Four Decades of the Duquesne Law Review

Joel Fishman

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Joel Fishman, Ph.D.**

There is a growing literature on the history of student-edited law reviews as well as the history of various law reviews as they reach a special milestone on their 50th, 75th, 100th, or even 150th anniversaries.¹ This article follows the genre of these articles in presenting a short history of the Duquesne Law Review. This article is divided into three parts: part I is a review of the contents; part II is a commentary on the faculty supervisors and student staff; and part III is a bibliometric study of the Law Review.

Fifty-one years after the Duquesne University School of Law began in 1911, the Law School started the Duquesne Law Review in 1962. Although there is no commentary in the first volume as to why it was started in the early 1960’s, the beginning of a full-time student body led to its organization. In 1962, then-Associate Professor John Murray advocated the creation of a law review that resulted in Assistant Professor Donald Kiley being appointed as the first faculty advisor.² The faculty chose the second-year students with the highest grade point averages and Professor Kiley

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I wish to thank Timothy Lulich, Editor-in-Chief, and Michael J. Cetra, Executive Editor, for their encouragement and support for me to write this article in a short time period. Marguerite Atria, M.L.S., on my staff, and Shirley Procoffie, student intern from Duff’s Business Institute, helped in accumulating the data for this article.


² Interview with John E. Murray, Jr., Duquesne University Chancellor, in Pittsburgh, Pa. (April 5, 2004).
spoke to them about organizing a law review. The students visited the staff of the *University of Pittsburgh Law Review* to obtain advice on how to start the Review. It took two years before the *Law Review* published volume 1 in 1963.3

I. CONTENTS OF THE LAW REVIEW

Before analyzing the contents of the law review, several observations can be made. The student-edited law reviews were by the 1960’s well established throughout academic law schools. Law Reviews typically contained articles, comments, essays, case notes or recent decisions and book reviews or book notes. The *Duquesne Law Review* followed the standard format of having first articles written by law professors, judges, lawyers, or other professionals, then comments usually written by second or third-year students, and recent decisions/case notes written by first or second year students. Book reviews could be a couple of pages, or more than twenty, depending on how the author attempted to review the book. Book notes were short paragraph type summaries of a book. Early volumes contained both types of book reviews, but later on, only the longer single book review was published.

Second, the contents of the *Review* reflects the development of the *Review* over the decades. Throughout the years, there has always been an emphasis upon Pennsylvania law, sometimes taking up whole issues (as with the Pennsylvania issue in the 1990’s), but otherwise contributing articles on all aspects of Pennsylvania law. The wide breadth of articles cannot be adequately shown in this presentation, but articles dealing with all areas of the law, statutory and procedural law can be found throughout the decades. Another feature of the articles and comments is that a wide range of topics were always selected by the editors. While some law reviews emphasized doctrinal matters, this *Law Review* always dealt with current topics—civil rights, Vietnam War, abortion rights, cyberlaw—and published articles on international law, and interdisciplinary topics like legal history and law and medicine. Although bibliometric analysis reflects a modest influence compared to other law reviews of its class, the scope of the *Law Re-

3. Telephone interview with Peter W. King (March 31, 2004). King complimented his wife for typing the manuscript. Chancellor Murray praised King for all of his hard work in getting the first volume completed. Both said that King was not appointed Editor-in-Chief to begin with but ended up with the designation.
view has always been aimed more to the practitioner with its emphasis on state law.

Third, although I have emphasized articles in the Law Review, there are many more comments and recent decisions or case notes published in almost every issue. These comments and recent decisions are usually practitioner oriented and keep people up to date on legal developments.

Fourth, the various dedications and tributes to deans and faculty of the Law School provide information on how the school itself has developed and grown over the years and the contributions made by its professors. This information has been included in the paper as well.

The first year's issue was an annual issue. The first pages contained a short paragraph dedication (along with a picture) to Prof. William H. Lacey who had taught 52 years at the school since its inception. The first issue of the Review had five articles, two of which written by prominent law professors, Walter Jaeger and Fleming James, Jr. The articles were: Privity of Warranty: Has the Tocsin Sounded?, Remedies for Excessiveness or Inadequacy of Verdicts: New Trials on Some or All Issues, Remittur and Additut, Appellate Review in England and the United States—Who Bears the Ultimate Burden?, The "Travel Act": A New Statutory Approach to Organized Crime in the United States, and The Self Employed Individuals Tax Retirement Act of 1962. One comment and six recent decisions followed, ending with a book review of the Walter Jaeger's third edition of Samuel Williston's A Treatise on

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5. Prof. Jaeger was Professor of Law and formerly Director of Graduate Research, Georgetown University Law Center. At the time, he was the author of the third edition of the multivolume edition of Williston on Contracts (3d ed. 1957). Both Murray and King remember that at the time it was submitted, the Supreme Court handed down a decision that resulted in major changes to the article after it had been typeset and had to be revised throughout as a result of the decision. A law review editor's nightmare....
6. Prof. James was Professor of Law at Yale Law School. He was the joint author with Fowler of the multivolume treatise, The Law of Torts (1st ed. 1956).
7. Walter H. E. Jaeger, Privity of Warranty: Has the Tocsin Sounded?, 1 DUQ. L. REV. 1 (1963). The first article was 142 pages long!
8. Fleming James, Jr., Remedies for Excessiveness or Inadequacy of Verdicts: New Trials on Some or All Issues, Remittur and Additut, 1 DUQ. L. REV. 143 (1963).
the Law of Contracts,\textsuperscript{12} coincidentally the author of the first article in the Review.

