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## THE LAW REVIEW-ITS FIRST FIFTY YEARS

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## THE LAW REVIEW—ITS FIRST FIFTY YEARS

A MEMORIAL issue commemorating fifty years of the *Michigan Law Review* would not be complete without at least a brief glance at some of the historical record.

On Thursday, September 26, 1901, the law faculty met in the Dean's office in the law school building. Present were Dean Hutchins and Professors Bogle, Bunker, Mechem, Lane, Thompson, Knowlton, Wilgus, Goddard, and Brewster—names well known in Michigan history. The minutes recite that "G. A. Ohlinger presented a plan for launching a law journal to be published by the department." Mr. Ohlinger was a vigorous member of the senior class who subsequently became one of the leaders of the Toledo bar. At a later meeting held on October 14, "It was moved by Professor Thompson that the publication of a law magazine be undertaken. Carried unanimously." Professor Mechem was appointed "manager." The Board of Regents approved. It not only approved, but it loaned \$800 to launch the venture, although the action was taken (with commendable caution) "with understanding that the faculty of the School who sign the report assume joint and several liability for all obligations incurred in the venture." The new *Review* was on its way.

Not only did the faculty members readily agree to assume the financial responsibility, but they even went further by committing themselves to furnish two leading articles each per year—an assumption of intellectual responsibility that guaranteed an ample supply of articles for the editor's drawer. A faculty "Advisory Board" was created, including Dean Hutchins and Professors Lane and Wilgus; and, perhaps most important of all, a Student Editorial Board was established, its roster including John W. Bailey, of Michigan, James H. Burgess, of Wyoming, William A. Findley, of Pennsylvania, Harry O. Ledgerwood, of Missouri, Philip S. Maycock, of Utah, Gustavus A. Ohlinger, of Michigan, Thomas H. Shastid, of Michigan, Gustav Stein, of Missouri, John W. Willmott, of Kentucky, Roscoe T. York, of Missouri—certainly a wide geographical distribution of editorial talent, but nevertheless quite representative of the Law School student body, not only in that day, but down through the years. All excepting Ohlinger and Willmott are now deceased.

It is true that this new law journal was not the first in time among the national law school publications, for it was preceded by the *Harvard Law Review*, founded in 1887, the *Yale Law Journal*, in 1891, and the *Columbia Law Review*, in 1901. However, under the able editorship of a very great scholar, Professor Floyd R. Mechem, the *Michigan Law Review* flourished with all the youthful vigor of the Midwest. Sustained at first very largely by faculty and student editorial contributions, it quickly attracted favorable attention outside of the Michigan circle, and thereafter it published many articles submitted by members of the bench and bar and other law faculties.

Regarding its content, the *Review* has through the years followed a consistently uniform plan. In the first issue there were four sections—Leading Articles, Notes and Comments, Recent Decisions, and Recent Legal Literature. These subdivisions have continued with only minor changes to the present day, and they have contained many a legal nugget of practical value to the profession. With gratifying frequency the editors have received word that a case has been won or a conference concluded favorably because counsel has been helped to a better understanding of the applicable law by perusing the pages of the *Review*. Furthermore, those areas of the law that change most rapidly to meet new contemporary conditions are, and always have been, of especial interest to law review writers, and the pages of the *Review* through the years clearly reflect these frontiers of the law. The editors may even claim without exaggeration that not a little has been accomplished by discussions in the *Review* to stimulate consideration of needed reforms in the law, with the result that in due course many amended statutes, or corrective rules or decisions, have come to fruition.

A comparative examination of the contents of the *Michigan Law Review* over the fifty-year period reveals an interesting story involving the advancing frontiers of jurisprudence. Compare, for example, the leading articles of the first issue of the 1901-1902 volume with those of this memorial issue, the last for the year 1951-1952. Fifty years ago the leading titles were "Preferences Arising from Trust Relations," by Harry B. Hutchins; "Eligibility to Office—As of What Time Determined," by Floyd R. Mechem; "The Authority of *Allen v. Flood*" (a torts problem), by Horace L. Wilgus. The text of the articles empha-

