric P. Loukas, Note, *Loitz v. Remington Arms Co.: The Illinois Supreme Court Sets a Tougher Standard for Reviewing Punitive Damage Awards in Products Liability Cases*, 25 *J. Marshall L. Rev.* 427 (1992). *See also*, McKelevy, *supra* note 2, at 874 (explaining that some law reviews include sections in which student articles discuss recent legislative developments).
36. Leibman & White, *supra* note 5, at 394.
37. *Id.* It should be noted that there is some disagreement as to the advantages and disadvantages of the symposium format. *See generally* Stefanic, *supra* note 12.
38. Stefanic, *supra* note 12, at 661.
39. *Id.* (citing *Colloquy: Tax Transitions*, 98 *Harv. L. Rev.* 1809 (1985) (including two authors); *Local Government Law Symposium*, 15 *Stetson L. Rev.* 649 (1986) (including 84 authors)). However, most symposium issues are written by between five and 25 authors. *See, e.g.*, *AIDS Symposium*, 24 *J. Marshall L. Rev.* 509 (1991) (written by eight authors); *AIDS Law Symposium: Legal, Ethical, and Policy Issues*, 27 *J. Marshall L. Rev.* 239 (1994) (written by 23 authors).
40. *See, e.g.*, *Law & Contemporary Problems* and *Chicago-Kent Law Review*. *See also*, the *Widener Law Symposium Journal*, first published in 1996, which appears to be the first such journal to use "symposium" in its title.

41. For instance, *the John Marshall Law Review* publishes both general editions with articles covering various topics and symposium editions covering specific areas such as HIV-AIDS, fair lending and housing, and many others. *See, e.g., supra* note 39. *See also* Leibman & White, *supra* note 5, at 394-95.

42. Leibman & White, *supra* note 5, at 395; Stefanic, *supra* note 12, at 663.

43. Stefanic, *supra* note 12, at 651.

44. *A Symposium of Law Publishers*, 23 Am. L. Rev. 396 (1889); *see also*, Stefanic, *supra* note 12, at 654.

45. Stefanic, *supra* note 12, at 654.

46. *Id.*

47. *See* Edward J. Phelps et al., *Methods of Legal Education*, 1 Yale L.J. 139 (1892). *See also*, Stefanic, *supra* note 12, at 654.

48. H.W. Chaplin, *Record Title to Land*, 6 Harv. L. Rev. 302 (1893); Joseph H. Beale, *Registration of Title to Land*, 6 Harv. L. Rev. 369 (1893); F.V. Balch, *Land Transfer: A Different Point of View*, 6 Harv. L. Rev. 410 (1893); James R. Carret, *Land Transfer: A Reply to Criticisms of the Torrens System*, 7 Harv. L. Rev. 24 (1893). *See also*, Stefanic, *supra* note 12, 654.

49. Stefanic, *supra* note 12, at 654-55.

50. *See* Charles E. Hughes, *Mr. Justice Holmes*, 44 Harv. L. Rev. 677 (1931); C. Sankey, *Mr. Justice Holmes: On Behalf of the English Judiciary*, 44 Harv. L. Rev. 680 (1931); W.A. Jowitt, *Mr. Justice Holmes: On Behalf of the English Bar*, 44 Harv. L. Rev. 681 (1931); Benjamin N. Cardozo, *Mr. Justice Holmes*, 44 Harv. L. Rev. 682 (1931); Frederick Pollock, *Mr. Justice Holmes*, 44 Harv. L. Rev. 693 (1931); Theodore F.T. Plucknett, *Holmes: The Historian*, 44 Harv. L. Rev. 712 (1931); Felix Frankfurter, *The Early Writings of O.W. Holmes, Jr.*, 44 Harv. L. Rev. 717 (1931); Harold J. Laski, *The Political Philosophy of Mr. Justice Holmes*, 40 Yale L.J. 683 (1931); Hessel E. Yntema, *Mr. Justice Holmes' View of Legal Science*, 40 Yale L.J. 696 (1931); *see also*, Stefanic, *supra* note 12, at 655.

51. *See Foreword*, 1 Law & Contemp. Probs. 1 (1933).

52. *Id.*

53. *Id.*

54. *Id.* at 2.

55. *Id.* at 1.

56. *See generally* McKelvey, *supra* note 2, at 870-73.

57. *See* Michael L. Closen, *A Proposed Code of Professional Responsibility For Law Reviews*, 63 Notre Dame L. Rev. 55, 55 (1988) (citing Chief Justice Earl Warren in 1 Creighton L. Rev. 7, 8 (1968) as stating that law reviews "have long served an invaluable function in the development of our jurisprudence" along with other commentators sharing similar views).

58. *See, e.g.*, William L. Prosser, *Privacy*, 48 Cal. L. Rev. 383, 384-85 (1960) (stating that *The Right to Privacy* by Louis Brandeis and Samuel Warren had "little immediate impact on the law.").

59. *See Pavesich v. New England Life Insurance Co.*, 50 S.E. 68 (Ga. 1905); *see also* Prosser, *supra* note 58, at 386.

60. *See, e.g.*, Marcia Chambers, *Seems That We All Like A Good List*, 13 Nat'l L.J. 17 (1991) (listing Gerald Gunther, *The Supreme Court, 1971-Term Forward: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection*, 86 Harv. L. Rev. 1 (1972), as a law review article that had been cited over 600 times).

