

THE GROWTH OF THE LAW REVIEW*

1958

By the time the fourth issue of Volume I appeared, the mantle of "full responsibility" worn by the students had acquired its first snag. R.R. Stuart, now Dean of Hertford College, Oxford, recalls this humorous anecdote.

"The life of the *Review* depended upon its very generous subsidy from the Alberta Law Society. In the early days the Society was remarkably tolerant about quality, but it was not unreasonable that one should expect at least the quantity of publication that it had paid for. During my editorship an inexplicable shortfall in quantity occurred. My attempt to pin the blame on the university printers failed: my receipt was undeniable. Suspense mounted. It was rumoured, so excited speculation had it, that distinctions were being drawn between the charitableness of Mr. and Mrs. G.B. Shaw in the missing issue (although there is no truth to that rumour), and that Shavians were at work: many Socreds in those days were notorious Shavians. But at last the case was solved by the Edmonton Police. Suspecting the car of Associate Editor Leonard Leigh of virtually everything, including opened bottles of coca-cola, stop 'n' search revealed the missing copies of the *Review*. Subsequent plea-bargaining resolved all remaining problems."

1960

Personalities seem to have played the largest part in the history of the *Review*. The great systems devised in one year were often quickly abandoned in subsequent years, and it is often the authors, rather than their articles, who are most fondly remembered. C.R.B. Dunlop, now a Professor at the law school, recalls his year as editor.

"The offices of the Law Faculty and the classrooms were all in the old Arts Building, and the students spent their time travelling from there to the single room in the Rutherford Library which housed the entire law library and which was the home of all law students for their three years at the University.

The bulk of the editorial work was done by members of the Board, including Walder White (now Assistant Chief Judge of the Family and Juvenile Division of the Provincial Court), Bernie Adell (now Dean of Queen's Law Faculty) and Lou Hyndman (a successful politician in university who continued that pattern later). However we were able to involve many other students in the work of the *Law Review*, particularly the tedious job of proofreading.

The *Law Review* was printed by the University in what was then described as the Print Shop. As I recall it, the Print Shop was more of a museum of ancient printing equipment than the modern plant that the University has today. It was ruled by Mrs. Donnan, who tried with indifferent success to force us to make textual changes before printing the galley proofs rather than after. The *Law Review* was then distributed to all members of the Law Society (using their addressograph machine).

* Compiled by the Editorial Board—1980 from the submissions of former editors.

Judging from the Table of Contents of my issue, the editorial policy of the Review was to print articles and case comments on substantive legal problems, without neglecting speeches of people like the Honourable Mr. Justice Rand who had addressed the Alberta section of the Canadian Bar Association in January of 1959. That issue even included a fascinating lecture on Shakespeare and the law by the late F. M. Salter, one of the great English teachers in the history of this University. Clearly the *Alberta Law Review* was not to be a mere technical journal."

1963

"The 1963 edition of the *Alberta Law Review* was characterized by a continuation of the solid format of the 1962 *Review*. The Editor was faced with the usual array of easy decisions (such as publishing his own case comment) and difficult ones (such as being unable to publish an article by a Faculty member due to space limitations). The Editorial Board was particularly well-treated by Professor Bill Angus who hosted a number of work sessions, abetted by generous quantities of liquid refreshment, at his residence. Professor Trevor Anderson, fresh from the wretched excesses of Wadham College and swathed in his ubiquitous Batman cape, made his debut on the Faculty and as an editorial adviser. This edition of the *Review* contained an historical Letter to the Editor — it was the first such letter published and there has only been one since, in 1970 — from Dean W.F. Bowker. In his letter of April 19, 1963, the Dean urged the establishment of a Law Reform Committee in Alberta. Subsequently, of course, the Institute of Law Research and Reform was set up and this letter serves as a reminder of the Dean's role in the founding of the Institute and his enduring interest in legal scholarship and reform."

