

Iowa Law Review Centennial: Its Mission, History, and Future

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The Iowa Law Review has a tripartite mission:

1. Teach essential analytical and writing skills to students;
2. Publish legal research for the advancement of the law and society; and
3. Serve as a window on the quality of the Iowa Law School.

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I. ORIGINS

From 1891 to 1901 the Law School published a legal bulletin. It ceased publication when Dean Emlin McClain left the University to take his place on the Iowa Supreme Court. When Judge McClain returned as Dean of the School in 1915, the legendary Professor Percy Bordwell suggested that the earlier bulletin be renewed. According to Dean Mason Ladd, Professor Bordwell “visited with Herbert Goodrich, a new member of the faculty just graduated from the Harvard Law School, and Professor Goodrich agreed to serve as editor-in-chief if the project were approved. They presented the

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matter to an enthusiastic Dean McClain, who obtained funds from President Thomas Macbride." Goodrich later became Dean of the University of Pennsylvania Law School and wrote the hornbook on conflicts of law. President Franklin D. Roosevelt appointed Goodrich to the U.S. Court of Appeals for the Third Circuit in 1944.

According to Dean Ladd, the original *Bulletin* had been widely recognized in its day and represented an early urge on the part of the Iowa Law School to contribute to the literature of the law. This early publication was quite different from law reviews of today. It contained listings of leading cases classified under the different phases of a subject, and much of the writing consisted of hypothetical cases and analytical studies in the various subjects of universities. At that time most legal training occurred at the knee of a judge or in the office of a local lawyer. And the legal education that occurred in universities was steeped in the classical tradition of treatise and lecture, disconnected from the practical thinking skills demanded of a lawyer in America's 20th century economic, social, and legal system.

Professional education had to be improved, and bringing legal education into universities was seen as a major means of doing so. The exact form the educational program should take, however, was a matter of considerable dispute. A report advocating diversity in educational approaches and types of law schools—with some retaining the classical approach and others more clinical and case-based approaches—failed to gain credibility.¹ A new approach had been developed at Harvard, however: the case method. Without any national consensus among educators about the form that university-based legal education should take, a model for sound legal education was unofficially adopted. Follow Harvard!

The Iowa Law School bore the imprint of Harvard almost from its beginning. When Eugene Wambaugh came to the Iowa faculty from Harvard in 1889, Iowa became one of the early schools to adopt the case method of teaching pioneered by Christopher Columbus Langdell at Harvard. And when Herbert Goodrich came to Iowa from Harvard 25 years later in 1914, he responded readily to Professor Percy Bordwell's proposal to reestablish the *Iowa Law Bulletin* and serve as its Editor-in-Charge. "The *Bulletin* reflected a period of transition in legal education from a reliance upon treatises and textbooks to an emphasis upon situational studies and cases."²

The new *Bulletin* was inaugurated in January of 1915. In the introduction to its first issue, the new *Bulletin* acknowledged its predecessor:

While the old series of the *Bulletin* was published by the faculty of the College of Law, the new series is edited by the faculty and students. The student board is made up of men of high rank chosen from the Juniors and Seniors of the Law College. The Notes and Recent Cases

1. SUSAN K. BOYD, THE ABA'S FIRST SECTION: ASSURING A QUALIFIED BAR 25–27 (1993).

2. Mason Ladd, *The Iowa Law Review: Maturity of Fifty Years*, 50 IOWA L. REV. 5, 6 (1964).

which appear in this number are due to their efforts. Members of the faculty assist with criticisms and suggestions, but the work is that of the student board.

The *Bulletin* does not purport to be a review of current decisions throughout the common law world, nor even of the important cases decided in the United States. This field it believes to be carefully and adequately covered by older publications. Its efforts are to be directed to a narrower field of law, that of this state. . . . Without in the least suggesting that its statement will be the last word on any legal subject, the *Bulletin* hopes that it may be of service not only to the students of this College of Law, but to the bar of the state as well.³

Explicit directions were given to the members of the student editorial board. Everyone was assigned to read select cases from the *Northwestern Reporter*, the *Supreme Court Reporter*, and the *Federal Reporter*.⁴ The instructions stressed Iowa cases. At a mandatory group meeting, members reported on cases and were assigned important ones for a preliminary written report. If a topic was deemed promising, the student was expected to develop a first draft of a comment or note. The draft would be reviewed by a faculty member in the relevant subject area, and thereafter the student would do further work as suggested by the faculty member.

“Always look for Iowa cases” was the *Bulletin*’s guiding premise. It was a goal honored even then, and surely since, as much in the breach as in the promise. Iowa developments were not ignored, but the reporting horizon has always been broader.