61. For example, in Illinois, the papers authored by a number of law professors led to legislative changes in the structuring of the criminal statutes on homicide. *See* James B. Haddad, *Allocation of Burdens in Modern-Voluntary Manslaughter Cases: An Affirmative Defense Approach*, 59 Chi.-Kent L. Rev. 23 (1982); Timothy P. O'Neill, *"With Malice Toward None:" A Solution to an Illinois Homicide Quandary*, 32 DePaul L. Rev. 107 (1982); Timothy P. O'Neill, *An Analysis of Illinois' New Offense of Second Degree Murder*, 20 J. Marshall L. Rev. 209 (1986); 720 Ill. Comp. Stat. Ann. 5/9-1 (West 1993).

62. *See, e.g.*, Michael L. Closen & G. Grant Dixon, III, *Notaries Public From the Time of the Roman Empire to the United States Today, and Tomorrow*, 68 N.D. L. Rev. 873 (1992) (cited in Unif. Acknowledgment Act §1, 12 U.L.A. 6 (1996); Unif. Law on Notarial Act §1, 14 U.L.A. 6 (Supp. 1996)); Closen, *supra* note 22 (cited in Revised Unif. Ltd. Partnership Act §§ 101-03, 201, 303, 309, 402, 405, 501, 503, 605, 702, 6A U.L.A. 61, 66, 74, 78, 103, 153, 165, 176, 202, 203, 211, 223, 232 (1996); 805 Ill. Comp. Stat. Ann. 210/100 - 210/1205 (West 1995)).

63. Michael I. Swygert & Jon W. Bruce, *The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews*, 36 Hast. L.J. 739, 789 (1985).

64. Ronald D. Rotunda, *Law Reviews The Extreme Centrist Position*, 62 Ind. L.J. 1, 3 (1986).

65. *Id.*

66. Leibman & White, *supra* note 5, at 397.

67. *Id.*

68. Rotunda, *supra* note 64, at 4.

69. *Id.* at 5.

70. Closen, *supra* note 57, at 55.

71. *Id.*

72. See generally Michael L. Closen & Robert M. Jarvis, *The National Conference of Law Reviews Model Code of Ethics: Final Text and Comments*, 75 Marq. L. Rev. 509 (1992).

73. Rotunda, *supra* note 64, at 8.

74. *Id.* at 9.

75. *Id.*

76. *Id.*

77. Judith S. Kaye, *One Judge's View of Academic Law Review Writing*, 39 J. Legal Educ. 313, 316 (1989).

78. *Id.* Certainly, over the last 75 years there has continued to be occasional criticisms leveled against the law review institution. See, e.g., James Lindgren, *An Author's Manifesto*, 61 U. Chi. L. Rev. 527 (1994) (beginning his piece with the statement, "Our scholarly journals are in the hands of incompetents."); Fred Rodell, *Goodbye to Law Reviews*, 23 Va. L. Rev. 38 (1936); Geoffrey Preckshot, Comment, *All Hail Emperor Law Review: Criticism of the Law Review System and Its Success at Provoking Change*, 55 Mo. L. Rev. 1005 (1990); David Margolick, *Law Journal is Caught in Corporate Crossfire*, N.Y. Times, Sept. 24, 1984, at D2 (stating that law review editing "does to the written word what the Cuisinart does to broccoli"). An interesting set of critical appraisals of law reviews has recently been completed. See C. Steven Bradford, *As I Lay Writing: How to Write Law Review Articles for Fun and Profit*, 44 J. Legal Educ. 13 (1994); Alfred F. Conrad, *A Lovable Law Review*, 44 J. Legal Educ. 1 (1994); David M. Richardson, *Improving the Law Review Model: A Case in Point*, 44 J. Legal Educ. 6 (1994).

79. Charles E. Hughes, *Forward*, 50 Yale L.J. 737, 737 (1941). After quoting the famous passages of Justice Holmes, Chief Justice Charles Evans Hughes distanced himself from

the harsh opinion of Holmes. "It is not too much to say that, in confronting any serious problem, a wide-awake and careful judge will at once look to see if the subject has been discussed, or the authorities collated and analyzed, in a good law periodical." *Id.* In contrast to the view of Holmes, Chief Judge Frederick E. Crane of the New York Court of Appeals confessed that "[w]hen I find that any opinion of mine has been approved by these young critics [on the law reviews] I have a feeling of satisfaction which I am sure is justified when we remember that these students come to the law with fresh impressionable minds, sensitive to right and wrong and to any act of injustice." Crane, *supra* note 2, at 2.

80. Swygert & Bruce, *supra* note 63, at 787.

81. *Id.* at 788.

82. 166 U.S. 290, 350 n.1 (1897) (White, J. dissenting).

83. Amasa M. Eaton, *On Contracts In Restraint of Trade*, 4 Harv. L. Rev. 128 (1890); *see also* Swygert & Bruce, *supra* note 63, at 788.

84. James Ames, *Two Theories of Consideration*, 12 Harv. L. Rev. 515 (1899).

85. 178 U.S. 353, 365 (1899); *see also* Swygert & Bruce, *supra* note 63, at 788.