1964

If a publication takes on the style of its editor, 1964 will be remembered as the year of the "academic purist". John Cote recalls that the attention of the Board was focused on editorial work, as in those days the *Review* had no cash subscriptions or advertising. A sophisticated barter system ensured distribution of the *Review* to other law schools and the Law Society supplied the Alberta market.

The death of Dr. Malcolm MacIntyre was noted in that year with a kind obituary written by Dean Bowker.

Little-noticed innovations such as binding instructions, a cumulative index, and the sequential numbering of issues have proved, over the years, to be invaluable to researchers and Board members responsible for special order sales and inventory.

1966

The events of 1966 foreshadowed what was to become the norm in *Law Review* production. The emergence of the "big business" of publishing had brought the *Law Review* into a new era. A.R. Lucas, now teaching law at the University of Calgary, recalls his hectic term.

"We were favoured with an able and enthusiastic group — a group that cannot be easily forgotten, even if the dynamic duo of Peacock and Felesky were at that time just making a start. But then times were different, and so was law school. Those were among the last of the small tight

classes. Employment opportunities were rarely seriously considered until the end of third year. The *Law Review* was something to get involved in—it was certainly not seen as leading to anything in particular.

Those were days when *Law Review* was strictly part time non-credit. Long hours were spent among the boxes in the tiny room at the top of Rutherford Library. The University Printing Department was notoriously unreliable, and budget restrictions meant that our product was bottom priority timewise.

Because of production slippage, most major editing fell to be completed over the summer. My most vivid memories are of evenings and weekends in the Calgary Court House Library editing manuscripts and attempting to make sense of butchered galleys. I was amazed to discover how student reticence fades and the blue pencil marks begin to cover the prose of some respected academic or practitioner. Fortunately I was graduated and long gone when the number was finally published. But the need for arrangements to permit full time on the spot summer editorial work on *The Review* was never more apparent than it was in the summer of 1966."

1967

D. Barry Kirkham practices with the firm of Owen Bird in Vancouver.

"The year 1966-67 evokes pleasant memories for a member of the *Law Review* staff. W.F. Bowker, Q.C., beloved by most students, was nearing the end of his lengthy term as Dean of the Law School. Alex Smith, one of Canada's least recognized but most distinguished constitutional lawyers, was still attempting to patiently explain the *Local Prohibition* case to students who by and large were far more outraged by the concept of prohibition than they were by the emasculation of federal power which the Privy Council thereby initiated. Andrew Thompson held the field in oil and gas law and wrote an article for the *Review* in which he audaciously advocated that ownership of natural resources in the Northwest Territories should be transferred to the Territorial Government and that the Territories should be given provincial status.

Ivan Head, fondly known as the "White Tornado", whirled through the Law Faculty like a dervish, frantically pursuing a thousand things at once, such as calls to P. E. Trudeau on the *Offshore Mineral Rights* case. Head assisted the Minister of Justice (as he then was) in presenting the federal case to the Supreme Court of Canada and wrote an article, "The Legal Clamour Over Canadian Off-Shore Minerals", for the *Review*. Trevor Anderson still wore his Oxford gown to class, presumably to lend an even more pedagogical aura to the rule against perpetuities. These five and other Faculty members were of tremendous assistance to the *Law Review* staff.

Previously the publication of the *Review* had consisted of one issue per year, plus the Petroleum Supplement, (which was edited solely by Professor Thompson). The "one issue per year" really meant "one issue *some* year", for the graduating class generally was forced to pick up the pieces from the previous year's staff and publication was generally at least 9 months behind schedule. In fact, it was not until Christmas 1967 that we managed to publish the previous year's *Review*. With the generous support of the Law Society, to whom we made a formal brief and presentation, we embarked on an ambitious attempt to publish two issues per

year, plus the Petroleum Supplement, and to do so *on time*. Fortunately, we accomplished our goal. The *Law Review* has been published three times per annum ever since.

