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Acknowledgment is
hereby appreciatively made
to the

Columbia Alumni News

for its permission to use again
the articles by Mr. Woolsey
and Mr. Glenn which were
in substance heretofore pub-
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SALUTATORY IN THE FIRST NUMBER.

January, 1901.

"In the publication of the *Columbia Law Review* we feel that we have undertaken a task which may prove to be beyond our powers. Yet we have been encouraged to proceed in the hope that if our efforts are successful, the magazine will be of service to the profession. And in this, our initial number, we wish to indicate the general purpose of our undertaking. The plan was conceived with the idea that there is a field for still another magazine devoted to the discussion of legal problems, and containing besides, a summary of current decisions and discriminating reviews of law books. The only undergraduate work will appear in the digests and criticisms of recent cases. For our other material we shall look entirely to members of the Bar, encouraged by the cordial aid already given.

"For the generous support which we have received from the Bench, the University and the Bar we wish to express our gratitude and to it attribute any measure of success which may come to us. In particular, we wish to thank the editors, past and present, of the *Harvard Law Review,* not only for setting before us a standard to which we some day hope to attain, but also for their kindly suggestions."

—*Vol. I, Columbia Law Review, p. 50.*

THE FOUNDING OF THE REVIEW.

By John M. Woolsey, 1901L,
Secretary of the Review, 1900-01

The idea of founding the *Columbia Law Review* was first suggested by the writer in the spring of the year 1900 and the first number was published in January, 1901. The *Review*, therefore, is the same age as the present century.

The writer had felt during his first two years at the Columbia Law School that, in spite of the remarkable teachers on its faculty and the standing of the school in the public estimation, there was a certain lack of organization and incentive in the student life.

Quite naturally his attention was challenged by the interest and enthusiasm felt by friends who were at Harvard and happened to be connected with the *Harvard Law Review*. He was, however, very loath to stand sponsor for the project of a *Columbia Law Review* unless something happened which would make it seem not inappropriate that he should take the matter up with the Faculty. He feared a *quo warranto* by his classmates.

The excuse needed came in the spring of 1900, when the elections to The Moot, a scholarship society which had not occupied a place of great prominence in the student life, were given out, and five members of the Class of 1901 were added to it. The men selected were Joseph E. Corrigan, Beverley R. Robinson, Herman F. Robinson, Forsyth Wickes, and the writer.

The election to this scholarship society, whether deserved or not, seemed to afford an opportunity of taking up seriously the question of founding a Law Review at Columbia.

After talking the matter over with Corrigan, he and the writer went to see Dean Keener about it. Dean Keener received

the idea with hospitality, but said that he would not allow a Law Review to be published unless it could be assured of a reasonable lifetime before the first publication began. He further required that it should follow closely the lines of the *Harvard Law Review*, and that, if possible, an endeavor should be made to reach the high standard already long maintained by the *Harvard Law Review*.

The matter was then taken up with the other members of The Moot, and they added to their number five additional members of the Class of 1901: Louis Samter Levy, George G. Schreiber, C. Boardman Tyler, Burton W. Wilson and Harold Walker.

Thus was constituted an association of ten men which was subsequently organized into a Law Review Board by the election of Corrigan as Editor in Chief, Woolsey as Secretary, Tyler as Treasurer, and Levy as Business Manager. Walker was selected as Editor in charge of the department of recent decisions.

The organization of the *Columbia Law Review* was made somewhat different to that of the *Harvard Law Review*, as we then understood it.

The reason was that a great deal of work had to be done in order to secure contributions of articles. Hence there was a Secretary elected to deal with this aspect of the new *Review*.

The plan was, as it is now, that the only part of the *Review* to be written by the students of the Law School should be the notes of cases and the recent decisions. Dean Keener required that the leading articles and the book reviews should be written by persons outside of the undergraduate body. He also stated that the *Review* could not commence publication until twenty-four articles, three for each issue of the first volume, were on hand, or enough reasonably assured.

