

## A PERSONAL HISTORY OF THE *LAW REVIEW*

*John Paul Stevens\**

Art Seder and I were co-editors-in-chief of the *Northwestern University Law Review* in 1947 when the journal was known by a different name: the *Illinois Law Review*. I am sure that most students who now contribute to each of the three law reviews published at the University of Illinois, the University of Chicago, and Northwestern are unaware that their journals share a common ancestor that published under the “Illinois” name for many years. That common project ended long before Art and I even knew what a law review was, but Northwestern retained the *Illinois Law Review* title for its own publication throughout our tenure and until 1952.<sup>1</sup>

Most of the members of the class that entered Northwestern in the fall of 1945 were recently discharged veterans. Like other leading law schools, Northwestern offered a program that enabled us to complete three academic years in only two calendar years. Extracurricular work, such as moot court and writing for the criminal law journal or the *Law Review*, was not particularly appealing to students facing what already seemed to be a daunting challenge simply to survive. Nevertheless, our frightening but inspiring dean, Leon Green,<sup>2</sup> convinced some of us that the extra effort would pay off in the long run.

In retrospect, I have absolutely no doubt that Dean Green was right. I learned a number of valuable lessons from my experience on the *Law Review*, many of which guide me even now. For instance, I still remember Dean Green’s persuasive explanation of why footnotes perform an especially useful function in legal writing. They provide an opportunity to communicate facts or arguments that, while important to the reader, are superfluous to the main text. He rejected the purists’ view that unless a statement is important enough to be included in the text, it should be omitted entirely. I remain persuaded by his wise counsel.<sup>3</sup>

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<sup>1</sup> In 1933, the University of Chicago began publishing its own law review. Although the University of Illinois also stopped editing the *Illinois Law Review* in 1933, that school did not begin publishing a separate journal until 1949.

<sup>2</sup> In a practice I hope has long been abandoned, Dean Green required us to stand when responding to withering interrogation in his torts class.

<sup>3</sup> Indeed, if others had adopted the purists’ viewpoint, many developments in the law might never have occurred. See, e.g., *United States v. Carolene Products Co.*, 304 U.S. 144, 152 n.4 (1938).

The request to make a contribution to this anniversary edition brought back fond memories of my close association with my co-editor-in-chief. Art Seder, who had flown his twenty-sixth bombing mission over enemy territory and received the Distinguished Flying Cross and the Air Medal with four oak leaf clusters shortly before V-E day, was an exceptional person. His popularity, however, was not entirely attributable to his experiences as a pilot or even to his warm and engaging personality. It was also important that he was the best note-taker in our class, had legible handwriting, and generously shared his work-product with his less gifted associates. Indeed, most of us formed close friendships with him long before we knew anything about his war record.<sup>4</sup>

The *Law Review* office was the location of a memorable experience for the two of us in the summer of 1947. Congress had recently authorized an additional law clerk for several Supreme Court Justices.<sup>5</sup> Willard Wirtz, then a professor of law at Northwestern,<sup>6</sup> was a close friend of Justice Wiley Rutledge, and Willard Pedrick, also a law professor at Northwestern,<sup>7</sup> had a close relationship with Chief Justice Fred Vinson and had persuaded him to hire Frank Allen as a clerk for the 1947 Term.<sup>8</sup> Unbeknownst to Art and me, the two Willards had had discussions with the two Justices and believed that two clerkships would be available to us: one with Rutledge during the 1947 Term and the other with the Chief Justice during the 1948 Term. Considering us equally qualified for both positions, they came to the *Law Review* office to find out which position each of us would prefer. While more prestige would attach to a clerkship for the Chief Justice, given our advanced age, we both wanted the earlier opportunity. To resolve the conflict, we resorted to a tie-breaking method, one that I have often been tempted to use during my years on the bench: We flipped a coin. Needless to say, I won the toss and have had nothing but fond memories of the *Law Review* and of my good friend Art ever since.<sup>9</sup>

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<sup>4</sup> Art and I not only shared our class notes but also were born on the same day.

<sup>5</sup> Prior to 1946, each Associate Justice had one law clerk, and the Chief Justice had two. When Chief Justice Fred Vinson assumed that office, he employed a third law clerk. Citing the increasing number of petitions for certiorari, several Justices requested additional law clerks and Congress provided funds for four new law clerks for the October 1947 Term, the year I clerked for Justice Wiley Rutledge. See *Judiciary Appropriation Bill for 1948: Hearing Before the Subcomm. of the H. Comm. on Appropriations*, 80th Cong. 4 (1947); Chester A. Newland, *Personal Assistants to the Supreme Court Justices: The Law Clerks*, 40 OR. L. REV. 299, 304 (1961).

<sup>6</sup> He later served as United States Secretary of Labor from 1962 to 1969.

<sup>7</sup> After his graduation from Northwestern, Professor Pedrick had clerked for Justice Vinson when Vinson was a judge on the D.C. Court of Appeals. He later went on to found the Arizona State University College of Law.

<sup>8</sup> In addition to his clerkship, Frank had been the editor-in-chief of the *Illinois Law Review* the preceding year. He went on to serve as dean of the University of Michigan Law School.

<sup>9</sup> After his clerkship, Art had a distinguished career, first as a practicing lawyer in Chicago, and later in Detroit as Chairman and Chief Executive Officer of the American Natural Resources Gas Company, and as a leader in civic affairs.