One article which we solicited and were most delighted to receive was "Canada Federalism: The Legal Perspective" by the distinguished McGill professor, Frank R. Scott. The article was written in the first person singular. We presumptuously changed the "in my opinion's" to "it is submitted" and printed the article. After forwarding the galley proofs to the author we received an entirely justified chastisement for our effrontery. One can well understand why a scholar of Professor Scott's eminence would be somewhat aggrieved by this type of change being made by mere law students."

In 1966-67 the *Review* was granted, for the first time, its own office space and a secretary. No longer was it necessary for the *Review* to be published from the Editor's kitchen. Also the Faculty agreed to hire the Editor-In-Chief during the summer months commencing with Jim Matkin in the summer of 1967. One half of the Editor's summer time was allocated to *Law Review* work.

One major innovation in 1966-67 was a banquet for the *Law Review* staff, to which selected members of the Faculty, Bar and Judiciary were invited, as were all past Editors-in-Chief. Professor Anderson, in his inimitable fashion, gave a memorable address. I remember particularly his not so subtle rebuke to us for entitling the affair as the "First Annual Dinner". It is gratifying to see that that particular prophecy has been fulfilled.

Brian Felesky attempted to increase circulation. He approached local book stores and was taken aback when they opined that the *Review* was unlikely to sell to the public.

I vividly recall an occasion when I forwarded an unsolicited article to Dean Bowker, requesting his comments on whether it was worthy of publication. About two weeks passed without word. I then wrote the Dean this typewritten memo, "About two weeks ago I forwarded you an Article on _____ for your comments. We have not received your comments and I was wondering whether the Article got lost in the mail." The intent of the memo was innocent enough, but, with the benefit of hindsight, the wording was somewhat unfortunate. The Dean replied immediately by returning the memo, scribbling on the bottom in his unmistakable handwriting "NO IT DID NOT!" It was one valuable lesson of many learned that year."

1968

Another facet of the lighter side of life at the *Review* is recalled by James Matkin, now Deputy Minister of Labour in British Columbia.

"Of course, one of the greatest challenges in our years with the *Review* was the search to find quality articles. Therefore, we were very pleased when we persuaded Professor Arthur Goodhart, while he was Scholar in Residence in New York City, to publish his address on The Alleged Conspiracy to Assassinate President Kennedy. Rereading the article, I am still impressed that it offers much food for thought.

While the *Review* was a team effort, I must remark on the tenacious efforts of our Articles Editor, Brian Felesky, who left no stone unturned in his search for suitable material.

I remember one amusing situation (to us, if not to the victim) when we published an article by Dr. Glasbeek entitled "Outraged Dignity, Do We Need a Tort". This was a very well written article but it was edited by us to conform to our notion of style. The changes we made as student editors caused the Professor so much concern that we almost provoked an action in "Outraged Dignity."

1969

K.B. Potter practices with the firm of Macleod Dixon in Calgary.

"1968 - 69 was a year of change at the *Alberta Law Review* — a year during which the *Review* changed from being an annual to a bi-annual publication and during which advertising made its first appearance in the *Review*. The perennial financial problem of the *Review* was made even more severe by virtue of the additional costs of publishing the second regular issue. This additional financial need necessitated appearances before the benchers of the Law Society of Alberta, who were at the time considering reducing their support, to ensure their continued support and also several meetings with Dr. Max Wyman to obtain additional university funding. Although both such approaches were successful, additional financial support was required and for the first time the *Review* began to seek commercial advertising.

Another potential solution to the financial problem appeared when the editorial board was approached by a publisher from Buffalo, who owned the copyright to a number of other law reviews in Canada and in the United States, with a proposal to purchase the right to republish and distribute back issues of the *Review*. The Editor-In-Chief and the Articles Editor, Darryl Carter were wine and dined by the publisher and over-awed by someone with the courage to order frog's legs in an Edmonton restaurant in 1968 and who dropped \$20.00 tips, but saner heads (we think) prevailed and it was decided that the amount of a one time payment was not enough."