The establishment of the *Review*, therefore, was difficult because the editors were not in a position to pay any contributors for articles, and, consequently, had to get promises from contributors to write articles without compensation for a non-existent periodical.

The difficulty of this situation was extreme and it was subsequently complicated by the fact that some articles were received which the Editors felt they could not use. Consequently, the first *Law Review* Board was in the unique position of being both a beggar and chooser!

The difficult task of rejecting articles which were sent in reply to requests was successfully surmounted in at least one instance by writing to the contributor that we felt his work was "worthy of a larger public than we could give it," a form of editorial refusal which was tactful and did not make the writer an enemy.

Every effort was made to publish a magazine which would be well done in form as well as substance and pains were not spared in any detail. Even the matter of a seal for the *Review* was the subject of great consideration.

The seal finally chosen, which appears on the cover of each issue and on the title page of the bound volumes, was copied in design from the seal of a mediæval law school. We were indebted for the seal to the good offices of one of the professors of the Latin Department. The lettering was done by him and is, I believe, classically correct.

The aim of the *Review* was, if possible, to have articles of practical as well as scientific value and have book reviews which were independent and thorough. The original editors had to depend on outsiders entirely for reviewing, because at that time there did not exist that now fast growing class of ex-editors of the *Law Review,* always glad to exchange a short article for a new book!

Perhaps the first volume of the *Review,* while fairly satisfactory, did not measure up to the standard of its successors. This was due to lack of tradition and to inexperience.

On the other hand, the original Board of Editors did not have some of the difficulties which beset later Boards. In writing notes or in reviewing recent cases we did not have to look back through earlier numbers of the *Review* to see what expression of opinion the *Review* had given on similar questions—

there was no *stare decisis* to be maintained. To be new gave us a great many disadvantages on the side of getting articles promised and delivered and in getting book reviews written, but it had wonderful advantages so far as the undergraduate work was concerned.

I have often reflected how many courts would have envied our virgin freedom!

It is pleasant to realize that the foundations of the *Law Review* were, apparently, well laid, and to see that the standard has improved from year to year and that the *Review* has now come, I believe, to be generally recognized as one of the two or three important legal magazines in the United States. That it has kept pace with changing conditions is witnessed by the Current Legislation Department which helps in its small way to illumine a statute-ridden world.

I notice from reading my report as secretary, submitted at the last meeting of the first Editorial Board, in the spring of 1901, that up to then we had received nineteen articles, had published fifteen and returned three; that seven articles were due during the spring of that year and that there were twelve articles promised for the following year. Thus the requirements laid down by Dean Keener for sufficient assurances to give three articles for each of the eight numbers of the *Review* had been achieved.

It is interesting to note that each of the members of the Law Faculty promised an article during each of the first three years of the *Review* but that most of them failed to fulfill their undertakings, even in part. Doubtless they felt relieved of their obligations when they found that enough outside articles were obtainable to keep the project going!

There were many points to be covered by the organizers of a *Review* of this kind, and I remember that a great deal of pains was taken in drawing up the by-laws under which the editors were to operate because it was thought desirable that the kind of type used and the methods of citing cases should from the beginning be standardized so that the appearance of

the Review should always be the same. The first Board learns with pride that practically all its rules are still in force.

If, as I believe to be the case, the *Law Review* is generally regarded as a real contribution to periodical American legal literature, it has justified its twenty-five years' career and the purpose of the founders has been achieved. It rests with the graduates of the school to make its future success possible.

The Law School needs the *Law Review* in order to express itself. Without the *Review* the Law School would necessarily be somewhat inarticulate.

For a great Law School to be without a law periodical is really crippling the School, because when there is not such a periodical there is no forum in which the Faculty and graduates of the Law School feel that they have an opportunity of discussing questions which may interest them; and the students have not the incentive of scholarship competition which leads to election to the *Review,* or the excellent training for brief writing which is afforded by writing Editorial Comment and notes of recent cases.

