

COMMEMORATION

Standing for Excellence, Reaching for Justice

Dean Kellye Testy

Nineteen hundred and seventy five was a busy year: President Ford dodged his second assassination attempt, Billie Jean King won Wimbledon, Saturday Night Live premiered with George Carlin as host, *One Flew Over the Cuckoo's Nest* swept the Oscars, first-class postage increased from ten to thirteen cents, Matsushita developed an innovative recording product called "VHS," the Vietnam War came to an end with the surrender of Saigon, Pol Pot and the Khmer Rouge took over Cambodia, I started high school, and the School of Law published its first intramural edition of the Law Review.

Now over thirty years and thirty volumes later, it is my great honor as Dean to introduce this special issue of the *Seattle University Law Review*, which commemorates this significant anniversary of its first issue. To celebrate the Law Review's thirty-year milestone, this issue includes a reprint of one of the comments from the original 1975 intramural publication, as well as commentary by the two leaders of the effort: Professor Thomas J. Holdych, the Law Review's founding faculty advisor, and Mr. Robert Medved, the Law Review's first Editor in Chief.

What is evident from Professor Holdych's and Mr. Medved's accounts, as well as from the larger oral history of the School of Law, is that the Law Review was founded through a fierce dedication to academic excellence, a core value to which we have held fast since our founding in 1972. Standing for excellence has served the law school well, seeing it through its early years as it established itself as a respected training ground for outstanding lawyers, and seeing it through its transition to Seattle University that began in 1994 and culminated with our 1999 move into our first-class home in Sullivan Hall.

Through those years of our institutional maturation, the Law Review has been an unwavering voice for our highest aspirations. Draw-

ing to its work each year a new group of talented students who take on the significant responsibility of producing an academic journal in addition to going to law school, the Law Review is one of our most important unifying threads. As each group of new members earns its stripes by authoring notes and comments, by perhaps becoming members of the editorial board the following year, and then by finally handing over those responsibilities to their successors, the students weave a web that binds them together and with the School of Law long after their duties are done. At alumni gatherings, I can always count on seeing our former Law Review members, who typically are both eager to see each other and eager to reconnect with the faculty and staff in order to fondly remember “their” years on the Law Review. We are and will always be grateful to you for the service you have given the School as you have built with your own hands the outstanding reputation that we are increasingly enjoying.

As the School of Law continues its growth and development as one of the nation’s leading law schools, we will continue to stand for academic excellence as we reach for justice through law. It is compelling to note the subject of the very first article in the 1975 issue that we have reprinted here: the constitutionality of searches near the U.S.-Mexican border. The more things change, the more they stay the same. The issues raised in that piece are perhaps even more urgent today as our nation grapples with significant legal issues concerning immigration, police power, and national security.

Boldly and thoroughly examining pressing issues of law and justice has been and should continue to be the mission of our Law Review as we stand for excellence and reach for justice. Our world needed our scholarly voice in 1975 and it needs it now.

Congratulations to the Law Review for its first thirty years and many thanks to each and every graduate who, during their tenure on the Law Review, made it what it is today. May your outstanding work be an inspiration for those whom follow. After all, look at what four students with typewriters and carbon paper did in 1975!

There at the Beginning: Establishment of the Seattle University Law Review

Thomas J. Holdych[†]

When the School of Law was established in the spring of 1972, virtually no procedures or programs existed for the new institution. The Dean and faculty began creating and instituting such procedures and programs during the spring and summer of that year, borrowing heavily from their experiences in law schools which they had attended or in which they had taught. The establishment of procedures on an “as need” basis occasionally imposed substantial costs. At the end of the first academic year, for example, the school had a number of students whose grade point averages were below a 2.00, which is the minimum average that is required for a student to continue his or her studies. Rather than adopting some sort of probation policy in advance of the event, the faculty decided to hear a petition from each adversely affected student to decide whether he or she could continue on a probationary basis. Needless to say, the process was laborious and not exceedingly pleasant.

The latter cannot be said of the creation of the school’s Law Review. To my knowledge, no plans had been made in advance to create a law review. Rather, one day, either in the summer or fall of 1973, Dean Joseph Sinclitico told me that he wanted me to head an effort to establish a law review at the school. The Dean contemplated that the first course of action would be to create a student law review staff.

The primary source upon which I drew for establishing a law review staff was my experience on the editorial board of the *University of Illinois Law Forum*, the Law Review at the University of Illinois College of Law. I also realized that I could not build a student law review staff by myself. Accordingly, I asked several of my faculty colleagues to assist me in training a group of students into a law review staff.

Our first step was to select a group of highly qualified students who would eventually serve as the Review’s first staff. Eight to ten students were selected to be candidates for the Review, exclusively, as I recall, on

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the basis of first year grades. The students were assigned topics on which to produce a note or comment. We, the faculty, then established an editorial process with a faculty member working with one or more candidates in developing their papers. After the faculty members edited each of the candidates' papers through at least two drafts, the papers were submitted to me for a final edit. Whether we published any of the articles at least internally, I cannot recall. I do remember that the papers were good, with one in the area of commercial law being of very high quality.

