

# The Iowa Law Review: A Tradition of Excellence

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In January 1915, Iowa became the eighteenth American law school to begin publication of a student-edited law review. It is doubtful whether the founders of the *Iowa Law Bulletin* (the name was changed to the *Iowa Law Review* in 1926) could have foreseen all of the beneficial effects their experimental project has produced in its seventy-five years of steady development and change. Scholarship published in the *Review* has advanced countless new theories and understandings about law and legal institutions. Likewise, numerous promising ideas for law reform initiatives and improvements in the administration of justice found their first expression in the pages of the *Review*. But most importantly, five generations of Iowa law students have enjoyed the unique educational experience of writing for and editing a scholarly publication that has earned the respect of leaders in the legal profession. All of these attributes and the superb national reputation they have brought to the University of Iowa College of Law are the legacy of the *Review's* seventy-five years of continuous publication—an accomplishment that has consistently kept the *Review* among the top twenty law reviews in America.

Three celebrated figures in the life of the University of Iowa College of Law, Professor Percy Bordwell, Professor Herbert Goodrich, and Dean Emlin McClain, collaborated to launch the *Iowa Law Review*. Wishing to improve the scholarly reputation of the school, Professor Bordwell invited Professor Goodrich to undertake the organization of a law review and serve as its faculty advisor. Goodrich had just joined the faculty after graduating from Harvard Law School, where the first American law review, the *Harvard Law Review*, had been founded in 1887. Dean McClain, who had just returned from fourteen years of service on the Iowa Supreme Court to start his second term as dean in the fall of 1914, had been the faculty editor of the *Iowa Law Bulletin*, published by the school from 1891 to 1901. It was natural, therefore, that McClain was highly receptive to the proposal of Bordwell and Goodrich to launch a new scholarly journal. While McClain's original *Law Bulletin* had been a faculty journal exclusively for the publication of faculty writing, the new *Bulletin* was to be the sole responsibility of law students, publishing both faculty and student scholarship. Consequently, a board of ten student editors, supervised by Professor Goodrich, produced volume one of the *Bulletin*.

In the first issue, the editors announced their intention to direct their scholarly efforts primarily toward Iowa law, with some attention given to the law of other jurisdictions, whose cases were published in the North-

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western Reporter. Dean McClain's lead article in the first issue demonstrated, however, how difficult such a narrow compass was to administer. Titled "The Iowa Codes," McClain's article introduced its detailed analysis of Iowa legislative codes with a five-page exploration of the history of legal codification, starting with Roman Law and ranging through Justinian's Codes and the *Code Napoléon*. Dean McClain's ambitious view of law in its national and international context immediately set the tone for the new journal; two of the other three lead articles published in the first issue concerned legal topics addressed from a broad national perspective (the doctrine of specific performance and federal control of navigable waters). Ironically, volume one of the *Bulletin* concluded with a lengthy memorial dedication to Dean McClain, who died unexpectedly in the fall of 1915.

During its first twenty-five years, the *Review* grew in both size and national stature. While volume one was barely 200 pages in length, volume twenty-five was over 900 pages. Perhaps the most notable event in the first twenty-five years of the *Review* occurred in 1933, when the legal symposium was introduced to legal scholarship through the fertile imagination of then faculty advisor, Professor Paul Sayre. Sayre's brilliant idea of combining the talents of a number of outstanding legal scholars to write about different aspects of a common theme was immediately successful, and was emulated by every other legal periodical in the ensuing half-century. Since the initial symposium in volume eighteen concerning administrative law (featuring such luminaries as Felix Frankfurter and John Wigmore), the *Iowa Law Review* has published an average of one symposium in every volume.

It is interesting to speculate about why the *Review* failed to observe its own twenty-fifth anniversary in 1940. Perhaps attention was distracted from this milestone in the *Review's* history by the abrupt change of deans when Wiley B. Rutledge left in 1939 to become dean of Washington University and was replaced by S. Mason Ladd. While volume twenty-five contains no mention of any special observance honoring the *Review's* first quarter-century of existence, it does demonstrate that the publication had achieved a high level of national recognition. The volume contains a major symposium on administrative law featuring such notable scholars as Columbia's Walter Gellhorn and Harvard's Louis Jaffe. Volume twenty-five also clearly continues the *Review's* commitment to the world view of legal scholarship. The lead article was a two-part survey by Professor Percy Bordwell concerning the Anglo-American law on alienability and perpetuities, and its second article was an analysis of the League of Nation's Palestine Mandate. Other distinguished authors whose scholarship was featured in volume twenty-five included Iowa's legendary Rollin M. Perkins, Harvard's Joseph Warren, Columbia's Harry Jones, and Dean William E. Taylor of Lincoln University.