86. Swygert & Bruce, *supra* note 63, at 788.

87. Chester A. Newland, *Legal Periodicals and the United States Supreme Court*, 3 Midwest J. of Pol. Sci. 58, 60 (1959).

88. *Id.*

89. *Id.*

90. *Id.* at 60-61.

91. Philippa Strum, *Louis D. Brandeis: Justice for the People* 364 (1984).

92. *Id.* at 364.

93. *Id.*

94. John W. Johnson, *American Legal Culture, 1908-1940* 62 (1981).

95. *See* 244 U.S. 590, 597 (1917) (Brandeis, J. dissenting); *see also*, Strum, *supra* note 91, at 363.

96. 304 U.S. 64 (1938).

97. Strum, *supra* note 91, at 364.
98. Charles Warren, *New Light on the History of the Federal Judiciary Act of 1789*, 37 Harv. L. Rev. 49 (1923).
99. Newland, *supra* note 87, at 66.
100. Johnson, *supra* note 94, at 62.
101. Strum, *supra* note 91, at 363.
102. Newland, *supra* note 87, at 62.
103. *Id.*
104. *Id.*
105. Strum, *supra* note 91, at 363.
106. George J. Thompson et al., Preface, *in* Selected Readings on the Law of Contracts v (George J. Thompson et al. eds., 1931).
107. Cardozo, *supra* note 1, at vii.
108. *Id.* at ix.
109. *Id.*
110. *Id.* Yet, even Cardozo appears to have had concerns about the opinions of law review authors regarding his published decisions. "Any morning's mail may bring a law review from Harvard or Yale or Columbia or Pennsylvania or Michigan or a score of other places to disturb our self conceit and show with pitiless and relentless certainty how we have wandered from the path." Stanley H. Fuld, *A Judge Looks at the Law Review*, 28 N.Y.U. L. Rev. 915, 915 (1953) (quoting Justice Cardozo).
111. Benjamin Cardozo, *The Growth of the Law* 14 (1924).
112. Newland, *supra* note 87, at 63.
113. *Id.*
114. *Id.*
115. Swygert & Bruce, *supra* note 63, at 787.

116. Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 Harv. L. Rev. 193 (1890).

117. See Prosser, *supra* note 58, at 384-85 (citing *Manola v. Stevens*, N.Y. Times, June 15, 18, 21, 1890 (N.Y. Sup. Ct. 1890)).

118. *Id.* at 385.

119. *Id.*

120. 80 N.W. 285 (Mich. 1899).

121. 64 N.E. 442 (N.Y. 1902); see also Kaye, *supra* note 77, at 316.

122. *Roberson v. Rochester Folding-Box Co.*, 64 N.E. at 443; see also Kaye, *supra* note 77, at 316.

123. Prosser, *supra* note 58, at 385.

124. 1903 N.Y. Laws ch. 132 §§1-2. Amended by 1921 N.Y. Civ. Rights Law, §§50-51 (Held constitutional in *Rhodes v. Sperry & Hutchinson Co.*, 85 N.E. 1097 (N.Y. 1908), *aff'd*, 220 U.S. 502 (1911)); see also Prosser, *supra* note 58, at 385 n.14.

125. Kaye, *supra* note 77, at 316.

126. 50 S.E. 68 (Ga. 1905).

127. *Id.*; see also Prosser, *supra* note 58, at 386.

128. Prosser, *supra* note 58, at 383.

129. Learned Hand, *Have the Bench and Bar Anything to Contribute to the Teaching of Law?*, 24 Mich. L. Rev. 466, 468 (1926); see also Kaye, *supra* note 77, at 317; McKelvey, *supra* note 2, at 880 (stating that "[r]idiculed perhaps at the start, the early law school reviews gradually established for themselves a recognition which soon began to be evidenced by citations of their articles by both the judges and the practitioners.").

130. Kaye, *supra* note 77, at 315. Because of their vintage, and therefore because of their unavailability, a number of the titles to these early journals tend to be referred to variously. See 1 David Hoffman, *A Course of Legal Study* 670 (1836) (referring to the *American Law Journal*).

131. Swygert & Bruce, *supra* note 63, at 752.

132. *Id.*

133. *Id.*

134. *Id.*

135. *American Law Periodicals*, 2 Alb. L.J. 445, 446 (1870); *see also* Hoffman, *supra* note 130, at 670 (referring to this periodical as the *North Carolina Law Repository*).

136. 1 N.Y. Jud. Repository (1818).

137. Hoffman, *supra* note 130, at 670; Swygert & Bruce, *supra* note 63, at 752-53.

138. *Id.*

139. *Id.*

140. *Id.* *See also* Hoffman, *supra* note 130, at 670.

141. *American Law Periodicals*, *supra* note 135, at 446.

142. Swygert & Bruce, *supra* note 63, at 753.

143. *See id.* at 754.

144. *See id.* at 753 (stating that Joseph Angell, an official reporter for the Rhode Island courts, began editing the *United States Law Intelligencer and Review* in 1829).

145. *Id.* at 754. *But see* Gilson G. Glasier, *Early American Periodicals*, 28 A.B.A. J. 615, 615 (1942) (claiming that between 1808 and 1850, approximately fifty legal periodicals were introduced).