The second volume (1962) was a semiannual publication of two issues. The lead article was on nonconforming uses and zoning,\textsuperscript{13} while the second issue had an article on church-state relations.\textsuperscript{14} Burton Laub was the first judge to write for the Law Review in that issue.\textsuperscript{15} Volume 3 remained a semiannual publication. An article by Gerhard Mueller was the first of a four-part Criminal Law Symposium to be published in the next volume.\textsuperscript{16} Volume four (1965-66) became a quarterly publication.\textsuperscript{17} Volume five was dedicated to retiring Dean Thomas F. Quinn to become Clerk of the United States Court of Appeals for the Third Circuit.\textsuperscript{18} Under his tenure, the School started a day division in 1958 with the first graduating class in 1961, received ABA accreditation in 1962, and joined the American Association of Law Schools in 1964.\textsuperscript{19} James Norton Moore and James L. Underwood, two leading international scholars, wrote a major article on United States involvement in Vietnam just as the war began to expand.\textsuperscript{20} Closer to home, David Harrison wrote on metropolitan government in Allegheny County,\textsuperscript{21} and Professor Manderino wrote on the Erie doctrine.\textsuperscript{22}


\textsuperscript{14} John E. Dunsford, The Establishment Syndrome and Religious Liberty, 2 DUQ. L. REV. 139 (1964).


\textsuperscript{16} Gerhard O. W. Mueller, Of Liberalism and Conservatism in American Criminal Law, 3 DUQ. L. REV. 137 (1965). The information was supplied in an editor's note at the bottom of the page.

\textsuperscript{17} Irving Portnoy, Editor-in-Chief of volume 4, informed me that in order to move up to a quarterly publication, he had to promise the Dean that he would first complete the second issue of volume 3 in the summer of 1965 before starting the quarterly volume. Telephone Interview with Irving Portnoy on April 16, 2004.

\textsuperscript{18} Dedication, 5 DUQ. L. REV. xvi (1966). In the library's copy, there is a two-page advertisement between the index and the blank page of the Dedication.

\textsuperscript{19} Id.

\textsuperscript{20} John Norton Moore and James L. Underwood, The Lawfulness of United States Assistance to the Republic of Viet Nam, 5 DUQ. L. REV. 235 (1967). The article was part of testimony presented at a Congressional hearing upon U. S. involvement in Viet Nam.


For law and literature specialists, Edward Bander compiled a list of quotes arranged by topic from Shakespeare’s plays.  

Volume 6, issue 3 followed with an appreciation of Austin L. Staley upon his retirement as Chief Judge of the United States Court of Appeals for the Third Circuit.  

William Hastie, Staley’s successor, offered an appreciation of his longtime friend and colleague, both serving on the court for some eighteen years.  

Hastie praised Staley for his tenure on the court, commending him for being “a powerful influence toward the harmonious achievement of a wise consensus.” He found Staley to be “both a capable protagonist and an effective moderator,” and praised him for his wide range of knowledge in various legal fields. Finally, Hastie complimented him upon his retirement at age 65 in order to give the President the ability to appoint a successor, while serving in a lesser role as a senior judge. Hastie also claimed that Staley had stepped down in order to give his friend and colleague the ability to become Chief Judge for a five-year period until he would be forced to retire. “[H]is motivation was selfless concern for the administration of justice coupled with fraternal regard for all of his colleagues, and particularly his administrative successor.”

Michael Musmanno, Associate Justice of the Pennsylvania Supreme Court, wrote on The Explosion in the Law; other topics included long-arm statutes, arrest, and an article on international law along with two comments.

27. Id.
28. Id. at 217.
29. Michael A. Musmanno, The Explosion in the Law, 6 DUQ. L. REV. 253 (1967-68) (reviewing Melvin Belli’s, THE LAW REVOLT (1968)). It was not identified as a book review but was listed under the articles section.
32. Milton Katz, The Cold War and the Peaceful Settlement of Disputes: The Relevance of International Adjudication, 6 DUQ. L. REV. 95 (1967-68); Cornelius F. Murphy, Jr., The Cold War and the Peaceful Settlement of Disputes: A Comment, 6 DUQ. L. REV. 115 (1967-68); David M. Cohen, The Cold War and the Peaceful Settlement of Disputes: A Comment, 6 DUQ. L. REV. 117 (1967-68). These three pieces were originally presented as the first David Glick Seminar Program sponsored by the Duquesne and University of Pittsburgh Law
Volume 7 had a variety of articles on doctrinal issues like admiralty tort jurisdiction,\textsuperscript{33} and guilty pleas,\textsuperscript{34} an historical article by Dean Davenport on Justice Thurgood Marshall\textsuperscript{35} and Glenn Winters on merit selection and tenure of judges.\textsuperscript{36}

Volume 8, issue 2 was dedicated to Dean Louis L. Manderino, who served from 1968 to 1970, upon his appointment to Commonwealth Court of Pennsylvania. "He won praise from his colleagues as an administrator and as a teacher he was among the best."\textsuperscript{37} Article subjects included due process\textsuperscript{38} and bail\textsuperscript{39} in Pennsylvania, a review of Title VII of the Civil Rights Act,\textsuperscript{40} and conglomerate mergers.\textsuperscript{41}

Volume 9 had \textit{Law Review}'s first symposium on the topic of conflicts of law in the case of \textit{Cippola v. Shaposka}.\textsuperscript{42} In \textit{Cippola}, the Pennsylvania Supreme Court undertook an "interest analysis to determine whether Pennsylvania's law, or Delaware's law, should apply in a cause of action between a Pennsylvania guest and a Delaware host."\textsuperscript{43} At the top of the page was a note on the recent death of Associate Justice Herbert F. Cohen.\textsuperscript{44} Two of the articles were among the most cited in later periodicals.\textsuperscript{45} The succeeding

\begin{footnotesize}
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\item Alfred S. Pelaez, \textit{Admiralty Tort Jurisdiction—The Last Barrier}, 7 DUQ. L. REV. 1 (1968).
\item R. Stanton Wettick, Jr. and Frank M. McClellan, \textit{Bail Practices in Allegheny County}, 8 DUQ. L. REV. 73 (1969-70) (Wettick was Executive Director, Neighborhood Legal Services).
\item \textit{Id.} at 347.
\item 9 DUQ. L. REV. 347 (1971).
\item See the Bibliometrics section \textit{infra} section III.
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\end{footnotesize}
issue had three articles on juvenile justice. An article on the assignment of judges in criminal cases locally resulted in a change of procedure to ensure better treatment of prisoners represented by public defenders.