Comparing volume fifty of the *Review* with volume twenty-five reveals that despite a thirty percent growth in pages, relatively little change had occurred in the publication's concept, style, or distribution between faculty and student writing. Roughly sixty percent of volume fifty's 1,300 pages contain student Notes and Case Comments. The volumes are also alike in their continuing commitment to publishing timely research by nationally prominent scholars. Participants in the 1965 symposium on recent devel-

opments in land use law included Dean John Cribbit of Illinois and Professors Charles Harr of Harvard and Frank Kennedy of Michigan.

In contrast to volume twenty-five, however, volume fifty of the *Iowa Law Review* contained a thirteen-page celebration of the golden anniversary of the *Review*, featuring contributions from Dean Mason Ladd and Professors Arthur L. Goodhart and Frank Strong. Professor Goodhart wrote from his position as editor of the *Law Quarterly Review*, the first English language law review, which was established at Oxford University in 1884. He expressed amazement that student-edited journals like the *Review*, containing over fifty percent student-written scholarship, could sustain the high quality standards they regularly achieve. Professor Strong also praised the institution of the American law review, calling it the legal profession's free press, a marketplace for free trade in legal ideas. Strong noted that law reviews had their critics from time to time, but predicted that the *Iowa Law Review* and its many sister journals would long outlive their naysayers.

In his tribute to the *Review's* first fifty years, dean Ladd traced the history of the *Review's* development and detailed its many strengths as a mature publication. He described the *Review* as the school's foremost means of accomplishing its objective of outstanding scholarly productivity. dean Ladd also correctly emphasized the *Review's* primary mission: to provide a premier educational experience for the students who write for and edit the publication. He characterized service on the *Review* as the very best training the school had to offer its most talented students, and noted with pride that the *Review* produced one of the highest levels of student scholarship in the country, both in quantity and quality.

Dean Ladd also paid special tribute to the series of outstanding teachers and scholars who had helped mold the *Review* as its faculty advisors. The list of faculty advisors is indeed an impressive one. Here, in brief profile, is a roster of sixteen individuals who have served as faculty advisors to the *Review* over its seventy-five year history.

Herbert F. Goodrich (1915-1922)—first faculty advisor to the *Review* when he began his career as a teacher at Iowa. He later became dean of the Iowa Law School, a professor at the University of Michigan, and dean of the law school at the University of Pennsylvania. He also served as a judge of the United States Court of Appeals for the Third Circuit, a position he held until his death.

Edwin Patterson (1922)—professor of law at Iowa, later a professor at Columbia Law School and director of its graduate law school.

Millard Breckenridge (1922-1924, 1943-1946)—professor of law at Iowa, then at the University of North Carolina.

O.K. Patton (1924-1926)—professor of law at Iowa until his retirement in 1957.

Clarence M. Updegraff (1926-1930)—professor of law at Iowa until 1958, then a professor at Hastings.

Paul L. Sayre (1930-1934)—professor of law at Iowa until his death in 1959.

Frank R. Strong (1934-1937)—professor of law at Iowa, later dean of the law school at Ohio State University.

Willard Wirtz (1937-1939)—professor of law at Iowa, then Northwestern University, and later United States Secretary of Labor.

Clark Byse (1939-1941)—professor of law at Iowa, then the University of Pennsylvania, and then for many years at Harvard University.

Jerre S. Williams (1941-1943)—professor of law at Iowa, later at the University of Texas, and currently a judge of the United States Court of Appeals for the Fifth Circuit.

Frank Kennedy (1946-1950)—professor of law at Iowa, and then for many years at the University of Michigan.

Charles Davidson (1950-1954)—professor of law at Iowa until his retirement in 1988.

Willard L. Boyd (1954-1964)—professor of law, later vice president and dean of faculties at Iowa, and then president of the University of Iowa. He is currently president of the Field Museum of Natural History in Chicago.

James E. Meeks (1964-1969)—professor of law at Iowa, then dean of the law school at Ohio State University. He is currently a professor and legal counsel to the president of Ohio State.

William G. Buss (1969-1976, 1979-1982)—professor of law at Iowa.