146. Swygert & Bruce, *supra* note 63, at 755.

147. *Id.*

148. *See* Joseph P. Flanagan, Jr., *Volume 100*, 100 U. Pa. L. Rev. 69 (1951) (explaining that two members of the Philadelphia bar, Asa Fish and Henry Wharton, edited the first issue of the *American Law Register*); Swygert & Bruce, *supra* note 63, at 757 (stating that the *American Law Review* was first published in 1866 by Little, Brown & Co.).

149. Swygert & Bruce, *supra* note 63, at 755. *Compare to* *Gifts in View of Death*, 1 Am. L. Reg. 1 (1852); *Forensic Medicine: Observations on the Tests for Arsenic*, 1 Am. L. Reg. 11 (1852).

150. *Recent American Decisions*, 1 Am. L. Reg. 15 (1852); *see also* Ronald B. Lansing, *The Creative Bridge Between Authors and Editors*, 45 Md. L. Rev. 241, 243 (1986) (stating that Fish and Wharton began the *American Law Registry* because there were so

many judicial opinions being published that it was "no longer humanly possible for lawyers to take into the mind all that is transmitted from the minds of judges."); Swygert & Bruce, *supra* note 63, at 756 (stating that although the *American Law Register* included lead articles, these articles were followed by a section that included digests and notes of recent judicial decisions).

151. *Gifts in View of Death*, *supra* note 149; *see also* Lansing, *supra* note 150, at 243.

152. Lansing, *supra* note 150, at 243.

153. Swygert & Bruce, *supra* note 63, at 756.

154. *See* 56 U. Penn. L. Rev. & Am. L. Reg. 1 (1908); *see also* Swygert & Bruce, *supra* note 63, at 756-57.

155. 93 U. Penn. L. Rev. 341 (1945); *see* Swygert & Bruce, *supra* note 63, at 757.

156. Swygert & Bruce, *supra* note 63, at 757.

157. *Id.*

158. F.V.B., *The Natural Right of Support from Neighboring Soil*, 1 Am. L. Rev. 1 (1866); J.A.C., *Final Process in the Courts of the United States as Affected by State Laws*, 1 Am. L. Rev. 23 (1866); Emory Washburn, *Testimony of Experts*, 1 Am. L. Rev. 45 (1866); J.L.S., *Ryves v. The Attorney-General*, 1 Am. L. Rev. 65 (1866); C.H.H., *Mr. Justice Dewey*, 1 Am. L. Rev. 79 (1866).

159. 1 Am. L. Rev. 84-228 (1866).

160. Swygert & Bruce, *supra* note 63, at 758. The previous discussion of particular journals is not intended to represent a complete listing of the periodicals of the day. For example, there were a number of legal publications in newspaper format in the early 1800s. *See* Hoffman, *supra* note 130, at 670 (citing specifically *The Jurisprudent*, founded in 1830, and published in Boston).

161. Swygert & Bruce, *supra* note 63, at 759.

162. *Id.* at 758-59.

163. *Id.* at 759.

164. *Id.*

165. *Id.*

166. 1 Alb. L.J. 1 (1870); *see also* Swygert & Bruce, *supra* note 63, at 759.

167. Swygert & Bruce, *supra* note 63, at 759.
168. *See Our Second Volume*, 2 Alb. L.J. 1 (1870); *see also* Swygert & Bruce, *supra* note 63, at 760-61.
169. 1 Cent. L.J. 1 (1874); Swygert & Bruce, *supra* note 63, at 761-62.
170. Swygert & Bruce, *supra* note 63, at 762.
171. *Id.* *See also* 249 Ins. L.J. 1 (1943) (claiming on the title page that the *Insurance Law Journal* was established in 1872); 27 Alb. L.J. 481, 483 (1883).
172. *See* Maxwell Bloomfield, *Law v. Politics: The Self-Image of the American Bar (1830-1860)*, 12 Am. J. Legal Hist. 306, 309 (1968) (stating that the number of legal periodicals in 1870 totaled seventeen); George Walker, *Digest of Cases in the Law Periodicals*, 20 Am. L. Rev. 281 (1886) (listing forty-seven legal periodicals which were being published in 1886).
173. Swygert & Bruce, *supra* note 63, at 763-64. However, many commentators refer to the *Harvard Law Review* as the first student-edited law review publication because of the fact of its continuous publication since its inception in 1887. *See* McKelevy, *supra* note 2, at 878.
174. *The Albany Law School Journal*, 3 Cent. L.J. 136 (1876); *see also* Swygert & Bruce, *supra* note 63, at 764.
175. Frederick C. Hicks, *Materials and Methods of Legal Research* 207 (3d ed. 1942). When Albany Law School later undertook the publication of the *Albany Law Review* in 1931, it began with Volume I. 1 Alb. L. Rev. 1 (1931).
176. Julius Goebel Jr., *A History of the School of Law*, Columbia University 102 (1955).
177. Swygert & Bruce, *supra* note 63, at 766.
178. *Id.* at 766-67; *see also* Goebel, *supra* note 176, at 102.
179. Goebel, *supra* note 176, at 102.
180. Hicks, *supra* note 175, at 207.
181. *See* Centennial History of the Harvard Law School 1817-1917 139 (1918); *see also* Swygert & Bruce, *supra* note 63, at 768.
182. Centennial History, *supra* note 181, at 140; *see also* Swygert & Bruce, *supra* note 63, at 768.