It is gratifying for the supporters of the *Review* to observe that in the last decade, the Courts, both State and Federal, have begun to refer more and more frequently to the *Review* and other similar periodicals as sources of authority, and that this reference is not only to contributed articles but, perhaps, more frequently to the Editorial Comment. As the Bench does, so does a wise Bar with the natural result that the influence of a review like this spreads into places undreamed of at its inception.

The first year was a year full of anxieties and perplexities. The *Review* was living from hand to mouth both in regard to its finances and its contributions. Our troubles were many.

But, although the first Board of Editors may have had many hard problems to overcome, Virgil was right when he said:

"Forsan et haec olim meminisse juvabit."

—Aeneid I, 203.

TWENTY-FIVE YEARS OF THE REVIEW

By Garrard Glenn, 1903L.
Editor, 1902-03

I was not among those present at the founding of the *Review*, but I am truly an old subscriber, for, being then in my first year at the Law School, I was promptly lined up for a subscription. Thus I received the first number and read it from cover to cover, not omitting advertisements.

I have just as carefully read the *Review* ever since, but possibly I read the advertisements more critically than I once did, because my interest in the welfare of the *Review* keeps me always in the hope that the advertisements will increase in space and thus add to the revenue.

A span of twenty-five years is certain to bestride changes, and the advertisements show it. In its early days, as I recollect, "The Campus," a tavern housed in a shanty just north of the University's bounds, and noted for its dirt and its ale, had its modest card in the advertising columns; and I wish it could lawfully be there today, because I hold with Chesterton that cafeterias, while useful things, do not stimulate cheerful thoughts. At the old *Review* smokers and dinners we cultivated law learning on a little real beer, if I may pervert what the early editors of the *Edinburgh Review* said of their efforts; and I claim the right to wonder whether the Boards of recent years will ever look back on their cider affairs in quite the same mood of recollection. After all, the part that dietetics can play in the progress of civilization has yet to be estimated. Therefore just as Carlyle remarked after reading Froude's rhapsodic introduction to his History of England, that Frederick the Great was raised on beer-sops and Napoleon subsisted mainly on soup, wherefore meat-eating possibly might not have been the chief

agency in England's greatness, I refer any who may claim greater days for our Bar as the result of Mr. Volstead having lived, to the dessert habits of Lord Eldon and the customs of Marshall's time.

My apology for approaching the record of the *Review* in this fashion is that the personal side of its history—the student side—is part of a certain balance which is characteristic of this institution. Although to serve the purposes to which it was dedicated personalities have always been excluded from its pages (announcements as to changes in Law School personnel, and, of late, brief records of contributors, being the extent of the departures from this rule), it must be remembered that the *Review* is first and last a product of the Law School. It started with a student board of editors, and it always must have a board drawn from its student body.

That is why the Great War stopped its publication. The Faculty could have taken over the task of editing the *Review* until the students returned from national service, but if that had happened there would no longer have been a *Review*. It was better, therefore, to preserve, even at the cost of stopping publication, the balance between the contribution of the experienced observer and the editorial notes of the student.

To that end the articles have always been contributed by members of the profession. In selection they embrace the range which goes from the active practitioner to the teacher in law; and (with but one exception, which personally I regret for the sake of principle) no editor has ever had a hand in this regard. But the editorial work is done exclusively by the Board; it is aided at times by suggestions from the Faculty or elder brethren of the Bar, but always, in last analysis, the finished product is the output of the Board.

Thus in the nature of things the editorial board has acquired a character of its own and has become an institution of the Law School. The records of its meetings and the reports of its executives have all been kept, and they furnish interesting reading in themselves. But, more than that, the Board has gathered

unto itself, as all such institutions in English-speaking countries inevitably do, its own treasury of tradition.

Always the work has been hard and the requirements exacting, because the standard set at an early date it has been a point of pride to maintain. And on the whole it has been well maintained, not only in the performance of getting out the *Review*, but in the equally important undertaking of choosing the successors of the members who annually graduate.

In spite of work, however, there has been place for other things. Many friendships have been formed to last through the years succeeding; and the brighter things of life have never been wholly disregarded, it being recognized that the most serious of conferences occasionally can be helped out by good humor.

