
THE LAW REVIEW PROJECT: A QUALIFIED DEFENSE

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Critiques of student-run law reviews are not hard to find, nor are they hard to understand. Even as students groan over dreary source cites and finicky copy edits, professors gripe at leaving their masterworks in the hands of inexpert students with hyperactive revisions. Lawyers skim only a tiny fraction of law review materials, if they happen to address a particularly relevant case or project, and even celebrated federal judges have taken time to derogate law reviews' substantive content as misguided and irrelevant.¹

Given such potent criticism, one might wonder how student-run law reviews have survived so long and flourished so well. Starting at elite institutions in the late 1800s, almost every accredited law school currently supports one law review or more, a large fraction of legal academics are published there, and many judges, like other employers, use students' membership on a law review as a credential of excellence.² Outside the legal profession, some people who cannot pronounce "order of the coif," and who wonder how to appraise "moot" courts and "mock" trials, nevertheless nod with feigned appreciation at learning that someone "made law review." For decades, editors-in-chief across the country

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1. See James W. Harper, *Why Student-Run Law Reviews?*, 82 MINN. L. REV. 1261, 1262 (1998) (discussing various critiques of student-run law reviews); Richard A. Posner, *The Future of the Student-Edited Law Review*, 47 STAN. L. REV. 1131, 1132-33 (1995) (explaining inexperienced students' difficulties in selecting and editing legal scholarship); Fred Rodell, *Goodbye to Law Reviews*, 23 VA. L. REV. 38 (1936); Michael Vitiello, *In Defense of Student-Run Law Reviews*, 17 CUMB. L. REV. 859, 860 (1987) (explaining historical criticisms); Harry T. Edwards, *Another Look at Professor Rodell's Goodbye to Law Reviews*, 100 VA. L. REV. 1483, 1487-89 (2014) (detailing federal judges' critiques); Richard A. Posner, *Against the Law Reviews*, LEGAL AFF., (Nov.-Dec. 2004), http://www.legalaffairs.org/issues/November-December-2004/review_posner_novdec04.msp [perma: <http://perma.cc/TZY9-DR2C>] (subtitled, "Welcome to a World Where Inexperienced Editors Make Articles About the Wrong Topics Worse"). *But cf.* Natalie C. Cotton, Comment, *The Competence of Students as Editors of Law Reviews: A Response to Judge Posner*, 154 U. PA. L. REV. 951, 953 (2006) (arguing that some of the procedures used by student-run law reviews mitigate their shortcomings).

2. See Harper, *supra* note 1, at 1263-65 (identifying *University of Pennsylvania Law Review* as the longest continuously published student-run law review); Michael L. Closen & Robert J. Dzielak, *The History and Influence of the Law Review Institution*, 30 AKRON L. REV. 15, 34 (1996) (explaining the early history of student-run law reviews); see also Whit D. Pierce & Anne E. Rueben, *The Law Review Is Dead; Long Live the Law Review: A Closer Look at the Declining Judicial Citation of Legal Scholarship*, 45 WAKE FOREST L. REV. 1185, 1187-91 (2010) (discussing the early popularity of law review articles in judicial citation and subsequent criticisms); Michael L. Swygert & Jon W. Bruce, *The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews*, 36 HASTINGS L.J. 739, 764 (1985).

have arm-wrestled only with valedictorians for that coveted, though fully imaginary, title of “top law student.”

Questions about why anyone has ever cared about law reviews thus exist awkwardly alongside questions about why anyone has ever doubted them. This Essay cannot hope to resolve disputes or change minds, but “the law review project” will not, in any event, succeed or fail based on intellectual advocacy. Instead, my purpose is to sketch a few benefits of student-run law reviews, suggesting that their survival represents much more than “path dependency,” while implicitly identifying obstacles that would confront any call for revolution or abandonment. Law reviews certainly are not perfect, and indeed this Essay concludes with specific challenges concerning their lack of racial diversity. However, alongside their costs and imperfections, student-run law reviews generate value for several communities in the American legal system, and this Essay considers those communities in sequence.