1972

The highlight of the term for Editor Peter Costigan was the acquisition by the *Review* of its own premises in the newly opened Law Centre. These were ensured by the persistent lobbying of Professor Trevor Anderson, who recognized the importance of the faculty having a stable *Law Review* operation as well as the inevitability of its growth. For the first time a part-time secretary was hired to assist the Editor-In-Chief, who now had a summer position to ensure continuity between terms.

1974

Rapid growth continued, resulting in Gerald Masuch facing new financial demands. He was forced to finally approach the Benchers for an increase in funding. At the same time he managed to have the *Review* placed on the list of publications allowing the publication of legal cards.

1975

In the year of the Centenary of the Supreme Court of Canada, the *Review* was honoured with the opportunity to publish the proceedings from the national conference marking this event. The *Review* published,

for the first time, the Table of Limitation Periods, formerly prepared by the Institute of Law Research and Reform. Christopher Head also remembers, with pride, the opening of a foreign account for the deposit of American cheques.

Alvin Esau, associate editor in 1975 and Editor-in-Chief in 1976, recalls a memorable evening in 1975.

"A memory that stands out in my mind is the dinner for the *Review* members sponsored by Dr. Bowker in the fall of 1974. At this time, Dr. Bowker was still Director of the Alberta Institute of Law Research and Reform and as such was active in an extraordinary range of activities. While he was always most generous in spending time with any students who came up to his office for a visit, he was not then teaching a course in the Faculty, so very few students actually had the privilege of hearing him share the wealth of knowledge and wisdom (a higher virtue) that he had acquired in his most distinguished career. In this context we all felt we were about to experience a very special moment as Dr. Bowker stood up to make his after dinner speech. We were right. In an inspirational address, Dr. Bowker engaged our imaginations immediately as he began to survey the topic of Prairie Legal History. I recall thinking during the course of his speech that I knew something about famous American judges like Marshall, Holmes, Cardozo, and Brandeis and yet here for the first time I was hearing about our own judges whom he claimed had also achieved greatness with integrity. With anecdotes and excerpts from cases, Dr. Bowker brought alive the Supreme Court of the North West Territories (judges like Wetmore, McGuire, Macleod, Richardson) and then moved on to the Alberta Supreme Court, noting the work of Mr. Justice Beck and Chief Justice Horace Harvey. As I recall, however, his speech reached a kind of crescendo pitch as he surveyed the jurisprudence of Mr. Justice Charles Stuart. The speech ended too soon I thought. My appetite for our own legal history had been awakened and I could have listened to him all night.

In the spring of 1975, an important change in the *Law Review* policy of selection of associate editors took place. There was a feeling that the *Review* had become too isolated and elitist and so a new procedure for the selection of associate was passed. I was the first editor-in-chief to use the new procedure to select associates for the 1975-76 term."

1976

"Recognizing the serious financial instability of the *Review* in the long term, concentration on overcoming this problem was the paramount consideration in the 1975-76 term. To begin with, a complete survey of the financial history of the *Review* was undertaken, a task made harder by the lack of organized financial files. A bundle of old financial records were found in the *Review* library office and others were fortuitously found in a box in the main office. All of this was sifted and organized and an overall historical record of dealings with the Faculty, University, Law Society, Law Club, and subscribers in terms of funding was recorded. A complete record of these costs through time was formulated as well, and with the information the *Review* was ready to appeal to the Faculty, Law Society, and Law Foundation and other potential sources of funding. We did manage to receive an increase from the Law Society but more important-

ly the informational foundation was laid, making it possible to eventually go to the Law Foundation for funding.

