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A Tribute to the Birth of the Journal

Richard J. Simmons†

The *Berkeley Journal of Employment and Labor Law* was born 20 years ago out of a desire to publish a law review that addressed the emerging laws and issues surrounding the employment and labor law field. Once the concept of an employment law journal was perceived, the initial group of Boalt students who embraced the concept faced the parade of challenges that confront those who would undertake the noble responsibility of creating a law review. They soon learned that founding a publication at a state university presented formidable difficulties and obstacles. In addition to the obvious need for leadership and direction, it became critically clear that the Journal could not publish if it lacked any of these three things: (1) student participation, (2) well-written articles, and (3) financial support.

During 1975, the protagonists who inspired one another with thoughts of publishing the first scholarly labor relations publication in the country confronted these obstacles and formed a plan to conquer them. As ambitious as the first editorial board was, it became clear that the Journal could not publish its first issue in the same year that it was formed. As a result, the editorial board forged a foundation for the Journal that would later allow it to publish its first issue in 1976. The members of the first editorial board worked hard to seek financing, obtain office space, enlist the support of the Law School, assemble a National Advisory Board, and begin to seek articles for publication.

As in the formative stages of any publication, a great amount of attention and effort centered on the Journal's identity and the direction that it would take. As one would expect with any cross-section of students from Boalt Hall, competing viewpoints quickly surfaced. While some members desired to advance the interests of organized labor, others were concerned that advocating any one viewpoint over another could detract from the Journal's place as an objective and scholarly publication. Consequently, we adopted a middle path. Our objective was to provide a forum for the meaningful and scholarly analysis of the timely issues that those practicing in the field faced. The Journal thus announced that it was "dedicated to scholarly analysis and comment on issues and developments in the field of industrial

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relations.” In addition to presenting law review articles, the Journal sought to provide materials of practical value to practitioners in the field. In order to accomplish this objective, a decision was made to include an abstracts section in each issue that contained short summaries of labor law articles published throughout the country.

One of the initial challenges that we addressed was determining the name of the Journal. The objective was certainly to adopt a name that would describe the Journal without indicating a pro-labor or pro-management bias. This proved to be no easy task. We elected to call the publication the *Industrial Relations Law Journal*. We are certainly not disappointed that the members of the Journal have since elected to change its name to respond to developments in the field and to better describe its mission. The current name, *The Berkeley Journal of Employment and Labor Law*, effectively describes its scope and purpose and responds, as the Journal should, to changes in the field.

The first edition of the Journal was published in 1976 as the product of the dedication and immense efforts of many individuals. As evidenced by the Journal’s success, none of the obstacles that challenged the founding editorial board proved to be insurmountable. Indeed, they provided focal points around which members could bond. The student support came reluctantly, but it came. We introduced the concept of an “open journal” that allowed students to devote as much time and effort as their schedules and availability permitted. They made these contributions without the benefit of any type of academic credit. Some students were able to devote an enormous amount of time and effort to the Journal, while others could not. However, this is precisely what made the Journal unique and enjoyable for all who elected to participate in its formation. Every person who participated played a critical role in the Journal’s birth, whether he or she simply prepared and edited abstracts of articles, wrote articles, obtained funding, or assumed major responsibilities on the editorial board. At the time, it seemed as though each minute devoted by every student was indispensable to the publication’s success.

The 1975 editorial board members who initially promoted the concept of the Journal and who played a pivotal role in the Journal’s creation before the first issue was published deserve special recognition. As indicated in my original “Editor’s Note,” the publication would never have gone to press without them. They included: Charles Pear, Editor-in-Chief, Ira Kurzban, Articles Editor, Thomas Duffy, Research and Developments Editor, Geoffrey White, Notes and Comments Editor, Hamish Sandison, Executive Editor, Michael Wilcoxon, Administrative Editor, and Edward Washington, Managing Editor.

It is equally clear that the Journal would not have succeeded but for the enormous commitments and contributions of the editorial board members

with whom I shared the first masthead. They included Fred Lonsdale, Managing Editor, Dan Case, Notes and Comments Editor, Christopher Call, Administrative Editor, Gail Saliterman, Executive Editor, John Grether, Articles Editor, Michael Stamp, Abstracts and Reviews Editor, and Dorothy McNoble, Research and Developments Editor. As the Editor-in-Chief, I was extremely fortunate to work with these extraordinarily talented and dedicated individuals and with Professor David Feller, who acted as our faculty advisor. In total, 69 student members made significant contributions to the first issue of the Journal, which was published in the Spring of 1976.

Over the past 20 years, the Journal has responded to many changes and challenges. When the Journal was first published, labor law had been identified chiefly with the special problems of unionization in the private sector and issues associated with union-management relations. A great deal of attention had also been focused on the proliferating civil rights rules and the laws prohibiting employment discrimination based on sex, race, color, religion, national origin, and age. These and other developing areas in the field created a need for a journal devoted exclusively to current employment and labor law topics. The Journal attempted to respond to that need by providing a neutral forum for debate and communication among scholars and practitioners in the field. Its scope was intended to be international as well as domestic, and to extend to comparative labor law and problems of multinational as well as domestic corporations, and public as well as private sector employers. A principal goal remained the desire to provide useful information for practitioners that would make the Journal a valuable research tool in a contemporary labor law practice.

The Journal has continued to respond to the evolution of the employment law field. Since 1976, the number of new laws that have impacted this field has been staggering. The employment discrimination law area has expanded considerably, with major changes that address disability discrimination, age discrimination, sexual harassment, and discrimination based on national origin, ancestry and citizenship. We have also witnessed an explosion of developments in the employee benefits area, including the major impact of the Employee Retirement Income Security Act (ERISA), the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), and a seemingly unending series of legislative reforms. Other developments that have commanded the attention of practitioners in the field have occurred in the areas of occupational health and safety, workplace violence, privacy in the workplace, drug and alcohol testing, surveillance and eavesdropping, workplace inspections, family and medical leaves, workers' compensation, polygraph and lie detector tests, injury and illness prevention, immigration reform, and the wage and hour laws. The Journal has been and must continue to be responsive to such developments if it wishes to preserve its very special place in the field. I have every confidence that it will succeed in

that endeavor and that its continued success will be ensured by new generations of its members.

It is with great pride and honor that I was able to share the Journal's 20th anniversary celebration in Berkeley in April of 1996. Since the inception of the Journal, 20 editorial boards have devoted the same dedication, effort, and commitment to the Journal's success as we did in 1975 and 1976. There are few challenges that a law student can undertake during an academic career, other than surviving law school itself, that are challenging and exhilarating as the creation and formation of a journal. Those of us who lit the torch in the 1970's are extremely grateful for the work that others have done in accepting and passing the torch along. The Journal's success can be measured in many ways, including by its subscribers and readers, and its widespread reputation as law review of both scholarly and practical value. It can also be measured by the quality of the individuals who have appeared on its masthead over the years. Some of the most highly regarded employment law practitioners in the country have appeared on the Journal's masthead and National Advisory Board. I have every confidence that the Journal will continue to flourish and succeed as long as it inspires the interest of student members and firmly embraces the commitment to quality that it has maintained over the years.