I. LAW-REVIEW AUTHORS

The largest beneficiaries of student-run law reviews are legal academics, who have access to greater opportunities for publication than academics in other fields, without having to do the hard work of operating professional journals. Authors sometimes complain about law students’ misdirected priorities, close edits, and inexpert suggestions. Yet the fact remains that those students spend hours and days, on a volunteer basis, trying to make articles “better,” as they understand that term. Every writer and reader knows that it is very hard to motivate anyone to improve another person’s work, yet that is what student-run law reviews do each and every year.

Selecting articles is the most difficult part of the law review project, and students are not well suited to that task. Because most incoming articles editors have studied law for only twenty months, they have little perspective in evaluating “quality scholarship.” Some editors fill gaps in their substantive knowledge by relying on legible evidence of authors’ prestige. Students also can be misled by dramatic and overclaimed rhetoric, especially with respect to an author’s purported originality. (Someone who has not read much existing scholarship will simply have to guess whether a particular argument breaks “new” ground.) Law review editors make fast selections among articles in unfamiliar fields that were written by knowledgeable and experienced authors. That selection process presents obvious pathologies, and efforts by some law reviews to engage faculty in their selection process represent one (also imperfect) response to such problems.³

On the other hand, comparable perils also appear for other methods of article selection. Peer-review, for example, involves decisionmakers with entrenched personal and professional interests in their field’s intellectual

3. See John G. Kester, *Faculty Participation in the Student-Edited Law Review*, 36 J. LEGAL EDUC. 14, 15 (1986) (explaining informal faculty input in the selection of articles for the *Harvard Law Review*).

content, including the definition of that field.⁴ It would represent a substantial shift—for better and for worse—if the legal academy tried to impose “disciplinary” constraints comparable to other kinds of academics. Current U.S. law professors are an immensely varied group, and it is not at all clear that such academics could be “disciplined” by a set of purportedly common methods, assumptions, projects, and ambitions.⁵ For example, although nearly every law professor has some kind of “practice experience,” the range and depth of that employment is wildly diverse. Likewise, although most professors have a law and an undergraduate degree, the topics that they studied are just as varied as the groups of doctoral recipients who have become law school academics.⁶

If legal scholars took responsibility for managing any substantial quantity of legal journals, new specialties and subspecialties would very probably emerge as narrow groups of dedicated individuals undertook to decide which authors, ideas, methods, and conclusions should be published. Non-legal scholars in other fields have witnessed similar phenomena for decades, and they have managed pertinent risks of insularity, networked patronage, and intellectual prejudice with different levels of success.

By contrast, generalist law reviews represent—for better and for worse—an embodied faith in some form of general legal audience.⁷ Student-run articles

4. See Steven Lubet, *Law Review vs. Peer Review: A Qualified Defense of Student Editors*, 2017 U. ILL. L. REV. ONLINE 1, 2–3 (2017), <http://illinoislawreview.org/online/law-review-vs-peer-review/> [perma: <http://perma.cc/JW2X-NWRJ>] (“For all of their flaws and naiveté, law review editors are likely to demand proof, or at least citations, for assertions that go unquestioned by peer reviewers—not because they know more than experts, but because they recognize that they know less.” *Id.* at 10); Mohammadreza Hojat et al., *Impartial Judgment by the “Gatekeepers” of Science: Fallibility and Accountability in the Peer Review Process*, 8 ADVANCES HEALTH SCI. EDUC. 75 (2003) (discussing biases in peer review selection).

5. See Lynn M. LoPucki, *Disciplining Legal Scholarship*, 90 TUL. L. REV. 1 (2015). It remains to be seen whether Yale University’s Ph.D in Law will—or seeks to—implement this kind of intellectual synthesis. There are law journals that utilize peer-review processes, but they are often contained to narrow legal subfields, as compared with general student-run law reviews. The *Journal of Law and Economics*, the *National Tax Journal*, *American Bankruptcy Law Journal*, *American Law and Economic Review*, *Constitutional Commentary*, *Journal of Empirical Legal Studies*, and the *Supreme Court Review* are a few well-known examples of peer-reviewed legal publications.