Randall P. Bezanson (1976-1979)—professor of law at Iowa, now dean of the law school at Washington and Lee University.

Richard A. Matasar (1982- )—professor of law and now associate dean at Iowa.

During the last twenty-five years, the *Review* has maintained and improved its position as a major national journal, while undergoing several significant structural changes. In outward appearances, volume seventy-five of the *Review* would strike the casual observer as virtually identical to volume fifty. Both contain around 1,300 pages of serious scholarship with roughly equal portions written by leading national figures in the law and by current law students. Both strongly reinforce the *Review's* tradition, established in volume one, of looking outward to the regional, national, and international arenas to gain the widest possible perspective on the role of law and lawyers in society. Accordingly, the scholarship published in both volumes tackles the most timely, complex, and challenging problems confronting the legal profession in the rapidly changing world in which lawyers must deliver their special services. As with the seventy-four volumes that preceded it, volume seventy-five can boast its share of nationally prominent scholars as contributors. Besides this unique issue devoted entirely to the special contributions of seventeen current members of the Iowa law faculty, volume seventy-five contains the work of such well-known contemporary scholars as Dean Geoffrey Stone of the University of Chicago and Professor David Kaye of Arizona State University.

In 1968, the *Review* pioneered another development in legal scholarship, the Contemporary Studies Project. The concept of the Contemporary Studies Project is for a team of student researchers to commit extraordinary time and research resources to a major current issue of law and public policy, including an extensive empirical investigation of key factual elements of the problem. The first two such projects were published in volume

fifty-two. Both involved six-month research efforts by two teams of student researchers using both library and field research techniques. One team studied the operation of Iowa's prison system and the other examined Iowa's juvenile justice system. The resulting reports published in the *Review* recommended a series of improvements in dealing with prisoners' rights issues and in the judiciary's handling of juvenile offenders. Many of the student scholars' recommendations were subsequently adopted by the state. Buoyed by the initial success of this new approach to student scholarship, the *Review* set out to publish an ambitious Contemporary Studies Project in each volume. Sustaining this commitment proved too demanding on the *Review's* limited resources, however, so it has now settled into a more comfortable mode of producing a Project for publication every other year, with the off year devoted to planning the next Project.

Another crucial development in the life of the *Review* during the past quarter-century was the loss of its monopoly position at the Iowa Law School as a publisher of student writing. In 1975, a group of third-year writers for the *Review* joined forces with Professor David C. Bayne to establish the *Journal of Corporation Law* as an in-house competitor to the *Review*. In its fifteen years of existence the *Journal of Corporation Law* has established itself as a top-flight publication in the field of corporate law, and offers Iowa law students a challenging alternative to writing for the *Review*. The competition between the two publications has always been friendly and mutually beneficial. In fact, the journals share some production facilities and a few students have succeeded in having their writings published in both journals.

In 1990, a third competitor emerged on the scene in the form of the journal of *Transnational Law and Contemporary Problems*. The newest of Iowa's three student-run publications will not publish its first issue until 1991, but the journal of *Transnational Law and Contemporary Problems* is off to a promising start. It has its first three issues planned and has obtained writing commitments from a number of outstanding international and comparative law scholars. Every indication suggests that the new publication will join the *Review* and the *Journal of Corporation Law* in a cooperative spirit and provide Iowa students with even richer opportunities to undertake scholarship and develop experience in editing a respected legal journal.

Without doubt, the most dramatic change in the *Review* since it celebrated its fiftieth anniversary is found in the pluralization of its membership. In 1973, the *Review* ceased to be grade-based and was opened to all students through the process of a writing competition. The prevailing thirty-writer ceiling on the size of the second-year writing corps was continued. In 1980, the *Review* dropped the writing competition and removed the ceiling on writers. Membership was offered to all students willing to undertake the obligations of writing and working for the *Review*.

These changes have resulted in a substantial growth in the size of the student group associated with the *Review* and a salutary diversification in the demographics of the *Review's* membership. For example, volume fifty was supervised by seven editors and represented the work of approximately forty second-year and third-year writers, only two of whom were women

and none of whom were minorities. Volume seventy-five was supervised by fifteen editors and represented the work of over one hundred second-year and third-year writers, twenty-seven of whom were women and ten of whom were minorities. It is more than symbolic of the new order that the *Review* starts its fourth quarter-century with its first African-American editor-in-chief, Kevin Lindsey, at the helm of volume seventy-six. The *Review's* first woman editor-in-chief was Susan Casamassimo, who edited volume sixty-three. Three of the ten volumes which followed had women editors-in-chief: Margaret Tobey for volume sixty-five, Cathy Jones for volume sixty-nine, and Julia Fenton for volume seventy-one.