183. 1 Harv. L. Rev. 1 (1887).
184. See Centennial History, *supra* note 181, at 139; Swygert & Bruce, *supra* note 63, at 770.
185. See Centennial History, *supra* note 181, at 139; Swygert & Bruce, *supra* note 63, at 770.
186. Centennial History, *supra* note 181, at 139; Swygert & Bruce, *supra* note 63, at 770.
187. Swygert & Bruce, *supra* note 63, at 770.
188. William R. Roalfe, John Henry Wigmore, Scholar and Reformer 11 (1977).
189. *Id.*; see also John H. Wigmore, *The Recent Cases Department*, 50 Harv. L. Rev. 862 (1937) (stating that the first editors of the *Harvard Law Review* "thought of the projected Review chiefly as the vehicle for their [the Harvard Law Faculty] writings . . .").
190. Swygert & Bruce, *supra* note 63, at 771; see also Centennial History, *supra* note 181, at 140.
191. Swygert & Bruce, *supra* note 63, at 773.
192. James M. Landis, *Mr. Justice Brandeis and the Harvard Law School*, 55 Harv. L. Rev. 184, 188 (1941).
193. *Id.*
194. Wigmore, *supra* note 189, at 863.
195. 1 Harv. L. Rev. 1 (1887). The first article published in the *Harvard Law Review* was titled, *Purchase for Value Without Notice*. *Id.*
196. See Swygert & Bruce, *supra* note 63, at 779.
197. See Douglas B. Maggs, *Concerning the Extent to Which the Law Review Contributes to the Development of the Law*, 3 S. Cal. L. Rev. 181, 183 (1930) (referring to the *Harvard Law Review* as the "prototype"); see also Hicks, *supra* note 175, at 207; Swygert & Bruce, *supra* note 63, at 779.
198. Swygert & Bruce, *supra* note 63, at 779; see also Maggs, *supra* note 197, at 184-85 (describing the advantageous functions of law reviews on students).
199. Swygert & Bruce, *supra* note 63, at 779.
200. See *id.* at 779-80.

201. Hicks, *supra* note 175, at 207. Although three law school periodicals were started between the beginning of the *Harvard Law Review* in 1887 and the appearance of the *Yale Law Journal* in 1891, these periodicals were short-lived. *Id.* For instance, the *Counselor* (the New York Law School Law Journal) existed from 1891 to 1896, the *Intercollegiate Law Journal* existed from 1891 to 1893. The *Law Bulletin of the State University of Iowa* existed from 1891 to 1901. *Notes*, 11 Iowa L. Rev. 66 (1925).
202. Frederick C. Hicks, *Yale Law School: 1869-1894 Including the Court House Period* 66-68 (1937); *see also* Swygert & Bruce, *supra* note 63, at 780.
203. Hicks, *supra* note 202, at 68; *see also*, Swygert & Bruce, *supra* note 63, at 780.
204. Swygert & Bruce, *supra* note 63, at 780.
205. *Id.*
206. *Id.* at 782.
207. Hicks, *supra* note 175, at 207.
208. *See* 1 Colum. L. Rev. 50 (1901) (noting that the editors of the *Columbia Law Review* "[w]ish[ed] to thank the editors, past and present, of the *Harvard Law Review*, not only for setting before us a standard to which we some day hope to attain, but also for their kindly suggestions.>").
209. Hicks, *supra* note 175, at 207.
210. *See Announcement*, 1 Mich. L. Rev. 58, 59 (1902) (stating that "[T]he magazine will be under the editorial management of a member of the faculty assisted by an Advisory Board, but all of the other members of the faculty will co-operate in conducting it.>").
211. *Id.*
212. Swygert & Bruce, *supra* note 63, at 784.
213. Elizabeth Gaspar Brown, *Legal Education at Michigan 1859-1959* 331 (1959); *see also* Swygert & Bruce, *supra* note 63 at 784.
214. *Law Reviews and Legal Process: Herein of Past Services and Future Responsibilities*, 51 Nw. U. L. Rev. 1, 2 (1956).
215. *Id.*
216. *Id.* at 4.
217. *Id.*

218. Swygert & Bruce, *supra* note 63, at 786.
219. *Law Reviews and Legal Process*, *supra* note 214, at 9.
220. *See id.* at 7.
221. Albert Kocourek, Editorial Note, *Recent Cases - A New Department*, 14 Ill. L. Rev. 64, 65 (1919).
222. Albert Kocourek, Editorial Note, *The Law Review*, 21 Ill. L. Rev. 147, 149 (1926).
223. *Law Reviews and Legal Process*, *supra* note 214, at 8.
224. *Id.*
225. *Id.* at 3.
226. *Id.*
227. *Id.*
228. *See id.* at 3 n.3 (stating that the first student editor-in-chief was David S. Sampsell).
229. *Id.* at 3; *see also* Nathan William MacChesney, *An Old Tradition The Same Review But a New Name*, 47 Nw. U. L. Rev. iii, viii (1952).
230. Swygert & Bruce, *supra* note 63, at 787; *see also*, McKelvey, *supra* note 2, at 868 (pointing out that in 1937 there were 50 law reviews at the 79 law schools of "good repute").
231. Lansing, *supra* note 150, at 244.
232. *Id.* Indeed, there was a significant increase in the number of law reviews in the period of years between 1946 and 1961 when the number increased from 188 to more than 300. Stefanic, *supra* note 12, at 655-56.
233. Kaye, *supra* note 77, at 318.
234. *Id.*
235. Leibman & White, *supra* note 5, at 394.
236. Geoffrey Preckshot, Comment, *All Hail Emperor Law Review: Criticism of the Law Review System and its Success at Provoking Change*, 55 Mo. L. Rev. 1005, 1010 (1990).
237. *Id.*

