



The 1952-53 Law Review Editorial Board (seated, left to right): Lawrence Reich, Jersey City, New Jersey; Dale Broeder, Portland, Oregon; Marvin Chirelstein, Chicago; Alexander Polikoff, Editor-in-Chief, Chicago; (standing, left to right): Howard MacLeod, Amherst, Massachusetts; Richard Stillerman, Chicago; Robert Bork, Pittsburgh, Pennsylvania; Merrill Freed, Springfield, Ohio; and Jean Allard, Trenton, Missouri.

Twenty Years at Hard Labor

Like any institution, the *Law Review* is both a society unto itself and a reflection of its societal environment. As regards the former, Professor Riesman (in *Some Observations on Law and Psychology*, 19 *Univ. Chi. L. Rev.* 30 [1951]) judges the law reviews to be the most striking instance in the professional world of a democracy "based on ability to *do something . . .*," though the law-review society is admittedly a very select one. As for the latter, the pages of any "national" review mirror the educational and social philosophy of its law school and, to a lesser extent, of the whole society.

This combination of a cliquish though internally democratic society, brashly and somewhat high-handedly manufacturing a "significant" issue (perhaps not without stepping on some professorial toes in rewriting submitted articles), is the educational strength of a review, producing a kind of inbreeding of high standards which a less select group or a less pretentious objective might preclude. And because the law-review market so clearly abounds in superfluous literature, the justification for any review must lie in the training it affords to those working on it. This training, in the effective use of written words, the law review gives by painstaking rewrit-

ing of all student work to meet its own high standards.

At Chicago, the top men in the first-year class are elected by the editors, solely on the basis of grades, to be staff members for the ensuing year. Subsequent election to the editorial board is not, however, dependent on grades but upon the production of material which meets the *Review's* standards for publication. Once a topic and a rewrite man are assigned, the staff member begins the process of research and drafting, discussions with the rewrite man which change or refine his notions, redrafting, reworking the arguments again with the rewrite man, consultation with the faculty specialist in the subject of the prospective note, and, finally, perhaps two academic quarters and many quarts of coffee later, approval of a finished draft by the rewrite man and by the student work editors. Then the staff member immediately begins work anew, for he must have completed a good draft on a second topic to qualify for election to an editorial position. If the rewrite man has done his work well, this second topic will begin at about the fourth-draft stage of the first. From the long hours spent with the rewrite man and from the interplay of discussion of substance and reworking of language, the staff member will have learned something about writing on legal topics.

At the end of the second year the outgoing editorial

board elects its own successors. As Professor Riesman has noted, the criterion is the quality and amount of work produced; the mores of the law-review society require that all other factors be ruthlessly discarded.

The third-year editor, hardly concealing his feeling of importance, undertakes a multitude of tasks. He is rewrite man to several staff members, he plans issues and solicits articles and book reviews, he carefully peruses and sometimes reworks submitted manuscripts, upon occasion he sweats out a rejection letter for a solicited article by a well-known writer who relied on his reputation and failed to meet review standards, he confers with faculty men and reads scores of cases to collect topics for student work, he prepares manuscripts for publication, supervises footnote checking for accuracy, meets press deadlines—and terribly neglects his own classes. At the end of a year he feels that he has helped to turn out as good a volume as his review has ever published and, having by dint of last-minute cramming miraculously passed his courses with better grades than he received in the first two years, he leaves his school and the review with an exaggerated notion of his own ability. But the two years of writing and rewriting have taught him something which no class could about the nimbleness of the written word.

To place this fairly typical law-review society in its proper setting at the University of Chicago, one must go back to the spring of 1933. Ernst Freund had just died, and the first issue was dedicated to his memory. There was as yet no New Deal legislation to discuss, and Volume One, Number One, was conservatively lawyer-like in its choice of subjects for major articles: Conflict of Laws, Trusts, Illinois' new Civil Practice Act and the Federal Tort Claims Bill. Dean Bigelow announced in his note on the establishment of the *Review* that "the responsibility of the *Review* and the credit for it will belong to the students of the Law School." But the first issue prudently noted beneath its masthead: "The Board of Editors does not assume collective responsibility for any statement in the columns of the *Review*." The caveat was dropped with Volume Two, Number Three, under the editorship of third-year student Edward H. Levi, one of several *Review* members destined to move on to the faculty. (Others are Professors W. Robert Ming, Jr., Bernard Meltzer, Harry Kalven, Jr., and Walter Blum.) William Allen Quinlan was the first editor-in-chief, Professor E. W. Puttkammer was and still is the faculty adviser, and among the contributors to Volume One were Malcolm Sharp (visiting professor at Chicago), William O. Douglas (professor at Yale), and Walter V. Schaefer (member of the Chicago Bar). Among the editors in the early years were William R. Forrester, now Dean of the Law School, Tulane University; James W. Moore, now Professor of Law at Yale; and Arno C. Becht, now Professor of Law at Washington University. A later issue of the *Record* will record the progress of former editors to positions of responsibility and impor-

tance at the Bar, in government, and in law teaching. Another contributor to Volume One was Robert M. Hutchins who argued, in his *Autobiography of an Ex-Law Student* (and in *Legal Education* in Volume Four), for the establishment of departments of jurisprudence for the study of legal principles.