sizes primarily the judge-made law in the respective fields. Contrast these titles with the subject matter of the leading articles in the present issue. Today we read about Antitrust Legislation, Labor Law (mostly statutory), Corporation Statutes, Modern Probate Codes, and Civil Rights Statutes. Fifty years ago interest centered on judge-made law, that of today on the grist of legislative mills. And, in fact, this is a true reflection of a change in the primary source of law during the past half century. Do not members of the bench and bar spend an ever increasing proportion of their time over the statute books, or delving into administrative regulations, concerned with problems of interpretation of the "written law?" Do not the "loose leaf services" actually get more constant use in most law offices than do the treatises on contracts? This change of emphasis may or may not be for the better so far as the artistry of the law is concerned, but it is surely one of the facts of legal life today, and it is clearly reflected in the changing content of the *Review*.

Moreover, it is not too remotely speculative to assert that the next fifty years of the *Review* will reflect an even more pronounced shift in emphasis toward codification of the *corpus juris*. It is of interest that within recent years the Law School has established a new Legislative Research Center dedicated to three principal activities; namely, aiding the teaching program by furnishing to instructors in the several courses the current statutory materials in their respective fields; second, engaging in research and publication of monographs and articles on recent statutory and constitutional developments; and third, rendering service (within available means) to various agencies and persons who seek help on statutory problems. This Legislative Research Center, thoroughly in tune with the trend of the times toward great emphasis on statutory law, will prove to be a fruitful source of future contributions to the *Review*. We may expect that the *Review* of the next fifty years will contain an ever increasing proportion of articles discussing statutes and their legislative histories, analyzing, interpreting, and applying their provisions, and appraising their quality as a part of the law of the land.

No commentary on the first fifty years would be complete if it failed to include a complimentary reference to the work of the student editors who have served so effectively and contributed so generously. The sections on Notes and Comments and Recent Decisions have been

largely written by student editors, and in addition they have contributed a substantial number of the leading articles. Selected from the high ranking members of the senior class (in general, "B" average or better is required), the editors have at all times had important responsibility for the quality of the *Review*. During the first four decades actual control of the *Review* was retained by the faculty, and the students served as assistants on the staff, writing comments and notes for faculty approval. However, during the past ten years and a little more, the students have taken over a much larger share of the total responsibility, with the faculty serving primarily in an advisory capacity. A student Editor-in-Chief and four or five Associate Editors now comprise a supervisory Editorial Committee which devotes most of its time to critical supervision of the work of some thirty senior student editors and about fifty junior "try-outs" who are selected each year to compete for the prized senior editorships. The results speak for themselves and are gratifying. Student management has made good.

It is natural to attempt an evaluation of the *Review* as a part of the work of the Law School. I have already mentioned the occasional nugget of learning that helps to win the case. That really happens and frequently. Moreover, many members of the bench and bar read the *Review* (perhaps several of the leading reviews) just to keep abreast of professional developments. They find there a large measure of the horizon-broadening material that they are seeking. The service to the profession is considerable. Furthermore, the fact that the pages of the *Review* are always open to receive contributions both from members of the faculty and from practicing members of the profession has served as a stimulus to constructive research and writing that has resulted in the recording of more than a few worth-while legal ideas that otherwise would never have reached the light of day. The law reviews have been a substantial creative force in jurisprudence, and the *Michigan Law Review* has done its full share in this regard. And, finally, no appraisal should overlook the very great value of the *Review* as a contributing factor in legal education. Students who are the editors gain invaluable experience in legal research, in using the wealth of materials in the Law Library, in learning by practice the habit of careful synthesis and accurate expression of legal ideas in well-written English. Those who

participate find it one of the really great experiences of their Law School years. The fact that law review editors have so uniformly made good in professional life is significant; and we know that new generations of editors are in top demand for positions in law offices and corporate legal departments. In a very practical way, this indicates the appraisal of law review editorship by the profession itself. The *Review* is really a major factor in legal education in Michigan.

In the language of the "Announcement" that appeared fifty years ago in the very first issue of the *Review*, its objectives were stated as follows:

"It will be the aim to make the Journal practical without usurping the functions of the textbook or digest, and scholarly without becoming so academic in its character as to be out of touch with the views and aims of the lawyer of today."

The experience of the first fifty years warrants retention of these aims for the next half-century.

*E. Blythe Stason, Dean*