Volume 10 had articles on affirmative action in labor law, an early article on Pennsylvania legal malpractice, and a debate on the right to treatment for the mentally ill between Dr. Morton Birnbaum and Professor Aaron Twerski. Following the debate, Morton Birnbaum presented an article on implementing right to treatment followed by two comments.

A review of the first ten years reflects a Law Review providing articles on a wide variety of subjects, not limited to just doctrinal matters, but papers that dealt with contemporary problems and also that reflected the interrelationship between law and other subjects. Over the next three decades, the Law Review continued to deal not only with doctrinal matters in both federal and state law, but also interdisciplinary matters like law and social sciences, law and sciences, etc.

Volume 11 also had articles on environmental law, acid mine drainage, and the "Dead Man's Rule."

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In 1972, the Pennsylvania General Assembly revised the entire criminal law into a new crimes code that resulted in three articles.\textsuperscript{56} Sheldon Toll, one of the authors of the Code, reviewed defenses under the Code,\textsuperscript{57} three prosecutors of the Philadelphia District Attorney's Office reviewed the Code,\textsuperscript{58} while an Assistant Attorney General was critical of the act relating to organized crime.\textsuperscript{59}

Volume 12 also had a symposium on "Product Liability: An Interaction of Law and Technology."\textsuperscript{60} This was a report prepared by two engineers and two lawyers who examined and evaluated each other's problem-solving methodologies under a federal grant.\textsuperscript{61} This article was followed by commentaries by various judges and lawyers, including the commissioner of the Consumer Product Safety Commission, and his special assistant.\textsuperscript{62}

Volume 13, issue 4 had a symposium on \textit{Medical Experimentation: A Symposium on Behavioral Control} consisting of eight articles\textsuperscript{63} including psychosurgery\textsuperscript{64} and human experimentation.\textsuperscript{65}

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\textsuperscript{61} Alvin S. Weinstein et al., \textit{Product Liability: An Interaction of Law and Technology}, 12 DUQ. L.REV. 425 (1974). An extensive appendix followed the commentaries describing certain products as to product description, accident description, defect description, unreasonably dangerous nature of the defect, causal relationship between the defect and resulting harm, and whether this harm is appropriately assignable to this defect. \textit{Id.} at 498-550.


This was probably a followup to the passage of a federal law setting up a National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. There were also a series of articles on labor law. Walter B. Connolly wrote on antitrust laws and labor exemptions, while age discrimination and inflation costs provided additional articles.

The following year had a symposium on energy and environment as a result of recent federal legislation on environmental law. Professor Krasik had a review on the history of the Equal Rights Amendment in Pennsylvania. Volume 14, issue 4 (Summer 1976) was dedicated to Elizabeth Scheib, the first full-time Law Librarian and Associate Professor of Law, upon her retirement with tributes by President McAnulty, Dean Davenport and Professor Sciullo. The Review also decided to end book reviews that year. Thereafter, book reviews were published on a selected basis.

Volume 15, issue 2 had an editor’s note on the sudden death of Professor Henry Seney, whose writings “explored the socio-legal

73. Editor’s Note, 14 Duq. L. Rev. 119 (1975). In the earlier volumes both book reviews and shorter notes were published in various issues.
problems of criminal law and bitterly attacked the conceptual disorder of the criminal justice system.\textsuperscript{75} Professor Alfred Pelaez wrote an appreciation of his colleague.\textsuperscript{76} Unfortunately for the school, another professor, Robert P. Broughton, died the following year in a tragic mountain climbing accident on Nanga Parbat, in the Western Himalayas, which is the ninth highest peak in the world.\textsuperscript{77} Volume 16 had a lead article by Circuit Judge Ruggero Aldisert on legal writing\textsuperscript{78} and an article on Pennsylvania Labor Relations Board jurisdiction over police and firemen, which under Act 111 continues to today.\textsuperscript{79}

Issue four was devoted to \textit{Criminal Law and Criminal Procedure: Some Current Issues},\textsuperscript{80} including articles on police arrest,\textsuperscript{81} speedy trial,\textsuperscript{82} and forensic psychiatry.\textsuperscript{83}

Volume 17 devoted its first issue to environmental law with six articles.\textsuperscript{84} The second issue had a tribute to Judge Austin Staley of the U. S. Court of Appeals for the Third Circuit, who died in 1978. Dean Davenport,\textsuperscript{85} Paul Manion, one of Staley’s former law clerks,\textsuperscript{86} and Joseph F. Weis, Jr., Staley’s colleague on the court, paid tribute to him.\textsuperscript{87}

Volume 18, spring issue, had a dedication by Professor John Sciullo\textsuperscript{88} and the Honorable Samuel Roberts,\textsuperscript{89} Chief Justice of the

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Supreme Court of Pennsylvania, upon the death of Associate Justice Louis L. Manderino. Scuillo praised Manderino for instituting the trial moot court program, introducing a course on legal ethics, and creating a faculty-student relations committee.  

