

## FOREWORD

Charles E. Ares\*

I am honored that the Editors have asked me to write the foreword to this 50th Anniversary issue of the *Arizona Law Review*. I have watched the progress of the *Review* for some forty-one years since becoming Dean of the College of Law in 1966. I welcome the chance to join in the celebration of this important milestone.

My first official contact with the *Review* came in 1966 when upon entering the Dean's office I began to familiarize myself with the various aspects of the College's programs. I knew that the *Review* was created in 1959 and that its first Editor-in-Chief was Steve Duke, a legendary student who later became a long-time member of the Yale Law School faculty. The early editorial boards had put together a good fledgling law review. However, inquiry disclosed that while the *Review* was a good one, some members of the faculty had begun to participate substantially in the editorial process with the result that incentives for vigorous student participation were lost. A former editor of that year reminded me recently of an early meeting with the law review staff at which it was made clear that henceforth this school would follow the general practice of most strong schools of granting substantial autonomy to student editors for all editorial and other decisions. The *Arizona Law Review* Editorial Board would be responsible for producing a quality review and for getting it out on time, we hoped. The faculty stood ready with advice and counsel on request but would no longer participate directly in the editorial process. As a result, the intensity of work on the *Review* increased and the educational value of the students' experience rose. The business of the *Review* seemed to move along smoothly with the student editors taking full responsibility.

This change in the editorial process obviously put more pressure on the editors. Some years later an Editor-in-Chief, obviously under some stress, came to my office. It seemed the *Review* had received an article submitted by an important Arizona public official. "It's awful," the Editor-in-Chief said. All the editors had read it and concluded that it was not publishable and couldn't be made so without a total re-write. They wanted to know what the College's reaction would be if they rejected it. It was clear that that the editors' conclusion was based on the article's

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\* Charles E. Ares served as Dean of the University of Arizona College of Law from 1966 until 1973. Today, Dean Ares is the J. Byron McCormick Professor Emeritus and Special Advisor to the College of Law.

merits and not some irrelevant bias, and that the editors could defend their judgment if necessary. The Editor-in-Chief was reminded that this was what was meant by autonomy—the decision was entirely theirs. If the College had to explain the decision later, it would do so on the ground that as a matter of policy the editors had the final responsibility. The school would take the heat if there was any. The *Review* sent the rejection letter and, fortunately, the author was as professional as the editors had been and nothing more was heard about it. We had brought the practice at Arizona into line with that of virtually all good law schools in the country. The quality of the *Review* has shown the wisdom of the granting to the editors the responsibility to make all the tough decisions, even those that will have institutional consequences.

Reorganizing the editorial process was not the only alteration of circumstances that affected the *Review*. Life and society have of course changed greatly in the post-1960s decades. The growth in size and complexity of economic, social, and governmental activities is reflected in the complexity of the law and therefore the education of lawyers. The number of courses offered in every law school has grown substantially as many areas of the law have emerged and matured. Law schools, including the Rogers College of Law, now offer many more courses, seminars, and clinical courses that expose their students to socio-legal problems never before encountered in most law schools. Moreover, our dynamic society has generated increased need for more faculty and student research, both doctrinal and empirical. In short, modern law schools, whatever their size or location, are pushed to reflect fundamental changes in society by the richness and scope of their programs.

In preparing this Foreword, I looked back through the pages of the *Review* to see if it is possible to track these changes to discern patterns of publication that would track these programmatic changes in legal education. Of course, the *Review* continued to produce excellent student work in the form of Student Notes and Case Notes about developments in both state and federal law that affect the daily lives of lawyers and clients. But beyond this basic focus, the horizons of the *Review* appear to have expanded. The faculty essays and articles published in this Anniversary issue present a sampling of the intellectual stimulation that has challenged student editors to grapple with the socio-legal issues that modern society generates. Not only are these efforts reflected in the major articles being published in the *Review* but also in the design of wide-ranging symposia and the execution of major empirical research projects.

A sense of the intellectual enrichment brought to the student body and to readers of the *Review* during the last 50 years is suggested by noticing several examples. In 1968, the *Review* carried a discussion of air pollution, a subject then beginning to press itself on the nation's attention.<sup>1</sup> A few years later, the editors solicited and published a series of articles on history-making decisions of the U.S. Supreme Court from the adoption of the Constitution until the present.<sup>2</sup> The authors were several national constitutional law scholars and a number of Justices

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1. Symposium, *Air Pollution*, 10 ARIZ. L. REV. 1 (1968).  
2. Symposium, *Pivotal Decisions of the Supreme Court*, 15 ARIZ. L. REV. 224 (1973).

of the Supreme Court. Many of the authors gathered at the College where they addressed overflow crowds of students and lawyers, appraising the correctness of several of the studied opinions and their consequences for the nation. In more recent years, the editors of the *Review* prepared for publication several articles delivered at a major national conference created by Professor Bernard Harcourt entitled *Guns, Crime, and Punishment in America*.<sup>3</sup> Similarly, in 2003 a major conference organized by Professors Atwood and Bennett entitled *Youth, Voice and Power: Multi-Disciplinary Perspectives* produced papers that were published in the *Review*.<sup>4</sup> And when Professor Ellen Bublick organized a tribute to Dan B. Dobbs, a distinguished member of the Arizona Law faculty, the papers presented by some of the nation's leading torts scholars, including Judge Richard A. Posner and Professors Anita Bernstein, Jean Braucher, and Robert L. Rabin, were edited and published by the *Review*.<sup>5</sup>

Among the special research projects the *Review* participated in and published, perhaps the premier example was a multi-disciplinary study of the civil commitment of the mentally ill. The project was organized and conducted in 1974 by Professor David Wexler and Stanley Scoville, a third-year editor of the *Review*, who supervised a team of law students. The project was advised by psychiatrists, psychologists, and a philosopher, and the final results were published as *The Administration of Psychiatric Justice: Theory and Practice in Arizona*.<sup>6</sup> A similar empirical research project, though not quite so extensive, resulted in the publication of *Juvenile Justice in Arizona*.<sup>7</sup>

The faculty essays and articles published in this Anniversary issue are indications of the intellectual stimulation provided to Arizona students and out of which the *Review* grows. It seems plain that the new ventures the *Review* has undertaken have direct links to the trajectory of the College's development as one of the country's strongest state law schools. In fact, the *Review* is the most visible, though obviously not the only, indicator of the professional strength and rich intellectual atmosphere of the College of Law.

I have been privileged to go along for the ride, both as a participant and more recently as a close observer. I have long admired the dedication and commitment to excellence of law review editors. Without denigration of the rest of the College's programs and particularly of other similar journals, I continue to believe that service on the *Review* can be one of the best educational opportunities open to our students. I share the pride of the College in the *Arizona Law Review*, and I join Justice O'Connor and several of my colleagues in congratulating the Editors, past and present, on the *Review*'s 50th Anniversary.

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3. Symposium, *Guns, Crime, and Punishment in America*, 43 ARIZ. L. REV. 261 (2001).

4. Symposium, *Youth, Voice and Power: Multi-Disciplinary Perspectives*, 45 ARIZ. L. REV. 559 (2003).

5. Symposium, *Dan B. Dobbs Conference on Economic Tort Law*, 48 ARIZ. L. REV. 687 (2006).

6. Symposium, *The Administration of Psychiatric Justice: Theory and Practice in Arizona*, 13 ARIZ. L. REV. 1 (1971).

7. Symposium, *Juvenile Justice in Arizona*, 16 ARIZ. L. REV. 235 (1974).