6. AM. ASSN. LAW TEACHERS, THE AALS DIRECTORY OF LAW TEACHERS (2015–2016); see also *Pre-Law*, AM. BAR ASS’N, http://www.americanbar.org/groups/legal_education/resources/pre_law.html [perma: <http://perma.cc/LU7V-DWUT>] (last visited Oct. 1, 2018) (“The ABA does not recommend any undergraduate majors or group of courses to prepare for a legal education. Students are admitted to law school from almost every academic discipline.”); Menachem Wecker, *Future Law Students Should Avoid Prelaw Majors, Some Say*, U.S. NEWS (Oct. 29, 2012, 9:00 AM), <http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2012/10/29/future-law-students-should-avoid-prelaw-majors-some-say> [perma: <http://perma.cc/P86U-8UK5>].

7. Commitments to generalism might also be inferred from stylistic features of law review writing, including very long articles that have elaborate introductions and “road maps,” canvassing basic materials that experts might not otherwise find necessary. Some readers might associate law reviews’ practice of extensive/excessive footnoting with a focus on citable authority that pervades legal discourse and practice. The footnote’s general history and prevalence, however, is more complex than most users realize. See ANTHONY GRAFTON, *THE FOOTNOTE: A CURIOUS HISTORY* (1997). Also, it is

committees replace their membership each year, which produces different levels of talent, experience, and dedication, yet each year, such decisionmakers approach their task with fresh perspectives. Over time, this annual turnover of decisionmakers has tended to make legal scholarship appear more jumbled, disjointed, and unreliable than other academic genres as each group of students prioritizes different ideas and reshapes what writers and readers consider to be “normal.” That same practice, however, has also created structural opportunities for new voices, new ideas, and new methods to be heard along with the rest.⁸ As they should be, law review authors are accountable to established academic communities once their work has been published—both through tenure procedures and through academic critique. Yet initial decisions about law review publication occur at a significant distance from such established and institutionalized controls.

Law reviews’ commitment to a general legal audience might not be deliberate, but it does bear an evocative resemblance to pressures that litigators face in communicating with generalist judges and juries, or that advisors face in counseling nonspecialized clients.⁹ To a significant degree, legal scholarship has resisted the erudite specialization that is typical among intellectual fields with elaborate disciplinary and subdisciplinary categories. Each year, legal authors have a nominally equal opportunity to convince unknown groups of law students that their articles deserve the effort and public esteem that come with law review publication. In order to obtain that benefit, law review authors must communicate with people who are not like them, shaping their arguments for students who are interested, but not fully informed; educated, but certainly not expert. Such imperfect channels of communications reflect something important about the position of law and legal expertise along the permeable border of broader public discourse and access. If law professors were the ones responsible for publishing law professors, the results would certainly be intellectually sophisticated; but to rewrite a cliché, the life of legal scholarship has not always

not clear that law and legal scholarship are more dedicated to supportive authorities than other intellectual pursuits.

8. I certainly would not claim that law reviews have been exceptional in their treatment of dissidents, much less that such treatment has always been favorable. Nonetheless, it remains a historical fact that law reviews have chosen to publish various articles about free speech, justice, constitutional structure, and methodological heterodoxy that might or might not have been published at that time if relatively conservative legal academics had been in charge of choosing articles. *See, e.g.*, Charles L. Black, Jr., *The Lawfulness of the Segregation Decisions*, 69 YALE L.J. 421 (1960); Zechariah Chafee, Jr., *Freedom of Speech in War Time*, 32 HARV. L. REV. 932 (1919); Robert W. Gordon, *Critical Legal Histories*, 36 STAN. L. REV. 57 (1984); Louis H. Pollak, *Racial Discrimination and Judicial Integrity: A Reply to Professor Wechsler*, 108 U. PA. L. REV. 1 (1959); Roscoe Pound, *The Call for a Realist Jurisprudence*, 44 HARV. L. REV. 697 (1931); Eugene V. Rostow, *The Japanese American Cases—A Disaster*, 54 YALE L.J. 489 (1945); Ann C. Scales, *The Emergence of Feminist Jurisprudence: An Essay*, 95 YALE L.J. 1373 (1986).