Senator John Heinz, Chancellor Henry McAnulty, and Professors Cornelius Murphy, Jr. and Kenneth Hirsch provided tributes upon the retirement of Dean Ronald Davenport in volume 20 (1981-82). Davenport, who served from 1970 to 1981 as dean, was the first African-American dean of any predominately white law school and one of the youngest law school deans in the country at the time of his appointment. Davenport started as an Assistant Professor in 1963 and became Dean in 1970. During his eleven-year tenure he hired eighteen faculty members, five of whom are still on the full-time faculty while one is part-time. He planned for the construction of a new building to house the Law School (now called Hanley Hall) and began the expansion of the law library.

Another memorial published that year was written by Adjunct Professor Jack Plowman on behalf of another Adjunct, Lee W. Hummed.

Several symposia were held in the 1980’s. First, the Application of Antitrust Laws to Labor-Related Activities contained eight short articles, including a panel discussion of four presenters. Among the participants were Ruggero Aldisert, Associate Judge of the U.S. Court of Appeals for the Third Circuit, Abbot B. Lipsky, Jr. of the Department of Justice, and Harold Datz of the NLRB. Second, Current Developments in Health Law, relating to hospi-

90. Scuillo, supra note 88, at 404.
95. McAnulty, supra note 92, at 5.
97. Id. at 10-11.
tals and physicians, consisted of six articles, including articles by John Hory,¹⁰¹ Eric Springer,¹⁰² and Bruce Hopkins.¹⁰³

Volume 26 had its first issue as a "Special Bicentennial Issue," with lead articles by Judge Joseph F. Weis, Jr. describing how interpreting the U. S. Constitution has shifted from an emphasis on property rights to personal rights,¹⁰⁴ and Maria Ciampi's article on using scriptural exegesis to Article III of the Constitution.¹⁰⁵

Beginning with Volume 29 (1990-91) and continuing through the decade, the Law Review began to publish one issue a year (the third issue) devoted to Pennsylvania law. The annual issue generally had at least one major article or more followed by comments and case notes. Various lead articles included: The Rules of Evidence Under the Pennsylvania Workmen's Compensation Act: Sources and Theoretical Considerations,¹⁰⁶ History of the Strike Lockout Distinction of Pennsylvania's Unemployment Compensation Law,¹⁰⁷ Appellate Review in a Sentencing Guidelines Jurisdiction: the Pennsylvania Experience,¹⁰⁸ What's Really Wrong with the Supreme Court of Pennsylvania,¹⁰⁹ Recent Development in Pennsylvania Death Penalty Law,¹¹⁰ Pennsylvania Appellate Judges, 1969-1994,¹¹¹ Curtis V. Kline: the Pennsylvania Supreme Court Declares

¹⁰⁵ Maria Ciampi, Applying Scriptural Exegesis to the Interpretation of Article III of the Constitution, 26 DUQ. L. REV. 13 (1986). There are more than 130 articles written on the judiciary and Article III since this article. See Legal Resource Index database (searched April 13, 2004).
¹⁰⁹ Bruce Ledewitz, What's Really Wrong with the Supreme Court of Pennsylvania, 32 DUQ. L. REV. 409 (1994) (one of a series of articles critical of the Supreme Court's authority under the unified judicial system).

In the 1990’s, the Law Review continued to cover a variety of topics, including both legal and interdisciplinary topics: abortion clinics, AIDS, voting rights for African-Americans, jury selection in Pennsylvania, and legal history topics.

In 1991, the newly-formed Federalist Society sponsored a debate between Professor Bruce Ledewitz and Ernest Van den Haag on the death penalty that resulted in a follow-up exchange published in the Law Review.

The Law Review recognized John J. Sciullo upon his retirement from the deanship of the Law School after serving from 1982 to

1993.\textsuperscript{120} During his tenure, the number of student applications increased, the financial stability of the school improved, the library was significantly enlarged, the Legal Research and Writing Program was expanded, small-sectioned first year classes were introduced, and standards for promotion and tenure and disciplinary codes were implemented.\textsuperscript{121} He was praised as a teacher and as Dean, and was the first person in the history of the school to receive the title of "Dean Emeritus" upon his retirement. This was followed by a longer appreciation, signed by the editors, staff, and faculty advisors of volume 38,\textsuperscript{122} along with a tribute by Dean Nicholas P. Cafardi,\textsuperscript{123} when Dean Emeritus Sciullo retired in 1999.

Three symposia were published over the years. Duquesne University and the Pennsylvania Supreme Court sponsored a conference on Science and the Law\textsuperscript{124} that contained five articles, including ones written by Cyril Wecht\textsuperscript{125} and George J. Annas.\textsuperscript{126} This was followed by a longer symposium on Physician-Assisted Suicide,\textsuperscript{127} which took up an entire issue with nineteen articles and had such distinguished speakers as C. Everett Koop,\textsuperscript{128} George J. Annas,\textsuperscript{129} and Yale Kamisar.\textsuperscript{130}

Electronic commerce was the focus of another symposium dealing with e-commerce and the Uniform Computer Information Transactions Act ("UCITA") and Uniform Electronic Transactions

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\item A Tribute to John J. Sciullo, 31 DUQ. L. REV. xi (Summer 1993). His portrait precedes the tribute.
\item Id.
\item Editors, Staff, and Faculty Advisors, A Tribute to Professor and Dean Emeritus John Sciullo, 38 DUQ. L. REV. xi (1998).
\item Nicholas P. Cafardi, A Tribute to Dean John Sciullo, 38 DUQ. L. REV. xiii (1998). Dean Cafardi began in July 1, 1993 and is in his eleventh year as Dean.
\end{enumerate}
Act in five articles.\textsuperscript{131} The UCITA has been rejected by most of the states as an anti-consumer act and removed from the National Commission of Uniform State Laws' priority list.\textsuperscript{132}