II. THE IOWA LAW OR MORE?

In 1925, the *Bulletin* became the *Iowa Law Review*. In announcing the change, it was stressed that the purpose of the periodical would remain “to present scientifically the law of Iowa.”⁵ Faith in the application of knowledge to practical problems thus continued, as did the focus on Iowa. While “occasionally an article of general scope will appear,” the *Law Review* announced, in the main “the *Review* will direct its efforts to a narrow field of law, that is, the law of the state.”⁶

According to Dean Ladd, the Iowa limitation was immediately disregarded, as it had been from the very beginning of the new *Bulletin*—and as it would be thereafter and to the present.⁷ Throughout its history, the *Iowa*

3. Editorial, *The Iowa Law Bulletin*, 1 IOWA L. REV. 29, 29 (1915).

4. Letter from Herbert F. Goodrich, Editor-in-Charge, Iowa Law Review, to Editor, Iowa Law Bulletin (date unknown) (on file with the *Iowa Law Review*).

5. Note, *The Iowa Law Review*, 11 IOWA L. REV. 66, 66 (1925) (quoting Editorial, *supra* note 3, at 29) (internal quotation marks omitted).

6. *Id.* at 67.

7. Ladd, *supra* note 2, at 7.

Law Review has paid attention to Iowa cases and to topics growing out of Iowa law. But the near-exclusive focus on Iowa law promised by the newly named *Iowa Law Review* would never be realized—a fact that brought criticism from many generations of Iowa lawyers, but that also contributed to the ever-increasing national presence and reputation of the Iowa College of Law.

In 1933, the *Law Review* set a national precedent. Dean Hines would later observe, with understandable pride, that 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.⁸

The first symposium focused on administrative law and included contributions from Felix Frankfurter and John Henry Wigmore.⁹ A symposium on an issue of national importance marked most subsequent volumes until the late 1960s.

The continuing vitality of the *Law Review* was manifested 35 years later in 1968 with the inauguration of the “Contemporary Studies Project.”¹⁰ Unlike the symposia, the Contemporary Studies Projects were large-scale, often interdisciplinary research projects undertaken by the *Law Review* editors and staff. They typically involved an empirical investigation of the operation of an institution or legal process, conducted by a team of *Law Review* student writers and supervised by a student editor. The projects were major efforts that often spanned more than a single year, so they were not published on a regular schedule.

Like the symposia first developed by the *Iowa Law Review*, the Contemporary Studies Projects became the stimulus for interdisciplinary projects of similar character at other law reviews throughout the country. Many of the *Iowa Law Review*'s projects received national attention and significantly affected legislative, executive, and judicial reforms in Iowa and elsewhere.¹¹

8. N. William Hines, *The Iowa Law Review: A Tradition of Excellence*, 75 IOWA L. REV. 821, 822 (1990).

9. Symposium, *A Symposium on Administrative Law Based upon Legal Writings 1931-33*, 18 IOWA L. REV. 129 (1933).

10. The first Contemporary Studies Project was *Juvenile Delinquency in Iowa*, 53 IOWA L. REV. 1119 (1968).

11. For example, the Contemporary Studies Project published in April of 1970, *Facts and Fallacies About Iowa Civil Commitment*, 55 IOWA L. REV. 895 (1970), led to the wholesale revision, in 1975, of Iowa's civil commitment laws. Two studies, *A Comparison of Iowans' Dispositive Preferences with Selected Provisions of the Iowa and Uniform Probate Codes*, 63 IOWA L. REV. 1041 (1978), and *The Iowa Small Claims Court: An Empirical Analysis*, 75 IOWA L. REV. 433 (1990), have been widely cited and relied upon in law review articles and by courts throughout the country.

III. STUDENT EDITORIAL RESPONSIBILITY AND FACULTY ADVISERS

Professor Goodrich was always the *Bulletin's* advocate. He took great pride in the students' work and went to some lengths to bring the Bulletin to the attention of a wider audience. He once wrote, for example, to an Arkansas Supreme Court Justice recommending for consideration the treatment of a case report involving "the liability of the seller of food."¹² He also replied to critical comments on student work published in the *Bulletin*. In one such reply to Judge Scott Mason Ladd of the Iowa Supreme Court, Professor Goodrich thanked the judge for his "discriminating estimate of our Law Bulletin work."¹³ He then spoke of the challenge of developing writers only to have them graduate when they are doing good work. He admitted that the *Bulletin* was not always right, but gently and wisely concluded, "After all, the most valuable part of such a comment is to stimulate thought and if the view taken is well worked out the effort seems worth the doing."¹⁴