238. *See supra* notes 5-12 and accompanying text for a discussion of the popularity of specialty law reviews, which are almost always of more recent date than the generalist law review at their respective institutions; *see also* Stefanic, *supra* note 12, at 655-56 (observing that "specialty law reviews began to flourish" after World War II).

239. *See supra* notes 6-11 for examples of the subjects treated by specialty law reviews.

240. *See infra* note 322 for an example of a specific article. *See generally* Richardson, *supra* note 3.

241. Stefanic, *supra* note 12, at 655; *see also*, Joel Seligman, *The High Citadel: The Influence of Harvard Law School* 185 (1978).

[T]he fact remains that the intensive two-year training of law review members in research and writing may be the most effective training presently offered in American law schools. All students deserve a comparable education. For law schools to accord frequent faculty contact and intensive research and training only to a chosen few is a fundamental failing of American legal education. Law schools provide the most attention to students who presumably need the least extra help.

Id.

242. By analogy, the opportunities to find article placements has spurred the growth of symposium issues in otherwise generalist law reviews. *See* Randy E. Barnett, *Beyond the Moot Law Review: A Short Story with a Happy Ending*, 70 *Chi.-Kent L. Rev.* 123, 125-26 (1994). *See generally* Stefanic, *supra* note 12.

243. *See* Barnett, *supra* note 242, at 125-26 (noting this same advantage of the symposium format). *See generally* Stefanic, *supra* note 12.

244. Kaye, *supra* note 77, at 318; Stefanic, *supra* note 12, at 655; *see also* Harold C. Havighurst, *Law Reviews and Legal Education*, 51 *Nw. U. L. Rev.* 22, 24 (1956) (stating that "[w]hereas most periodicals are published primarily in order that they may be read, the law reviews are published primarily in order that they may be written.").

245. Leibman & White, *supra* note 5, at 387. For a discussion of the analogous disadvantages of the symposium format, *see generally* Stefanic, *supra* note 12.

246. Of course, the generalist journals have almost always been the first founded reviews at their law schools, so that they benefit in prestige from their longer heritage. Leibman & White, *supra* note 5, at 387. Interestingly, as an analogy to concerns about the symposium format, it has been observed that "the top tier law reviews published fewer symposia than those outside this group." Stefanic, *supra* note 12, at 663.

247. *See* Leibman & White, *supra* note 5, at 387 (stating that the generalist journal at most law schools is the "principal" or "main" journal).

248. *Id.* at 388.

249. *See e.g.*, Richard C. Maxwell & Marvin G. Goldman, *Mexican Legal Education*, 16 J. Legal Educ. 155, 170 (1963) (explaining that the *Revista de la Facultad de Derecho de Mexico*, Mexico's National University's legal periodical, resembles an American law review except that it is run by faculty rather than students). It should be noted, of course, that learned periodicals in fields other than law had their beginnings in Europe. "This era of periodicals commenced in Paris, in 1664, with the *Journal des Savants*, by Denis de Sallo . . ." Hoffman, *supra* note 130, at 667 (also noting journals of learned societies in Germany and England dating to the 17th and 18th centuries). The reknown British medical journal *The Lancet* was first published in 1823. 1 *Lancet* 1 (1823). In this country, the *Boston Medical and Surgical Journal* published its first volume in 1828. 1 *Boston Med. & Surgical J.* 1 (1828). The *Journal of the American Medical Association* first appeared in 1883. 1 *JAMA* 1 (1883).

250. H.D. Hazeltine, Foreword, 1 *Cambridge L.J.* 1, 3 (1921).

251. *See id.* (stating that "[t]he success of the *Harvard Law Review* and of similar legal publications edited by students in Common Law jurisdictions outside England is a happy augury for the prosperity of the *Cambridge Law Journal*").

252. R.W. Baker, *Foreword*, 1 *Tasmania U. L. Rev.* v (1958).

253. Felix Frankfurter, *Forword*, 1 *Tasmania U. L. Rev.* v (1958).

254. Zelman Cowen & David Derham, *Australian Legal Education: A Dissent*, 9 J. Legal Educ. 53, 54 (1956); *see also* M.P. Ellinghaus, *Some Aspects of Australian Legal Education*, 20 *Ala. L. Rev.* 280, 289 (1968) (stating that, similar to American law schools, the invitation to join the law review editorial board is a method of recognizing exceptional merit in Australian law schools).

255. Robert Baxt, Editorial, *Monash Law School The First Decade*, 1 *Monash U. L. Rev.* 1, 2 (1974).

256. *Id.*

257. *Id.* at 3.

258. 1 *Sydney L. Rev.* 1 (1953).