John P. Flaherty, Chief Justice of the Pennsylvania Supreme Court, and Professor Maureen Lally-Green wrote two articles on the European Union.\textsuperscript{133} These articles are part of an academic program between Duquesne University School of Law and Law School of the University of College in Dublin, Ireland to provide continuing legal education on the European Union.\textsuperscript{134}

Volume 38 contained the first Thomas Henderson Lecture in Legal Ethics.\textsuperscript{135} Professor William H. Simon, author of The Practice of Justice, A Theory of Lawyers’ Ethics (1998) and other articles, was the keynote speaker, followed by a panel discussion by members of the Duquesne Law School and University who were critical of his approach to legal ethics.\textsuperscript{136}

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\item \textsuperscript{132} I would be remiss not to mention that Volume 41 has a symposium on the fiftieth anniversary of President Truman's seizure of U.S. Steel: Symposium, President Truman and the Steel Seizure Case: A Symposium, 41 DUQ. L. REV. 667-755 (2001) (consisting of a foreword by Prof. Ken Gormley, President Truman and the Steel Seizure Case: a Symposium, Transcript of a Video Interview Between Professor Ken Gormley and Chief Justice William H. Rehnquist, October 30, 2002; Transcript of Proceedings; an article by Dr. Maeva Marcus, Will Youngstown Survive, and essays by David E. Feller, Thoughts About the Steel Seizure Case: Second Thoughts; Ken Hechler, Presidential Power and Truman's Seizure of the Steel Mills, and Milton Kayle, A View From the Inside: Working With President Truman on the Steel Seizure Case).
\item \textsuperscript{133} Raymond T. Nimmer, UCITA and the Continuing Evolution of Digital Licensing Law, 21 COMPUTER & INTERNET LAWYER, 10 (Feb. 2004).
\item \textsuperscript{135} Id. Flaherty & Lally-Green, 923 note**.
\item \textsuperscript{136} Thinking Like a Lawyer—About Ethics, (Thomas W. Henderson Lecture in Legal Ethics) 38 DUQ. L. REV.1015-57 (2000) (includes discussion). Several years earlier, there had been an address at the Law Review Banquet in 1990 by Professor Fischer of the Psychology Dept. dealing with psychological factors involved with becoming a lawyer and how one acts with his/her family. See William F. Fischer, Lawyering as a Way of Life, 28 DUQ. L. REV. 671 (1990).
\item \textsuperscript{136} Panelists included Dean Nicholas P. Cafardi, Professors Bruce Ledewitz, Margaret Krasick, Kellen McLendon, and Robert Taylor, Henry J. McAnulty, Chancellor of the University, Thomas Henderson, and Judge Ronald Polino of the Allegheny County Court of Common Pleas. Simon stated in responding to the criticism that “what I'm always going to think of as the Duquesne Critique, which is that I subsume the language of morality into the language of law.” Id. at 1047.
\end{itemize}
Volume 39 continued to have a variety of topics covered. Peter Brandon, speaking on behalf of legal-writing faculties in all law schools, wrote a personalized account of his own firing from his position as a director of a legal writing program and urged the need to have equality with other full-time faculty. 137 Jeffrey Bauman presents an important article for practitioners on standards of review and scopes of review in appellate practice in Pennsylvania. 138 Online intellectual property continued with an article on trademarks and the Internet. 139 Finally, there was a heartfelt dedication to teenager Katie Westbrook. 140

Finally, Volume 40 published a wide range of topics on the mentally ill and the Fourteenth Amendment, 141 religion in the First Amendment, 142 legal writing programs, 143 and a rebuttal of an article published in the previous year on Three Strikes and You're Out legislation on crime and Punishment in California. 144

Of specific authors, Professor David E. Seidelson of George Washington University Law School wrote the most number of articles, publishing twenty-one articles between 1968 and 1994. 145

140. [Dedication], 39 DUQ. L. REV. ix (2001). Katie Elisabeth Westbrook, a teenage cancer victim, who requested in the months before her death to obtain a law degree from the school. The faculty passed a resolution granting her an honorary degree on February 9, 2001, but she died just a few days before commencement.
Law School faculty have published only a small portion of the articles in the Law Review. The three law faculty publishing the most articles in the Law Review were Professor Alfred S. Pelaez (7),


This is a high number of articles for a single author to post in a single law review. Dean William Trickett of Dickinson Law School has published more than 116 articles in his school's Law Review, which I suspect is one of the highest number recorded; see Podvia, supra note 1, at 751 n.25.

Professor Cornelius Murphy, Jr. (6), and Professor Bruce Ledewitz (5). At least two judges successfully used post-J.D. work to write articles for the Law Review: Judge Joseph A. Del Sole of the Superior Court published a version of his LL.M. thesis on appellate review of sentencing guidelines from the University of Virginia, while Judge Stephanie Domitrovich, of the Erie County Court of Common Pleas, published two articles from her thesis for a Mas-

147. Cornelius F. Murphy, Jr., The South-West Africa Judgment: A Study in Justiciability, 5 Duq. L. Rev. 477 (1966-67); Cornelius Murphy, Jr., The Cold War and the Peaceful Settlement of Disputes: a Comment, 6 Duq. L. Rev. 115 (1967-68); Cornelius Murphy, Jr., The Legal Quality of Judicial Decisions, 6 Duq. L. Rev. 365 (1967-68); Cornelius Murphy, Jr., Indochina: Some Lingering Issues of Law and Policy, 10 Duq. L. Rev. 155 (1971); Cornelius Murphy, Jr., The Conciliatory Authority of the Council of the League of Nations, 15 Duq. L. Rev. 199 (1976-77); Cornelius Murphy, Jr., Liberalism and Judicial Authority, 21 Duq. L. Rev. 1 (1982).