As to the day to day operation of the *Review* during this term I would note in particular the contribution of the Copy Editor, Gordon Falconer. Gordie, as we called him, had that unusual patience for detail that sustained him in editing after the rest of us had thrown our hands up in boredom. For much of the time in this term, Gordie *was* the *Review*."

1978

"The academic year of 1977-78 was a time of growth and change for the *Alberta Law Review*. The *Review* had elected its first female editor and this newly formed tradition continued into the 1978-79 year. However, progress was catching up with the *Review* on all sides. Financially, the *Review* was caught in a bind of rapidly escalating printing costs, and methods of increasing revenue became the number one priority. While concern for obtaining and publishing high quality articles was not lessened, we realized that unless drastic measures were taken, we might not be publishing the *Review* at all.

The first change initiated by the new management was to store the hundreds of back issues which littered the *Review* offices in sealed boxes in a storeroom made available by the Law Library. Consideration was given to selling all back issues to a publisher. At present, the *Alberta Law Review* is one of the few law reviews in Canada that handles its own circulation, both back issues and current issues. Upon the advice of a past editor-in-chief and now prominent Edmonton lawyer, the back issues were not sold and the *Review* continued to sell its issues directly to subscribers.

In the Fall of 1977, a new editor of the Petroleum Law Supplement was appointed. Connie Hunt, a Professor at the Faculty of Law at the University of Calgary, succeeded Professor M. Sychuk of the Law Faculty in Edmonton. In spite of the problem of coordinating the editing of the Petroleum Articles by letter and telephone, the Petroleum Law Supplement was published much earlier than in previous years.

The financial crunch facing the *Review* necessitated a number of changes. While records had always been kept of the financial affairs of the *Review*, it was decided to institute a proper accounting system. This was a mammoth task and even with the advice of an outside chartered accountant (which advice incidentally and happily for the *Review* was given free) took several months to operate smoothly. However, the accounting system was well worth the effort expended on its behalf. We were now better able to assess our financial position. Also, we had accurate projections of our expenses and income to present to the Law Society to prove the necessity of raising the price of the *Review*. The price of a subscription had remained static for several years. As a result of rising printing costs, the rates were ridiculously low. Price increases were decided upon but most of them did not actually take effect until the following year.

Several projects which were initiated and worked on in our year were completed by the Editorial Board of 1978-79. One such project was a large article on the Torrens System written by Tom Mapp of the Alberta Institute of Law Research and Reform. The article grew and grew and was

eventually published as a special issue in 1979. Another such project was a complete revision of the *Alberta Law Review Style Guide*.

A highlight of our year was the Annual Banquet, with Lord Hailsham as our guest and speaker. Coupled with music supplied by a Wind Ensemble from the Music Department the evening was a complete success."

1979

"The 1978-79 Editorial Board of the *Alberta Law Review* had very ambitious plans for the *Review*: we were going to speed up production, spend more time editing the articles, add a special issue, publish a book under the aegis of the *Law Review*, give more parties, change and improve the circulation systems, revise and reissue the *Style Guide*, and give editorial seminars for the editors. Though these plans were slightly too ambitious, I am pleased to report that we did achieve many of them, and had a great time doing it.

We experienced all the usual frustrations that editors do: the author who may be himself an editor, who has his own ideas about production of his paper; the many authors who simply felt that footnotes were not the responsibility of the creator, but of the editors; the absent-minded writers who forgot to let us know when their articles had been accepted for other publications; the attempts to inveigle overworked practitioners into contributing their scarce time and practical knowledge to write useful articles, and to encourage intrepid academics to publish their painstaking research and experimental analyses in our journal.

But there were also many delightful moments, and an array of charming and original people. Lord Hailsham, who kindly contributed a short article to the *Review*, was a fascinating Guest of the Faculty, and an obliging contributor. The authors of our series of articles on the new Alberta legislation, The Matrimonial Property Act, Professor Len Pollock, Dr. Olive Stone, Margaret Shone of the Institute of Law Research and Reform, Professor Peter Lown, and student Frances Bendiak are all to be admired for their willingness to tackle this as yet uncharted area. Dr. Olive M. Stone, a distinguished guest of the Faculty of Law, author of *Family Law*, (1977), is particularly to be thanked for the interest she has taken in the *Alberta Law Review* during her residence here, and the many contributions she has made to it.