The masthead of Volume 21, published after the *Bulletin* had become the *Iowa Law Review*, carries the following note:

Entering its twenty-first year of publication, the *Iowa Law Review* takes a place among those law reviews of the country which follow the Harvard system of complete student editorial responsibility. Election to the *Review* comes as an honor bestowed for demonstrated legal scholarship and affords unsurpassed opportunity for intensive training in original legal research and thought. The adoption in its entirety of the policy of student editing makes available this opportunity in fullest measure, while by the same token insuring the publication of a *Review* of maximum service to the profession.¹⁵

The faculty advisor's chief responsibility has been to preserve and build upon this firm tradition of student control. Every faculty advisor since Judge Goodrich has been a counselor to, and an advocate for, the *Iowa Law Review*. There have been 20 faculty advisors to date. Each of them has played a unique and changing role in the life of the *Iowa Law Review*, sometimes shaping it, often defending it, and always viewing it from the inside but as an observer, not a participant. For the faculty who have served in this capacity, it has been a labor of love, not a source of influence or fame.¹⁶

^{12.} Letter from Herbert F. Goodrich, Editor-in-Charge, *Iowa Law Review*, to Edgar A. McCulloch, Justice, Supreme Court of Arkansas (Nov. 4, 1920) (on file with the *Iowa Law Review*).

^{13.} Letter from Herbert F. Goodrich, Editor-in-Charge, *Iowa Law Review*, to Scott Mason Ladd, Justice, Supreme Court of Iowa (Feb. 26, 1920) (on file with the *Iowa Law Review*).

^{14.} *Id.*

^{15.} Notes, *The Law Review*, 21 IOWA L. REV. 91, 91 (1936).

^{16.} See Willard L. Boyd & Randall P. Bezanson, *Ninety Years of the Iowa Law Review: The Personalities, Policies, and Events that Shaped an Enduring Tradition in Iowa Legal Education*, 91 Iowa L. Rev. 1 (2005), for a full listing of faculty advisors, as well as other highlights in the journal's history.

IV. LEARNING BY WRITING

On the occasion of the *Iowa Law Review's* 50th Anniversary in 1964, Dean Ladd wrote that the *Review's* greatest value is as an educational tool, providing law students an opportunity to engage in research and writing:

Law Review work is considered to provide the very best of training in a student's legal education. . . . We are pleased that as we enter upon our fiftieth year, the student production in the *Iowa Law Review* is among the highest of all law school reviews, both in quantity and, we believe, in quality.¹⁷

Twenty-five years later, Dean Hines observed that "the *Review* is first and foremost a vehicle for professional education."¹⁸

The Iowa College of Law has taken the position that writing is a fundamental skill in lawyering. Good writing requires good thinking, continual doing, and rigorous editing. That, it seems, has always been the overarching objective of the *Iowa Law Review*, as demonstrated by the constant emphasis on publication of student work. In 1964, Professor Arthur L. Goodhart of Oxford University stated that he:

found it astonishing . . . for one accustomed to the English system, to read that nearly sixty per cent of the material in the *Iowa Law Review* has been written and edited by students. . . . It is not surprising that students trained in this way have given to the Iowa Law School the reputation of being one of the leading ones in the United States.¹⁹

The lasting value to the student of this unique learning opportunity is eloquently described by a former *Iowa Law Review* Editor, the late Chief Judge of the U.S. Court of Appeals for the 8th Circuit, Donald P. Lay:

I attended Iowa Law School from 1948 to 1950. I was encouraged by many colleagues and upper classmen to write for the *Law Review*. As I recall, I had two comments published and then was selected to be Leading Articles Editor for my senior year. Professor Frank Kennedy was the advisor to the *Review* at that time. Through the combination of Professor Kennedy's zeal for excellence as well as the demands of the *Review* itself, I believe my experience on the *Law Review* had the greatest impact upon me than any other in law school. I learned areas of research not otherwise provided in our normal classrooms. More specifically, I came to respect the need for accuracy and the importance of expressing thoughts clearly and concisely. The *Law Review* required late hours and the discipline

17. Ladd, *supra* note 2, at 8-9.

18. Hines, *supra* note 8, at 827.

19. Arthur L. Goodhart, *The Jubilee of the Iowa Law Review*, 50 IOWA L. REV. 1, 3 (1964).

provided each of us on the staff was such that I am confident that it impacted on each of the staff members' legal career. I can remember working late into the evening with Professor Kennedy editing manuscripts and in reading many, many articles submitted for publication which we had to reject. After graduation, I commenced writing for law reviews. In the expanse of my legal career, now of some 46 years, I believe I have written over 50 law review articles and essays for other legal periodicals.