Other current faculty members have contributed fifteen articles over the decades.


ter’s Degree in Judicial Studies from the University of Nevada in conjunction with the National Judicial College.  

II. LAW REVIEW FACULTY AND STUDENTS

Over the decades, a number of law school faculty have served as advisors. Professors Donald Kiley, John E. Murray, Jr., and Sally Mrvos served as the first three faculty advisors of Volumes 1 to 3 respectively. No advisors or editors are listed for volumes four to eight, which contain no mastheads. Prof. Cornelius Murphy, Jr. served for twelve years (volumes 9 to 20) including three years with Prof. Sheldon Nahmod (volumes 13 to 15). Professors Bruce Ledewitz and Robert Taylor shared duties for seven years (volumes 21 to 24 and 27 to 29), while Professors Alfred S. Pelaez and Margaret Krasik had two years (volumes 25 to 26). Professors Robert Barker and Nick Fisfis served for ten years (volumes 30-39), while Prof. Ken Gormley joined with Prof. Fisfis for volume 40. All of the professors from volumes 21 to present are still on the faculty.

Another interesting feature of the Law Review is to examine the growth of the Law Review personnel over the decades. Rather than look at individual volumes, I have taken every tenth volume to identify changes. By the time the Law Review began in 1963, academic law reviews possessed the same organizational structure. As to be expected, the Law Review’s board has grown significantly over a forty-year period—from just thirteen members to more than seventy.

151. Prof. Murray, the faculty advisor of the second volume, later became Dean of the University of Pittsburgh School of Law, President of Duquesne University, and now Chancellor and Professor of Law, teaching a full load forty years later. Chancellor Murray authored one of the standard works on contract law, Murray on Contracts (5th ed. 2002).
152. Sally Mrvos later became Prothonotary of the Supreme Court of Pennsylvania.
153. Professor Nahmod later joined the faculty at Chicago-Kent School of Law and is a recognized expert in civil rights law.
154. I have reviewed Volumes 1, 10, 20, 30, and 40 looking at the page that lists the Review board, usually found after the Table of Contents in each issue.
LAW REVIEW MEMBERSHIP:

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The Board of Editors of the first Law Review had two co-Editors-in-Chief, an Article Editor, a Comment Editor, a Case Editor, a Book Review Editor, a Managing Editor and six Associate Editors. There was no additional staff listed on the masthead. By Volume 10 (1972-73), the Board of Editors remained the same except that the Case Editor has been renamed Recent Decisions Editor. There were now four Associate Editors. In addition, there was a separate listing for staff (second year students) which numbered 31. By volume 20 (1981-82), the editorial board had been reorganized. The board consisted of an Editor-in-Chief, an addition of an Executive Managing Editor, Executive Articles Editor, Executive Recent Decisions Editor and Executive Comment Editor. The latter three editors had four, five and four Associate Editors below them respectively. The position of Book Review Editor had been eliminated. Senior Staff consisted of four members, while Staff now numbered twenty-six members. Volume 30 (1991-92) added an Executive Production Editor and Research Editors (2). Senior Staff numbered twenty-four, while Staff numbered forty-one. Finally, volume 40 (2001-02) consisted of an Editor-in-Chief, Executive Editor, Executive Articles Editors (2), Executive Comment Editor, Executive Recent Decisions Editor, Production Editor, and Managing Editor, Associate Comment Editors (4), Associate Recent Decision Editors (5), and Research Editors (5). Senior Staff numbered twenty and Junior Staff numbered thirty-three.

The student members of Law Review are selected from both the day and evening classes based on grade point average rather than by writing competition. Peter King, as first co-editor, was a full-time day student, while Robert D. Repasky represented the evening students on volume 1.155 The first female student on Law Re-

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view was Carol Los (later Mansmann) in 1965-66, followed by Jean McGuinness in 1967-68. They were succeeded by Janet Nolan, A. Kathleen Kelly and Donetta Wypiski (later Ambrose) in 1968-69. The latter two served as Article Editor and Recent Decisions Editor, respectively, the following year (volume 8, 1969-70). The 1969-70 staff had only one other female staff member, Dianne M. Faber.


Of the hundreds of members who have served on *Law Review*, it is impossible to try to designate everyone’s current position. Many have become leaders of their local courts and bar associations, have started their own successful firms, or have become prominent partners in many law firms. The following is just a sample of some of the members, concentrating chiefly on the judiciary, for which information is easily available.

Carol Los Mansmann was the first female student on *Law Review* in 1966-67. She was one of two women who graduated in 1967. After graduation, she became an Assistant District Attorney in the Allegheny County District Attorney’s Office (1968-72) and later served as Special Assistant to the Commonwealth Attorney General (1974-79). At the same time, she had a private practice (1973-79) and was an Associate Professor of Law in the Law School (1974-83) and then an Adjunct Professor (1983-92). President Reagan appointed her as the first woman to the U.S. District Court for the Western District of Pennsylvania on February 23, 1982, and she served from March 19, 1982 to April 22, 1985, when she was elevated to the U. S. Court of Appeals for the

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156. Because the mastheads of the Law Reviews were missing from 1964 to 1967 in the bound volumes, it took a half dozen phone calls to former Law Review members to find out this information. Thanks to Joseph J. Pass and Kenneth Robb for providing me with the information. Telephone interview with Joseph J. Pass and Kenneth Robb on April 16, 2004.
Third Circuit. She sat on the bench until her death on March 9, 2002. 159

Donetta Wypiski Ambrose, already mentioned as one of the first females on Law Review in 1968, graduated in 1970. She served as Law Clerk to Judge Manderino on the Commonwealth Court, was an Assistant Attorney General for Pennsylvania (1972-1974), an Assistant District Attorney in Westmoreland County (1977-81), and a judge on the Westmoreland Court of Common Pleas (1982-93), before being appointed to the United States District Court for the Western District of Pennsylvania from 1993 to 2002, when she was elevated to her current position as Chief Judge. 160