9. *See* Banks McDowell, *The Audiences for Legal Scholarship*, 40 J. LEGAL EDUC. 261, 263 (1990) (discussing the history of legal generalism, including bar exams and legal scholarship); *see also* Craig Green, *Our Not-So-Great-Depression*, 108 MICH. L. REV. 1031 (2010) (book review) (claiming that legal scholars who lack specialized expertise can nevertheless make useful contributes to a wide variety of topics).

been intellectual sophistication.¹⁰

For a decade or more, academic blogs and unedited SSRN postings have generated opportunities for commentary outside of the strictures—and without the delays—that ordinarily accompany student-based publication, and even more so peer-reviewed journals. In some contexts, web-based publications offer a highly useful supplement to other kinds of scholarly products, but none of them offers a substitute for the formal aspirations toward rigor, depth, and seriousness that typify law review articles. Nor do web-based outlets escape the distributional problems that have influenced other publications that are peer-reviewed or editorially unfiltered. Although law reviews take a long time and require a lot of work, such time and effort are reflected in the ambition and substance of the writers, articles, and editors that undertake that laborious process.

II. LAW-REVIEW EDITORS AND LEGAL EMPLOYERS

If authors are the law review project's main beneficiaries, student editors represent its unpaid labor. Even so, the experience of law-review work offers students useful opportunities in the broader context of legal education. For example, each law review editor must confront—in a setting unlike most others—the meticulousness of trying to generate a perfectly published text. Anyone who has clerked for a judge, submitted a brief, or even sent important emails has felt the creeping pressure of unnoticed errors—in matters of typography, grammar, tone, and substance. Because law review publication formalizes multiple layers of review, each staff member knows that her work could be closely scrutinized by peers, supervisors, and authors, each of whom have the intention of preventing and removing errors that other people have introduced or overlooked.¹¹ Those editorial structures demand performance, and they also cultivate habits.

Many law students have never felt the kind of pressure that accompanies a document's "final version"—that fateful juncture where mistakes become uncorrectable and public. Even students who have experienced such things in their pre-law life have not confronted readers more unforgiving and picky than lawyers. Fastidious reading and editing are not the most highly touted traditions in the American legal profession, yet a substantial part of many legal jobs is finding the strength to care about various kinds of fussy details that high-pressure clients might "leave to the lawyers." A crucial expectation among

10. Cf. OLIVER WENDELL HOLMES, JR., *THE COMMON LAW* 1 (1881) ("The life of the law has not been logic: it has been experience.")

11. See Kathryn A. Watts, *Justice Stevens's Black Leather Arm Chair*, 106 NW. U. L. REV. 845, 847 n.4 (2012) ("After publishing an article in the *Yale Law Journal* in 2009, the Justice wrote to me with some thoughtful substantive comments and also with what he called one small 'flyspeck,' which the Justice easily spotted on his one read through the lengthy article even though it had gone undetected by me and the many Yale editors who had scoured the piece. The 'flyspeck' had to do with my inadvertent misuse of the word 'weary.' As the Justice put it in his characteristically kind note to me: 'The flyspeck confirms my view that every brief and every article, no matter how carefully edited, contains at least one typo.'" (citation omitted)).

competent legal practitioners is the ability to produce, if necessary, documents upon which clients and courts can rely very heavily—regardless of whether those documents are Supreme Court briefs, client memos, binding agreements, or formal legal disclosures.¹²

Similarly, almost every legal career involves at some point being asked particularly urgent and fateful questions about some document, argument, or quotation: “Is this right? Is the thing that you are looking at truly and literally correct?” Those are always hard questions, but the training period of law school is the time for learning how to answer them—not when a client’s life and interests are at stake. Some law review editors feel alienated by the pressure of trying to produce a perfect document because they have never encountered anything quite like it. Bluebooking, grammar and style manuals, cite checks, line edits, and the rest cannot pretend to simulate “legal employment”—which itself is a diverse category with different expectations for different written products. For current purposes, the simple point is that even the least attractive aspects of law review membership introduce skills and habits about legal practice that cannot be found in most classroom experiences.

A related feature of students’ law-review work concerns motivation. Even more than graded classes, law reviews require students to perform unappealing tasks, with high degrees of accuracy, in circumstances where the immediate and personal payoffs seem limited. Some small number of students might be sufficiently inspired to do such work simply because the digitized form of legal scholarship will outlive all of its authors and producers, and because publications might influence other legal actors someday down the road. After all, the ambition of legal scholarship—whether immortal or epochal—is nothing less than the production of legal knowledge and the furtherance of truth over falsehood.