Of course, the liberalization of the *Review's* membership requirements is not chiefly responsible for the remarkable change in its demographics; the student body itself has changed greatly in the intervening twenty-five years. Nevertheless, the *Review's* commitment to offering the opportunity to participate to all students has allowed it to capitalize on these changes in ways that make it a much stronger and resourceful institution that is well positioned to face the challenges of the 1990s.

It is interesting to speculate as to which article published in the *Iowa Law Review* over its seventy-five year existence has had the greatest impact on law reform or legal scholarship. Apparently, the *Iowa Law Review* has not published a single article that has attracted a mythical status in the legal literature like the legendary Frankfurter and Landis article in the *Harvard Law Review* in 1932 outlining the legal framework for the New Deal. Probably the best known scholarship published in the *Review* has been the work of Iowa faculty members. Dean Mason Ladd and Professors Percy Bordwell, Rollin M. Perkins, and Allan D. Vestal all published a great deal of their best writing in the *Review*. Dean Ladd gained national recognition for his pioneering work in the law of evidence, nearly all of which was published in the *Review*. Professor Bordwell was the *Review's* most frequent contributor, publishing over fifty articles in volumes two through fifty-five. Professor Perkins, however, holds the record for the longest period of contributions—sixty-five years from volume three to volume sixty-eight.

Professor Vestal's article, "Preclusion/Res Judicata Variables: Parties," published in volume fifty of the *Review*, is the all-time champion for frequency of judicial citations, having been cited nearly one hundred times by various state and federal courts. Vestal's series of groundbreaking articles on preclusion/res judicata (volume thirty-six to volume fifty), also wins the honor for most frequent citation by the United States Supreme Court with five citations. Curiously, the single *Review* article cited most extensively by the United States Supreme Court was authored by a nonacademic—J. Edgar Hoover—whose article in volume thirty-seven, "Civil Liberties and Law Enforcement: The Role of the FBI," was heavily cited in the famous 1966 case of *Miranda v. Arizona*.

Overall, of the sixty-six times the United States Supreme Court has cited the *Review*, twenty-four of the citations were to student-written pieces. Perhaps the most notable citation was Justice Blackmun's reference in *Roe v. Wade* to a volume fifty-six Note arguing that property rights of progeny

do not vest until live birth. Other federal courts have cited scholarship from the *Review* 598 times over the years. The Iowa Supreme Court has cited the *Review* 343 times since 1960.

While the *Review* has always been regarded as one of the top national journals, only recently has reliable information been available to document this position. In a carefully constructed study published by the *Chicago Kent Law Review* early in 1990, the *Iowa Law Review* was ranked as twenty-fourth nationally based on its frequency of citation in other top journals over a five-year period. Similarly, a 1986 study cited by the most recent LEXIS Users' Guide, ranked the *Review* nineteenth nationally based on its frequency of citation. These recent ratings only confirm the conclusion reached by earlier studies, also based on citation frequency, that the *Iowa Law Review* ranks in the top echelon of all law journals in the degree that it is relied upon by those who most value excellence in legal scholarship.

Looking to the future, it is easy to predict continued success for the *Review*. The same needs for thorough research, careful scholarship, and creative thinking about legal issues that spawned the *Iowa Law Bulletin* in 1915 are clearly present in 1990. However, the areas of society touched by the law have multiplied manifold in the intervening seventy-five years. To maintain and improve on the *Review's* illustrious seventy-five-year record of achievement will require a continuation of the high level of effort and single-minded commitment to excellence that has characterized the men and women who have made the *Review* the centerpiece of their law school careers over the years. It will also require the continued support of the law faculty, who assist the student writers and editors in a multitude of ways, while occasionally offering their own scholarship for publication in their home journal. In the final analysis, however, the *Review* is first and foremost a vehicle for professional education. The most important requirement for future success is recognizing the need for the highest standard of performance in scholarly research and the highest levels of clarity and integrity in communicating research results. It is in striving for this perhaps unattainable level of perfection that the most valuable lessons about scholarship are learned and the most lasting contributions are made to students' careers as lifetime scholars in the law. This is the grand tradition of the *Iowa Law Review* and volume seventy-five demonstrates that it is still robustly alive in the last decade of the twentieth century.