After work on all the comments was completed, the faculty selected the law review's first editorial board in the spring of 1974. The editorial board consisted of only four positions, an editor-in-chief and three note and comment editors. Since the Review was not publishing externally, nor publishing lead articles, it did not need any other editorial positions. The faculty selected the editors based on their performance on their papers, with Robert Medved being selected as the first Editor in Chief, and Christopher Huss, Nancy Levy, Richard Phillips being chosen as the first note and comment editors.

With the editorial board in place, the Review prepared for its second year. My faculty colleagues who had assisted by editing papers in the first year discontinued their work with the review (except to the extent a student might have consulted them regarding a comment or note in one of their areas of expertise). My function became that of purely advisor to the Review. I assisted the new editorial board in establishing procedures for selecting topics for notes and comments and for editing the papers of the new candidates. I also provided general advice on the editing of papers and related topics.

I continued in my role as advisor to the new Review through the fall of 1976. My role as law review advisor was one of the most pleasant and satisfying experiences in my academic career, with the first year and the first editorial board being most memorable. The students were extremely enthusiastic and hard working. They took charge from the very start and wanted the Review to be theirs and not a faculty-run project. They were every bit as bright and qualified as the students with whom I had worked at the University of Illinois. They worked very hard with the incoming groups of candidates, and they established very high standards and expectations that resulted in the ultimate quality of the Review that exists today.

The Seattle University Law Review and Professor Thomas J. Holdych: Two Perpetual Legacies

Robert A. Medved[†]

During a student's first year as a Law Review member, you are expected to analyze, research, think, and write at a level you in all probability never before experienced. During a student's second year as a Law Review editor, you are expected to enhance your skills continually, to edit the work of others, and to do whatever is required in essence to operate a publishing business successfully. The hours are arduous, the attention to detail is obsessive, and any words of encouragement are rarely heard. Participation in Law Review begins as a humbling experience for many members. That humbling experience, however, slowly evolves into one of the most rewarding experiences of law school as members acquire skill sets—the most important skill being the accelerated ability to analyze and think like a lawyer. As one of the first Law Review members (1973-1974), and as the first Law Review Editor in Chief (1974-1975), I encountered these experiences firsthand.

The *Seattle University Law Review* is a high quality publication with core standards of excellence. That quality and those core standards can be attributed to more than thirty-two years of dedicated student Law Review members and editors, and the support of the School of Law throughout that period. Those core high standards were established by Professor Thomas J. Holdych in 1973, when he was the first faculty advisor to the Law Review, and the quality of the Law Review is the result of those standards.

Professor Holdych and his exacting academic standards were inseparable. He Socratically commingled, separated, and reconciled the differences between the common law of contracts and Article 2 of the Uniform Commercial Code, thus guiding his first-year students to the realization that the notion of "black-letter" law is misplaced. As his research assistant, I became even more aware of Professor Holdych's

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incisive analytical skills and his never-ending inquisitiveness, as we explored such then-esoteric issues as when an economic disparity between contracting parties' bargaining power would be deemed to be so great as to result in an "unconscionable" contract. The vagaries and shifting sands of constitutional law, with its judicially-created penumbras, also provided a perfect vehicle for Professor Holdych to exercise and further enrich his students' minds. In his role as faculty advisor, Professor Holdych instilled his exacting analytical and thinking processes throughout the Law Review.

Regardless of the situation, Professor Holdych would not compromise his high, rigorous standards. As a professor and as the Law Review's faculty advisor, Professor Holdych was rightfully demanding but not demeaning. He was always gracious and considerate. Regardless of a student's abilities or class standing, he sought to maximize each student's potential. Professor Holdych did indeed accelerate his students' abilities to analyze and think like a lawyer.¹ His students, the *Seattle University Law Review*, and the Seattle University School of Law are the most direct beneficiaries of his standards.

The *Seattle University Law Review* has bestowed a perpetual legacy to the legal community. Professor Holdych has bestowed a perpetual legacy to academia, to scholarship, and to the legal community. The two legacies are both independent and joint. Both legacies are more than worthy of emulation.

1. The study of law is something new and unfamiliar to most of you. Unlike any schooling you have been through before. We use the Socratic Method here. I call on you, ask you a question and you answer it. Why don't I just give you a lecture? Because through my questions, you learn to teach yourselves. Through this method of questioning, answering, questioning, answering, we seek to develop in you the ability to analyze that vast complex of facts that constitute the relationships of members within a given society. Questioning and answering. At times you may feel that you have found the correct answer. I assure you that this is a total delusion on your part. You will never find the correct, absolute, and final answer. In my classroom, there is always another question, another question to follow your answer. Yes, you're on a treadmill. My little questions spin the tumblers of your mind. You're on an operating table. My little questions are the fingers probing your brain. We do brain surgery here. You teach yourselves the law, but I train your mind. You come in here with a skull full of mush and you leave thinking like a lawyer.

—Actor John Houseman as the fictional but legendary character of Harvard Law Professor Charles W. Kingfield Jr. lecturing his first-year contract students in the classic 1973 film *The Paper Chase*.