For most students, however, the dominant incentives are more corporeal, stemming from a mixture of community, reputation, and responsibility. Unlike most other law school activities, work on law reviews is collaborative and student run, which means that students are required to act in ways that are professional, careful, responsible, and collegial. Students have to learn to work with people whom they may or may not like, on projects that they may or may not endorse, involving particular tasks that they may or may not appreciate.

The ultimate goal is for each staffer to practice becoming a person who can be relied upon to do good work, even when there may not be immediate supervisors or strong personal consequences. And of course, those characteristics also are dominant features of legal practice. Through the various ardors of law-review work, staffers get to experiment, in one very particular context, with becoming the kind of person who can be trusted to do what they say, and who can handle tasks that are primarily valuable to people other than themselves. As a profession, lawyers loudly insist that those kinds of values and practices are a core part of their identity, claiming that they can be trusted to work hard as

12. See *O’Connor v. Oakhurst Dairy*, 851 F.3d 69 (1st Cir. 2017) (illustrating the potential importance, for lawyers and their clients, of well-positioned commas).

advocates or counsel, representing interests that literally and immediately are not their own.

Not everyone's law review experience is heroic in these dimensions. As is true in other contexts, some students behave well, others less so, and some students get appropriate credit or blame for their conduct, while others get too much or too little. The current point is that students' work on law reviews compels them to confront, in a peculiar context, motivational questions that are different from most other classes and experiences. Indeed, editorial board members face such issues twice: first as staff-level participants, and later as aspiring leaders and managers, who must try to motivate their peers, without much carrot or stick, while simultaneously adapting to various shortfalls as they occur.

Even the foregoing brief account of law reviews' standards and experience helps clarify why some legal employers have used membership as a credential. Every legal employer has its own way of doing things—which might, in some respects, compare favorably or poorly to the idiosyncrasies of particular law reviews. The only guarantees in hiring law review staffers are that such people have some experience working in a self-organized, results-oriented institution. They have some familiarity with taking instructions, thinking things through, and executing particular tasks. They have some appreciation for the importance of working with other people, and for producing results of high quality at a particular time. In a very specific sense, members of law reviews spend part of their educational career practicing to be a legal professional. Many employers want to hire graduates who can shoulder a yoke, read and edit as though someone's life depended on it, and make themselves work when they would rather do something else. Law reviews are not the only part of legal education to require such efforts, as indeed many clinics, externships, and simulations seek to generate comparable skills and experiences. Nevertheless, some students experience the demands of law review as different from other educational experiences, and for a long time, some employers have also viewed that credential as distinctively valuable.¹³

III. JUDGES AND THE LEGAL COMMUNITY

Even as legal authors spend time writing law review articles, and students devote time to editing them, one might ask whether the law review project has any value beyond its immediate participants. Are law reviews some kind of make-work project, analogous to intellectual ditch digging? In part, the answer depends on whether one believes that law itself is valuable. Participants in the law review project assume as a premise that legal materials and events are important enough to justify careful study, analysis, and argument outside the sphere of personal interests, clients, and litigants. This Essay is not the right occasion to debate this underlying faith in the law's importance. But it should at

13. See Richard S. Harnsberger, *Reflections About Law Reviews and American Legal Scholarship*, 76 NEB. L. REV. 681, 686 (1997) (noting the perceived employment benefits of law review membership).

least be clear that many members of the legal community—including lawyers and judges, as well academics and students—have consistently benefited from the proliferation and stability of a general belief that the law matters.

Judges might not appreciate particular kinds of scrutiny that law reviews apply to their opinions and judgments. Likewise some practicing lawyers might prefer that law reviews would offer free answers to a larger number of their clients' urgent questions, ideally without affecting such lawyer's fees. Nevertheless, many lawyers and judges share with the law review project one vital premise: that law is important as a matter of argument and analysis, not simply as a matter of fact and force. Every law review article—no matter how wrongheaded or mistaken—proclaims by its very existence that the discussion of legal questions is a worthwhile endeavor, even for people who might not be directly affected by the results—as most authors, editors, and readers are not.