Joy Flowers Conti, Editor-In-Chief of Volume 11 (1972-73), served as a law clerk to Judge Manderino (1973-74), was a Professor of Law at Duquesne (1976-82), was a partner in Buchanan Ingersoll, and was appointed by President Bush as Judge of the United States District Court for the Western District of Pennsylvania in 2002. 161

Other members of Law Review also have attained high positions. 162 David Brightbill (Editor-in-Chief, Volume 8, 1969-70), is current Majority Leader in the Pennsylvania Senate; 163 Janice Holder (Recent Decisions Editor, Volume 13, 1974-75), is an Associate Justice of the Tennessee Supreme Court; Jerry Johnson (Staff Member, Volume 9, 1970-71), was former U. S. District Attorney for the Western District of Pennsylvania; Joseph Del Sole (Associate Member (1963-65)), is the President Judge of the Pennsylvania Superior Court. Other members of the Pennsylvania county courts include Robert A. Kelly (staff member, Volume 6, 1967-69) as President Judge of the Allegheny County Court of Common Pleas (just completed in December 2003), David L. Gilmore (Managing Editor, Volume 8, 1969-70) as President Judge of Washington County; Joseph A. Nickleach (staff member, Volume 8, 1967-69) as Assistant Administrator of the Allegheny County Court of Common Pleas, and my former student, John C. Farnan, Esq., as President Judge of the Montgomery County Court of Common Pleas (from 2000 to 2004). Other members of the Pennsylvania county courts include Robert A. Kelly (staff member, Volume 6, 1967-69) as President Judge of the Allegheny County Court of Common Pleas (just completed in December 2003), David L. Gilmore (Managing Editor, Volume 8, 1969-70) as President Judge of Washington County; Joseph A. Nickleach (staff member, Volume 8, 1967-69) as Assistant Administrator of the Allegheny County Court of Common Pleas, and my former student, John C. Farnan, Esq., as President Judge of the Montgomery County Court of Common Pleas (from 2000 to 2004).

160. Id.
161. Id.
162. My apologies to all members of Law Review who read this article. I am unable to check everyone’s position and choose to concentrate on the judiciary. Many members are prominent lawyers in Allegheny County and I could not begin to list them all in this article. I have used the The American Bench (2003-2004 ed.) to obtain the information on the judiciary.
163. Elmer Beatty, Jr. (Associate Editor of Volume 8), informed me of Mr. Brightbill’s position.
4, 1965-66) as President Judge of Armstrong County; Thomas Wallitsch (staff member, Volume 11, 1972-73) as Judge of Lehigh County; Gerard Bigley (staff member, Volume 8, 1969-70) as Judge in the Court of Common Pleas of Allegheny County;\textsuperscript{164} and David Torrey (Editor-In-Chief, Volume 23, 1984-85) is an Administrative Law Judge of the Pennsylvania Department of Labor Bureau of Workmen's Compensation and author of a four-volume work on Pennsylvania workers' compensation.\textsuperscript{165}

III. BIBLIOMETRICS

The Law Review has published 34,698 pages\textsuperscript{166} of articles, comments, essays, case notes, book reviews and book notes. The shortest volume was volume one (297 pages) and the longest was volume 23 (1,335 pages). Fifteen of the volumes have 1,000 or more pages, 20 have between 500 and 999 pages, and five have less than 500 pages. As a quarterly publication, the current Law Review is comparable in size to the other student-edited law reviews.\textsuperscript{167}

The influence of the Law Review can be determined in part by its citation history. Although it is not a top-tier law review, the Review has been cited in 283 court cases throughout the country.\textsuperscript{168} In the first forty volumes, there are no citations from the Supreme Court of the United States, but there are forty-three citations by the United States Courts of Appeal, thirty-eight citations by the United States District Courts, and four citations by United States Bankruptcy Courts. These citations represent 30\% of the entire file. Of the Circuit Courts, fourteen citations are to cases by the Third Circuit, followed by five citations by the Seventh Circuit,

\textsuperscript{164} There are more than sixty judges who graduated from Duquesne University School of Law serving on various courts throughout the country (although most are in Pennsylvania). I wish to thank the Law Alumni Office for supplying me with this information. The two oldest were Hugh Boyle (1928) of the Court of Common Pleas of Allegheny County and President Judge Emeritus William F. Cercone (1941) of the Pennsylvania Superior Court.


\textsuperscript{166} I have added all of the pages except for the index pages that in some early and late volumes are included in the page count, most have separate roman numeral pages.

\textsuperscript{167} The larger law reviews like Harvard, Columbia, and Michigan generally have seven or eight issues and are publishing over 2,000 pages per year. The Georgetown Law Journal's Thirty-second Annual Review of Criminal Procedure has 998 pages in a single issue. 91 GEORGETOWN L. J. 1087-2085 (May 2003).

\textsuperscript{168} This number was determined by a Lexis search in the Allcases database searching "Duq.L.Rev." on March 17 and April 14, 2004. Only one citation was to an unreported case in California.
four citations by the Second, Sixth and Ninth Circuits, three citations by the Fifth Circuit, two citations by the First, Tenth and Eleven Circuits, and one citation by the Fourth, Federal and District of Columbia Circuits. Only the Eighth Circuit did not cite too at least one law review article. The number of citations (forty-four), however, is a reasonable number based on one recent empirical study in which the author found several major law reviews with only one or two citations during a specific two-year period.169

The thirty-eight citations by the District Courts are just as broad in terms of the number of citations by various courts. Almost a third of the citations, as expected, are from Pennsylvania District Courts (13 of 38), followed by four by New Jersey courts, three by Texas courts, two by California, Illinois, and Wisconsin courts, and one citation by another ten states. There are only four citations from United States Bankruptcy Courts, two by Pennsylvania and one each in California and Virginia.