259. F.W. Guest, *Preface*, 1 *Otago L. Rev.* 13 (1965).

260. Laurence Whistler Street, *Foreword*, 1 *U. New S. Wales L. Rev.* 1 (1975).

261. J.G. Latham, *Foreword*, 1 *U. Queensland L.J.* xiii (1948).

262. W.H. Harrison, *Foreword*, 1 U. N. Brunswick L.J. 3 (1947).
263. *Editorial*, 1 U. N. Brunswick L.J. 4 (1947).
264. *Id.*
265. 1 Queens L.J. 1 (1971).
266. *Editorial*, 1 U.B.C. L. Rev. (1959). In 1959, the editors changed the name of this journal from the *University of British Columbia Legal Notes* to the *University of British Columbia Law Review*. With this change of name, the editors also began renumbering the journal with volume one. *Id.*
267. See W.P.M. Kennedy, *Foreword*, 1 U. Toronto L.J. 1 (1935) (stating that "all the editors are members of the University of Toronto - whether as teachers or as students.").
268. H.E. Barrowclough, *Foreword*, 1 N.Z.U. L. Rev. 1 (1963).
269. *Id.*
270. *Id.*
271. See The Executive Board of the Chicago-Kent Law Review, *The Symposium Format as a Solution to Problems Inherent in Student-Edited Law Journals: A View from the Inside*, 70 Chi.-Kent L. Rev. 141, 142 (1994) (stating that the *Chicago-Kent Law Review* is similar to other law reviews because "student editors handle all the day-to-day responsibilities of the Review without oversight").
272. Swygert & Bruce, *supra* note 63, at 764.
273. *Id.*
274. Goebel, *supra* note 176, at 102-03.
275. Josh E. Fidler, *Law-Review Operations and Management: An Empirical Study of the New York University Law Review Alumni Association*, 33 J. Legal Educ. 48, 57 (1983).
276. *Id.*
277. *Id.* at 57-58.
278. *Id.* at 58.
279. *Id.*

280. *Id.* at 62. However, in earlier days the granting of academic credit for law review work was the exception rather than the rule. *See* McKelvey, *supra* note 2, at 883 n.8 (indicating that only four out of eighteen schools surveyed awarded such credit).

281. Fidler, *supra* note 275, at 62.

282. *Id.*

283. *Id.* at 57-60. For instance, *The John Marshall Law Review* editorial board consists of an Editor-in-Chief, Managing Editor, Executive Editor, Lead Articles Editors, Student Publications Editors, and a Candidacy Editor.

284. Fidler, *supra* note 275, at 58.

285. *Id.*

286. *Id.*

287. *Id.*

288. *Id.* at 58 n.34.

289. *Id.* at 58.

290. *Id.*

291. *Id.*

292. *See* McKelvey, *supra* note 2, at 875-76 (noting the importance of the business and financial aspects of the law review operation, including concerns about advertising and circulation; and noting that only about one-half of the law reviews of the time were self-supporting).

293. Fidler, *supra* note 275, at 59.

294. *Id.*

295. *Id.*

296. *Id.* In contrast, *The John Marshall Law Review* has both Student-Publication Editors and a Candidacy Editor, who have different responsibilities. For instance, the Student-Publication Editors' responsibilities include working with students whose comments have been chosen for publication while the Candidacy Editor organizes the candidacy program, including the creation of due dates for drafts, assigning editors and co-editors to the candidates, and conducting candidacy meetings.

297. Fidler, *supra* note 275, at 59.

298. *Id.*

299. *Id.*

300. *Id.*

301. *Id.* For example, *The John Marshall Law Review* has four Student-Publication Editors. One is an Executive Student-Publications Editor, and the other three are Associate Student-Publication Editors.

302. Fidler, *supra* note 275, at 59.

303. *Id.*

304. *Id.*

305. Leibman & White, *supra* note 5, at 402.

306. Fidler, *supra* note 275, at 59.

307. *Id.*

308. *Id.*

309. *Id.*

310. *Id.*

311. *See* Leibman & White, *supra* note 5, at 400; *see also* Barbara H. Cane, Comment, *The Role of Law Review in Legal Education*, 31 J. Legal Educ. 215, 221 (1981).

312. Leibman & White, *supra* note 5, at 400; *see also* Richard A. Posner, *The Decline of Law as an Autonomous Discipline: 1962-1987*, 100 Harv. L. Rev. 761, 779 n. 70 (1987); Cramton, *supra* note 16, at 6-7.

313. Robert E. Riggs, *The Law Review Experience: The Participant View*, 31 J. Legal Educ. 646, 650-51 (1981) (stating that in 1976, less than 10% of law review members "wrote-on;" in 1977-79, 30% of law review members "wrote-on;" and in 1980-81, 40% of law review members "wrote-on"); *see also* Cramton, *supra* note 16, at 6; Leibman & White, *supra* note 5, at 400.

314. Leibman & White, *supra* note 5, at 400.

315. *Id.* E. Joshua Rosenkranz, *Law Review's Empire*, 39 Hast. L.J. 859, 897-99 (1988).