The first nine years were good years for the *Review*. New Deal legislation, especially the Wagner Act, was thoroughly canvassed. Professor Paul H. Douglas discussed the theory of wage regulation, and Sidney Hook and Thurman Arnold engaged in a running debate on Arnold's *The Folklore of Capitalism*. But the more traditional legal topics were not neglected. Former editors-in-chief James W. Moore and Edward H. Levi surveyed the law of bankruptcy and reorganization in a huge, three-part article. And the *Review* printed, among others, Prosser on insurance, Holdsworth on legal history, Maguire on evidence, Stumberg on conflict of laws, and K. N. Llewellyn *On the Good, the True, the Beautiful, in Law*. The faculty contributed generously. To note but a single illustration, Professor Sharp's *Promissory Liability*, which has been the guidebook to contracts for thirteen years of first-year students, was published in Volume Seven. In Volumes Eight and Eleven appeared two articles by Henry Simons which signified the increasing integration of law and economics in the Law School. Volume Three, Number Two, marked the death of Edward Hinton, James P. Hall Professor, who died on January 2, 1936. The same issue announced the establishment of the Max Pam Professorship in Comparative Law, with the appointment of Assistant Professor Max Rheinstein as the first incumbent. And in April, 1940, Volume Seven, Number Three, was dedicated to "Harry Augustus Bigelow, Dean Emeritus and Professor of Law at the University of Chicago Law School, scholar, teacher, and friend of countless law students."

With Volume Ten the war years fell upon the *Review* as upon the nation. The first number, in October, 1942, was produced with a skeleton staff of two students, and in Volume Ten, Number Four, the faculty assumed editorship.

With Volume Eleven Professor Puttkammer continued as editor. Enrolment in the Law School totaled 47, including 15 women. Eleven regular faculty members were in residence. Without much student work, Volumes Ten through Thirteen averaged under five hundred pages.

With the end of the war, students came back to school, and the *Review* came back to the students. Volume Fourteen is, perhaps, the most famous of all the volumes. Number One was given over to Henry Simons and contained three articles about his work by Wilber Katz, John Davenport, and Aaron Director, and *Federal Tax Reform*, written before his death by Simons himself. Number Two contained Professor Levi's *The Antitrust Laws and Monopoly*, and Number Three was devoted

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to the first of the University of Chicago Law Review Symposiums, a *Symposium on Labor Relations and Labor Law* which numbered among its contributors Cyrus Eaton, Lloyd Garrison, Lee Pressman, Wayne Morse, and Paul Douglas. Number Four contained the chapter on the ex post facto clause from Professor Crosskey's soon-to-be-published book.

Volume Fifteen was almost equally noteworthy. It contained several articles on Illinois' "antiquated constitutional and legal system," Professor Levi's famous *Introduction to Legal Reasoning*, and a *Symposium on Atomic Energy for Lawyers*, as well as the first of John Frank's annual series for the *Review* on the Supreme Court Term. Volume Sixteen brought forth a symposium entitled *Reflections on Law, Psychology, and World Government*, with discussions by Robert Hutchins, Wilber Katz, and the omnipresent Malcolm Sharp among others. In Number Four of this volume Deans Bigelow and Katz marked the retirement of George Bogert, and Dean Katz passed some remarks on the "curious system which enables the Hastings School of Law to reach national fame through the rigid policies of other schools."

In its last two years of publication the *Review's* symposiums have reached maturity with an entire issue, including student work and book reviews, being devoted to facets of a single topic. The *Symposium on Congressional Investigations* in the Spring of 1951 created a demand for an unprecedented second printing; Volume Nineteen's symposium was on *The Modern Corporation*. Volume Twenty, marking twenty years of the *Review* and fifty years of the Law School, will include a topical *Symposium on Civil Rights and Liberties*.

This recitation of some of the *Review's* major articles might seem to belie the earlier justification of a law review as training and education for its staff. And indeed each class of editors strains to believe that its review is unique, that its special brand of composition would not rest comfortably in other pages, and that the sea of law reviews could not spill over into the gap of its review's absence. But leaving this matter to others so far as our *Review* is concerned, the host of student notes has not been mentioned because the cheerless, workman-like jobs do not lend themselves to fame. They are for the recesses of the office and the weighing of delicately balanced arguments. The precision and refinement which goes into a student comment may have found its way into many a brief, at least so we fondly hope, but it is not for separate mention. To it goes a kind of anonymous glory, and in it, however much we talk about brighter lights, lies our real pride.