There are too many interesting contributors to mention them all, but two more must be mentioned. Judge R.B. Spevakow, visiting lecturer at the Faculty of Law, contributed a paper on the Small Claims Court; but we, as editors of the *Law Review*, valued his friendship and support as well. And Professor R.S. Nozick, who not only contributed a detailed research paper on the Combines Investigation Act but also reviewed a number of other papers for us, was unfailingly encouraging.

The Institute of Law Research and Reform had always been one of the *Law Review's* best sources of publishable material; but in 1978-79, we were fortunate to be able to publish a "paper" by Professor Tom Mapp which grew to such length that we eventually published it as a full length book. The complete 200 pages went through numerous revisions; we were impressed, even astounded, at the facility with which Mr. Mapp could write and revise. We also must thank him for the confidence in the *Review* and its editorial staff which he demonstrated by allowing us to

edit and publish his book, and for his cheerful expectation that we could accomplish this. We also owe a great debt to Mr. W.H. Hurlburt, who assisted in arranging for the publishing of Mr. Mapp's book and has contributed to the *Alberta Law Review* in numerous other ways.

But what of the editorial staff of the *Review*? Some of the Board members might well recall our offices as their second home, after editing, studying, eating, and even sleeping there on occasion. And they had their own lovable quirks and foibles. We all fondly recall a certain person who ran his "practice" out of the office, complete with cigars, sloshing file cabinets, and all the other accoutrements of any successful businessman. Then there was the editor who brought her extensive wardrobe of identical shoes in different colours to the office, so that each yet more stunning outfit could be exactly matched each day. And we won't mention, of course, the famous "invisible" members of the Board, whose wide interests around the Law School limited the time they could spare for the reading and editing of dull legal articles.

The hard work and the really long hours when we were going to print or sending out nearly 4,000 copies of the *Review* in those hated brown envelopes were relieved by pizza and cheap wine and hysterical philosophical discussions when it was all over. And the antics at the parties after the more formal occasions demonstrated that, taken as a mass, we had some really outstanding disco dancing skills, although not one of us knew what he was doing!

We had a great year, and are pleased to report that many of our ambitious plans were executed. We did indeed speed up production (of the Petroleum Supplement); we revised and reissued a newly designed and updated *Style Guide* which has been accepted and used by such organizations as the Alberta branch of the Canadian Bar Association and the Legal Education Society of Alberta (LESA); we published *Torrens' Elusive Title* by Tom Mapp; we improved the internal circulation and billing systems (which were becoming unwieldy as our circulation increased); and we held seminars to train the Board in editorial skills. But we didn't manage to get that third issue out on time, thus continuing a long and hallowed tradition!"

1980

Today, after 25 years of growth, the *Law Review* is a sophisticated business enterprise. We publish three large issues a year and fill more than 4000 subscriptions from over a dozen countries. Due to a vigorous advertising campaign in the last couple of years there has been an exceptional rise in special orders. This convinces us that the *Review* is widely read and maintains its importance among practicing lawyers.

Amid this dynamic change many things remain constant. Faculty members continue to be relied upon to review submissions as well as to periodically provide their own work; they never disappoint us. The Dean is always available for consultation and is especially generous in offering both financial and moral support. Delays, frequent but always inevitable, are invariably caused by the printer and the mails, *never* the Editorial Board.

The most perennial feature of work on the Board is the close bond of friendship and the respect which develops among its members. The

challenge of a shared task, when met with an inherent sense of duty, makes *Law Review* editors the most fortunate students in law school. This, time will never change.