316. Leibman & White, *supra* note 5, at 400.
317. Scott M. Martin, *The Law Review Citadel: Rodell Revisited*, 71 Iowa L. Rev. 1093, 1102 (1986). *See also* Cane, *supra* note 304, at 222.
318. Leibman & White, *supra* note 5, at 400.
319. *Id.*
320. *Id.*
321. *Id.* at 400-01.
322. *See* Frederick Ramos, Comment, *Affirmative Action on Law Reviews: An Empirical Study of its Status and Effect*, 22 U. Mich. J.L. Reform. 179, 180 (1988); *see also* Cramton, *supra* note 16, at 6-7.
323. Ramos, *supra* note 322, at 179 (noting that the first African-American was admitted after writing on, while two other African-American classmates were invited to become members as a result of the affirmative action plan).
324. *Id.* at 180.
325. *Id.* at 181.
326. *See id.* at 183 (stating that the number of minorities invited to participate on the law review under a goals plan is "tied to the percentage of minorities in the law school.").
327. Daniel Walker, *Report on the First National Conference of Law Review Editors*, 2 J. Legal Educ. 326 (1950). *See also* Editorial, *supra* note 266 (stating that the first National Conference of Student Law Reviews in Canada was held in 1959).
328. Telephone Interview with Nicole Trail, Chairperson, National Conference of Law Reviews, at the National Headquarters, The University of Memphis School of Law (April 9, 1996).
329. Nat'l. Conf. L. Rev. Const. art. II.
330. *Id.* at art. III, § 1.
331. *Id.*
332. *Id.* at art. III § 3.
333. *Id.*

334. *Id.* at art. III § 4.
335. Interview, *supra* note 328.
336. *Id.*
337. Nat'l. Conf. L. Rev. Const. art. V, § 7, art. VI, § 6.
338. *Id.* at art. VII, § 2.
339. *Id.*
340. *Id.* at art. VII, § 3.
341. *Id.* at art. V, § 4.
342. *Id.* at art. VII, § 1.
343. Nat'l. Conf. L. Rev. Bylaws, Executive Board: Functions and Responsibilities, § 2.
344. *Id.*
345. Nat'l. Conf. L. Rev. Const. art. IV, § 1.
346. *Id.*
347. *Id.* at art. V, § 2; *see also* Interview, *supra* note 328 (stating that the presentations made by law reviews hoping to host the annual meeting have become more elaborate).
348. Nat'l. Conf. L. Rev. Const. art. IV, § 2.
349. Interview, *supra* note 328; *see also* Walker, *supra* note 327, at 326 (stating that 51 law reviews, including 115 delegates, attended the first National Conference of Law Reviews meeting).
350. Nat'l. Conf. L. Rev. Const. art. IV, §§ 2, 4.
351. Michael L. Closen & Robert M. Jarvis, *Draft of the National Conference of Law Reviews Code of Ethics: A Call for Comments*, 1991 Det. C.L. Rev. 483 (1991). *See generally* Closen, *supra* note 57.
352. Closen & Jarvis, *supra* note 351, at 413. *See generally* Robert M. Jarvis, *Law Review Authors and Professional Responsibility: A Proposal for Articulated Standards*, 38 Drake L. Rev. 889 (1988-89).
353. Closen & Jarvis, *supra* note 351, at 483.

354. *Id.*; see also Closen & Jarvis, *supra* note 72.

355. Closen & Jarvis, *supra* note 72, at 509.

356. *Id.*; see also Ken Myers, *Model Code of Ethics Approved by Editors of Legal Journals*, Nat'l L.J., May 11, 1992, at 4, col. 3.

357. Closen & Jarvis, *supra* note 72, at 509.

358. There may be a substantial difference in the future form that law review writing takes, as technology impacts legal education with advances that expand the use of computerized classrooms, electronic casebooks, on-line legal research, and law school libraries without hard copies of books and journals. See generally Carole Bass, *The Law School of the Future*, Conn. L. Trib., June 6, 1994, at 40 (subtitled "No More Casebooks or Bulletin Boards: Law Schools Approach the Technological Fast Lane"); Richard A. Matasar & Rosemary Shiels, *Electronic Law Students: Repercussions on Legal Education*, 29 Valp. L. Rev. 909 (1995); W. Frank Newton, *Legal Education in 2020*, 57 Tex. B.J. 752 (1994); Symposium, 29 Akron L. Rev. (forthcoming Summer 1996) (regarding on-line publishing of law review articles).

359. Part of the reason for this conclusion rests with the projection that there will not be any significant increase in the number of accredited law schools in the next 25 years. See Newton, *supra* note 358, at 752 ("There are likely to be about the same number of law schools in the United States in 2020 as there are in 1994."); see also Richardson, *supra* note 3, at 6 (stating that "[g]iven the plethora of law reviews, it might be argued that a moratorium on any new ones would be in the public interest.").

360. Earl Warren, *Messages of Greeting to the U.C.L.A. Law Review*, 1 U.C.L.A. L. Rev. 1 (1953); Earl Warren, *The Northwestern University Law Review Begins its Fifty-first Year of Publication*, 51 Nw.U. L. Rev. 1 (1956). The authors were torn between including the quoted passages and the following rhetorical question: "The reviews are like tiny pebbles thrown into a vast pool; their circles spread outward until they can no longer be seen, but who shall say to what distance their influence may not extend before their vibrations are stilled?" McKelvey, *supra* note 2, at 886.