As with every other beneficial aspect of law reviews, there are other venues and modes of discussion that accomplish similar goals throughout the legal profession. For example, the American Bar Association is one of several organizations that promote legal discussion and analysis in publications that are very different from law reviews.¹⁴ Nevertheless, the systematic level of depth, fussiness, double-checking, and effort that has typified law-review publications for decades also represents an implicit commitment to certain kinds of expertise. Law reviews' extreme commitment to citations, for example, imposes a formal practice of engagement with other materials, even as pressures toward "originality" encourage authors not simply to repeat well-known positions. It would be impossible to claim that the kind of expertise cultivated by law-review publication is categorically superior to other forms. For current purposes, it is enough to say that such expertise is, in certain contexts, "potentially different" and also "potentially valuable."

IV. LAW REVIEWS AND RACIAL DIVERSITY

Law schools and employers have made efforts in recent years toward achieving greater levels of racial inclusion and justice in the legal profession, but important work remains to be done. Not only does lawyering confer significant material benefits relative to some other forms of employment, it has also historically been a route to political power and social status. Insofar as some

14. See, for example, BUSINESS LAW TODAY, <http://businesslawtoday.org/> [perma: <http://perma.cc/7W4T-XEF3>] (last visited Oct. 1, 2018), which is published by the Business Law section of the ABA; LITIGATION NEWS, <http://www.americanbar.org/publications/litigation-news> [perma: <http://perma.cc/3WW8-D4U2>] (last visited Oct. 1, 2018), a magazine published by the ABA Section of Litigation which discusses legal developments for litigators; THE FAMILY ADVOCATE, http://www.americanbar.org/groups/family_law/publications/family_advocate_home.html [perma: <http://perma.cc/AKN4-3TEX>] (last visited Oct. 1, 2018), published by the ABA Family Law Section, which addresses current family law topics and provides how-to articles for practitioners; and THE HEALTH LAWYER, http://www.americanbar.org/groups/health_law/publications/health_lawyer_home.html [perma: <http://perma.cc/NP5X-3PC7>] (last visited Oct. 1, 2018), a bi-monthly magazine published by the ABA Health Law Section which discusses current issues in health law.

elements in the legal community do not wish to perpetuate or solidify systems of racial disparity, their focus on diversity has prompted incremental policy reforms such as targeted outreach, changed workplace conditions, and affirmative action.¹⁵

Likewise, insofar as law reviews offer important credentials and skills to a select number of students to boost their careers, it may be worth considering how those benefits are allocated. Statistical evidence is not conclusive, but law reviews at many schools do not reflect the racial diversity of their incoming law school class, and law reviews at some schools have not come close at all. Although a few law reviews have confronted such issues explicitly and directly, many have not taken observable steps, and the nationwide results do not seem promising.¹⁶

15. See *Diversity at MOFO: A Long-Standing Core Value*, MORRISON & FOERSTER <http://media2.mofo.com/documents/180112-diversity-at-mofo.pdf> [perma: <http://perma.cc/DF2Y-B5SX>] (last visited Oct. 1, 2018) (describing the firm's diversity initiatives); *Diversity: Our Approach*, WHITE & CASE, <http://www.whitecase.com/diversity/our-approach> [perma: <http://perma.cc/J2RV-VVLL>] (last visited Oct. 1, 2018) (explaining the law firm's methods for recruiting and retaining diverse attorneys); *Diversity Education and Outreach*, NW. PRITZKER SCH. L., <http://www.law.northwestern.edu/law-school-life/student-services/diversity/> [perma: <http://perma.cc/HV7U-S3JS>] (last visited Oct. 1, 2018) (discussing the school's Office of Diversity Education and Outreach). In 1968 Yale Law School expanded its affirmative action efforts, enrolling twelve African American students in its first-year class—the most ever. LAURA KALMAN, YALE LAW SCHOOL AND THE SIXTIES: REVOLT AND REVERBERATIONS 109 (2005); see also Tamara Loomis, *Did Affirmative Action Really Hinder Clarence Thomas?*, AM. LAW. ONLINE (Jun. 1, 2008, 12:00 AM), <http://www.law.com/americanlawyer/almID/1202421609495/> [perma: <http://perma.cc/FPM2-4BY4>]; see also Macklin Fleming & Louis Pollak, *The Black Quota at Yale Law School*, PUB. INT., Spring 1970, at 44 (providing an exchange of letters between Macklin, a California Court of Appeal judge, and Pollak, who was the Dean of Yale Law School at the time of the correspondence).