The guidance received from my experience carried over and has aided me tremendously in the role of United States Circuit Judge. I have written over 2000 opinions in the last 30 years and I am constantly reminded of the needed discipline for thoroughness and accuracy that I learned at the *Iowa Law Review*. Being an editor of the *Iowa Law Review* is an experience that only a few students can undertake. However, I urge every student to strive to write for the *Law Review* so as to be exposed to the disciplines involved.²⁰

The publication of articles written by faculty members and professionals, of course, is also of great, though clearly secondary, importance. The most remarkable feature of the *Iowa Law Review*, and indeed all other student-run journals, is the fact that decisions about which faculty articles to publish, and what editorial changes to require, is vested in students, not faculty. This feature has also occasioned the greatest amount of controversy. Authors of leading articles—academics and members of the practicing profession alike—complain that students are not equipped to decide whether an article is worthy of publication, much less to edit and revise it. There is no doubt *some* truth to this; the lawyer's greatest arrogance, after all, is the claimed ability to deal with any problem and any issue. But there is only *some* truth. It is remarkable how insightful and knowledgeable a bright law student can really be, even when dealing with the most sophisticated of problems.

V. PRESENT

In its centennial year, the *Iowa Law Review* is one of over 300 student-edited law journals in the country—not, as in 1914 when it began, one of a handful of new and largely untested periodicals. Today the *Law Review* exists in a technological age when publication on computers and in commercial databases is perhaps more important than production of a printed volume. Paper subscriptions to the *Law Review* have declined in recent years, in

20. Letter from Donald P. Lay, Senior Judge, United States Court of Appeals for the Eighth Circuit, to Willard L. Boyd, President, The Field Museum (Aug. 19, 1996) (on file with the *Iowa Law Review*).

proportion to the increase in revenues generated from such electronic databases as Westlaw, Lexis, and Hein.²¹

Yet the fundamentals of the *Iowa Law Review* remain sound. It is student-run; its Editorial Board consists of 19 third-year students, selected each year in March from among the second-year Student Writers by the previous year's Board. It remains editorially independent; while Iowa faculty members occasionally send along a piece of their own or a colleague's for consideration, they universally recognize that the selection of articles rests entirely in the student-run Articles Department. The *Law Review* holds firmly to its great tradition of concentrating on student work. The *Law Review* is a place where the most rigorous and individualized editorial oversight can be provided; the Note & Comment Department runs a personalized writing program for a group of approximately 40 second-year students, who become "Student Writers" through a highly competitive write-on process (focused on writing, analytic, and editing skills, rather than grades) conducted after their first-year finals. The *Law Review* provides an educational experience second to none; in addition to writing a professional, 40-page legal paper, second-year students complete 100 "office hours," the fulfillment of which includes editing and engaging in various research projects. "Authority checks," the scrupulous fact-checking process *Law Review* members complete for each article and note, are required in addition to the office hours requirement. Upon satisfactory completion of these projects, second-year students earn two (academic) writing credits. Editors earn two to four credits and receive a modest stipend, as well as the honor of joining the long tradition of *Law Review* editorship, for dedicating the majority of their third-year efforts to the publication of five new issues of the journal (in fact, this year six will be published to celebrate the Centennial Volume). Finally, the *Law Review* remains a periodical carrying professional scholarship of the highest quality.

The extent to which these fundamental purposes are realized may vary over time, but the purposes themselves have remained constant over the course of the *Law Review*'s 100-year history. The benefits to the writer of participating in the *Iowa Law Review* are many and diverse, grand and mundane—all essential to good thinking and good writing. From the accuracy of careful proofreading esteemed by Oliver Wendell Holmes to the comprehensive and anticipatory approach of the Brandeis brief, writers develop the fundamentals that underlay all other basic legal skills. These are best cultivated in a one-on-one relationship between student writer and student editor. It is this intimate and personalized learning environment that

21. During the 2004–2005 academic year, the Law Review generated approximately \$55,000 in revenue. Of that amount, approximately two-thirds was derived from royalty fees generated by electronic databases such as Westlaw, Lexis, and Hein. As recently as 1995–1996, electronic royalty fees constituted only a third of total revenue. As electronic royalty revenue has increased, revenue generated from hardcopy subscriptions has concomitantly decreased.

has made *Law Review* a unique experience in the educational life of hundreds of Iowa law students for generations.