State courts cited the Review one hundred ninety-seven times in their cases. As expected, Pennsylvania courts had the largest number of citations with ninety-five citations (48%): Supreme Court 22, Superior 21, Commonwealth 27, and Common Pleas 25. The remaining 102 citations are broken down into thirty-four states, of which supreme courts have 67 citations, intermediate appellate courts 19 and trial courts 16. Of the Supreme courts, Maryland had 7, Alabama 6, West Virginia and Wyoming 5. Seven state supreme courts had three citations, five state courts had two citations, and sixteen state courts had one citation. Nineteen citations by the intermediate appellate courts include three by Alabama and Maryland, two by Minnesota courts, and one citation by 11 courts. Of the sixteen trial court citations, California had seven, New York 4, Louisiana 2, and Florida, Illinois and Ohio 1 each.

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Of the 283 court cases citing the *Law Review*, there were 290 actual citations. The following chart identifies the most-cited articles:

<table>
<thead>
<tr>
<th>Law Review Citation:</th>
<th>Number of Citations:</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 Duq. L. Rev. 201</td>
<td>11</td>
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<tr>
<td>29 Duq. L. Rev. 619</td>
<td>10</td>
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<tr>
<td>18 Duq. L. Rev. 771</td>
<td>6</td>
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<tr>
<td>22 Duq. L. Rev. 317</td>
<td>5</td>
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<tr>
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<td>5</td>
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<td>24 Duq. L. Rev. 1</td>
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<tr>
<td>25 Duq. L. Rev. 209</td>
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<tr>
<td>8 Duq. L. Rev. 125</td>
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<td>10 Duq. L. Rev. 357</td>
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<tr>
<td>15 Duq. L. Rev. 581</td>
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<tr>
<td>23 Duq. L. Rev. 1033</td>
<td>4</td>
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<tr>
<td>24 Duq. L. Rev. 975</td>
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The two highest citations are to comments dealing with judicial review of administrative action by the appellate courts\textsuperscript{170} and bad-faith insurance litigation under the new statute of 42 Pa.C.S. § 8371.\textsuperscript{171} Four succeeding articles were on Federal mail fraud statute (18 U.S.C. § 1341),\textsuperscript{172} statutory aggravating circumstances in death penalty cases,\textsuperscript{173} abuse and neglect of the unborn,\textsuperscript{174} and suicide.\textsuperscript{175}

A second method of determining influence is by the checking periodical literature. It was not possible to check all titles with an online citation check in Shepard's Citations or West's Keycite. Using Shepard's Law Review Citations for periodical citations from the 1960's to 1995,\textsuperscript{176} it is possible to provide some accounting as to the academic law reviews (recognizing the fact that the citator is limited to about 175-200 law review titles). By hand counting citations, there are 260 cited articles, comments, notes, etc. in the three volumes of the citator. Included on the following page is a table listing articles that, according to Shepard's, have received ten or more citations.

\begin{footnotesize}
\begin{enumerate}
\item SHEPARD'S LAW REVIEW CITATIONS (1985 ed.) With two bound volumes supplements covering 1986 to 1990 and 1990 to 1995.
\end{enumerate}
\end{footnotesize}
The following table shows the number of articles with ten or more citations:

**Shepard’s Law Review Citations 1963-1995**

<table>
<thead>
<tr>
<th>Citation of Article:</th>
<th>Number of Citations:</th>
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</thead>
<tbody>
<tr>
<td>12 Duq. L. Rev. 425</td>
<td>44</td>
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<tr>
<td>9 Duq. L. Rev. 373</td>
<td>38</td>
</tr>
<tr>
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<td>35</td>
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<td>4 Duq. L. Rev. 345</td>
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<td>6 Duq. L. Rev. 221</td>
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<td>9 Duq. L. Rev. 360</td>
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<tr>
<td>1 Duq. L. Rev. 1</td>
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<td>4 Duq. L. Rev. 337</td>
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<td>14 Duq. L. Rev. 309</td>
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<tr>
<td>19 Duq. L. Rev. 207</td>
<td>10</td>
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</table>
The top five articles are Product Liability: An Interaction of Law and Technology,\textsuperscript{177} Enlightened Territorialism and Professor Cavers—The Pennsylvania Method,\textsuperscript{178} The Territorial Imperative: Automobile Accidents and the Significance of a State Line,\textsuperscript{179} The Federal Mail Fraud Statute (Part I),\textsuperscript{180} and The Developing Labor Relations Law in the Public Sector.\textsuperscript{181}

For the period after 1995, authors have started to use The Washington and Lee University School of Law website of 999 Most-Cited Legal Periodicals to determine law-review ranking.\textsuperscript{182} On that list, Duquesne Law Review ranks 151\textsuperscript{st} for 1995 to 2002 and 185\textsuperscript{th} on the list for 1996 to 2003. The Review has been cited more than 500 times between 1995 and 2003.\textsuperscript{183}

IV. CONCLUSION

In conclusion, the Duquesne Law Review has served as a successful student-edited law review for both the faculty and students of the Law School. With more than 1,300 individual pieces and 35,000 pages, the Law Review enters its fifth decade as the premier publication of the Duquesne University School of Law.


\textsuperscript{178} Aaron D. Twerski, Enlightened Territorialism and Professor Cavers—The Pennsylvania Method, 9 DUQ. L. REV. 373 (1971).


\textsuperscript{181} Harry T. Edwards, The Developing Labor Relations Law in the Public Sector, 10 DUQ. L. REV. 357 (1972).

\textsuperscript{182} Podvia, supra note 1, at 763.