The plan produced successful results. Some of the early African American graduates from this period included: Clarence Thomas (class of 1974), current Supreme Court Justice; Daniel Johnson, Jr. (class of 1973), partner at Morgan, Lewis & Bockius; David R. Jones (class of 1971), president of New York City's Community Service Society and who served on Mayors DiBlasio and Bloomberg's transition teams; Harold Macdougall (class of 1971), Professor of Law at Howard University; Paul B. Jones (class of 1971), who served on the IRS Oversight Board after serving as assistant general counsel of the FCC and in senior management positions at Time Warner Cable; and Patricia Wynn (class of 1971), senior judge on the Superior Court of the District of Columbia. See Loomis, *supra*; Press Release, U.S. Dep't of the Treasury, Opening Statement of Paul B. Jones for the Hearing on Confirmation of His Nomination to the IRS Oversight Board Before the Senate Finance Committee (July 7, 2004), <http://www.treasury.gov/press-center/press-releases/Pages/js1773.aspx> [perma: <http://perma.cc/W9SW-VT3C>]; Patricia A. Wynn, BALLOTOPEDIA, http://ballotpedia.org/Patricia_A._Wynn [perma: <http://perma.cc/MLH4-VVCJ>] (last visited Oct. 1, 2018); David R. Jones, COMMUNITY SERV. SOC'Y, <http://www.cssny.org/staff/entry/david-r.-jones> [perma: <http://perma.cc/4MWT-MYW2>] (last visited Oct. 1, 2018); Harold A. McDougall, HOW. U. SCH. L., <http://law.howard.edu/faculty-staff/harold-mcdougall/> [perma: <http://perma.cc/B5Z7-DXLA>] (last visited Oct. 1, 2018).

16. See, e.g., *Diversity*, CALIF. L. REV., <http://www.californialawreview.org/diversity/> [perma: <http://perma.cc/U7SM-YBBH>] (last visited Oct. 1, 2018); *Diversity*, GEO. L.J., <http://georgetownlawjournal.org/diversity> [perma: <http://perma.cc/6GCT-CYHE>] (last visited Oct. 1, 2018); Michael Clemente & Lynsey Gaudioso, *Release of the Yale Law Journal Full Participation Project*, YALE L.J. (Nov. 9, 2015), <http://www.yalelawjournal.org/news/release-of-the-yale-law-journal-full-participation-project> [perma: <http://perma.cc/E96F-6T4H>].

At least two tentative inferences might be drawn. First, perhaps law review memberships are less diverse than the pool of admitted law students because editorial boards are less willing to take action than the administrators and faculty who operate law schools. Whether that implies that students have less interest in racial diversity, or they have less autonomy to navigate political controversies, one might worry that law reviews' selection process has incrementally acclimatized successful law students to participating in institutions of merit and elitism that are not racially diverse. After graduation, perhaps these aspirational leaders of the legal profession will change their minds, or will find some way to make different choices elsewhere in their careers. To say the least, however, students' law review experience will not have been helpful in considering the difficult and important questions that surround racial inclusion and various forms of hierarchy.

A second possibility is that—although editorial boards may value racial diversity, and could take action to produce it—they do not see law review membership as sufficiently important to justify that kind of structural attention and effort. Racial disparities exist almost everywhere, one might argue, and everyone must choose which struggles or reforms are worth the costs. Maybe no one really cares about law reviews anyway, and if they do, maybe no one should.¹⁷ This Essay has offered a different perspective, which implies an opposite conclusion. Law reviews have performed and continue to perform several valuable functions in the legal community. The ways that such institutions choose their membership is only one part of their important work. Yet for all the controversy and grumbling that has been directed toward law reviews, perhaps their own self-selection process is an issue has been overlooked. It is the people who work within the law review project who ultimately determine whether that enterprise retains, increases, or loses the importance it has had for so long.

17. See *supra* notes 1–1 and accompanying text.