And so, taking it by and large, this self-perpetuating body seems to the present observer to have well fulfilled the purposes of its being. Through its ranks many men have passed to find distinction, most of them at the Bar, but some in finance, others in teaching, and still others in public life. Names cannot be mentioned, but the men are there just the same, despite the fact that the oldest of them have not yet passed middle life. Nor are they all to be found in New York; for the Law School is essentially not local in its method or its population, and therefore the *Law Review* Board is represented by its ex-editors in the South and in the West as well as in the larger cities of the East.

The *Review* itself is just as catholic in character. Dedicated as it was to study the origins and mirror the development of the law, its ideal has been to confine itself to no one feature of that complex.

The constant reader can appreciate this, I believe, without going behind the scenes, but the records left behind by the succession of departed groups of editors put the idea in even better relief. Through all the reports of meetings of the board, and the exhortations of departing executives, runs the thread of an anxiety never to let the magazine get parochial and always to make its appeal as broad as could be.

And so we find contributed articles touching here a problem of constitutional law and there a point of international right, but relieved by discussions of that homely but lovable thing, the common law—the common law in the sharp lights of controversial points, the common law in the softer tones of its history. Many of these articles, of course, are of transitory interest, and passing years bear away their appeal (who now would read, with flushed interest of the Insular Cases?) but in great part the articles are of permanent value. A few, indeed, almost belong to literature; and of such I particularly recall Sir Frederick Pollock's "Genius of the Common Law," which the then Secretary of the Board officially styled (in the Board's private records) the love story of the common law. If, reader, you have not a complete set of the *Review,* get Sir Frederick's "Genius"—for it has been published in book form—and you will appreciate what the Secretary meant. But there are many other articles, by American writers as well as by Englishmen like Pollock and Holdsworth, and Canadians like Ewart, of equal merit and of as lasting quality. Of these writers of our own country I will not speak; the faithful reader of the *Review* knows them, and the new subscriber not only will meet those of the older group who are still with us, but he will become acquainted as well with younger writers who are taking the place of the departed.

Following the contributed articles and ahead of the book reviews in each issue, the reader will find the editorial notes on recent decisions. And here again I find in the records of the board the same evidence of an ambition that is in great measure achieved in the actual outcome. The desire has been to select cases of the greatest value by reason of the points presented or suggested, points illustrating growth here, and development there, in the law which governs us.

How far that intention has been realized can safely be left to a practical test. The lawyer or the student engaged in research will find that no better start on a fundamental question can be made than by going to the back volumes of the *Review.*

I do not mean to say that the labor of twenty five years of high purpose has resulted in anything cheap. I would not extol the *Review* as a "corpus juris" or a digest, or anything of that sort; but it remains true that the *Review* has brought practical benefit, and it little matters whether that was a principal object or an obiter result.

Of recent years another editorial department has been added in the shape of notes on current legislation. Here again a process of selection has been necessary, for, if possible, even more care has to be observed in this department than in the selection of decisions for review. After all, courts have certain work to do, and, speaking generally, they do it with as few vagaries as may be; but American legislatures have too little to do, and most of them meet too often for the good of their commonwealths. Consequently the observer of current legislation must learn to discard a large mass of waste if he is to select anything worth while. But the work justifies itself, for current legislation is a field of interest practical as well as theoretical. In this new departure the work of the *Review* shows steady increase in value.

I am quite aware that what I have written hardly does more than suggest the topic assigned me, and that interesting features of the growth of the *Columbia Law Review* have not been put forward with the treatment which their interest and importance deserve. But after all when you are fond of a person, an institution or a place, you can speak only in terms of impression. And, as I have set forth above, the *Review,* in its present as in its history, gives me always the feeling that it well maintains the valuable balance between the things of present interest and those of permanent interest, just as, in the minor key, the recollections of an ex-editor vary between work and the lighter side of intercourse.

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COLLEGES REPRESENTED ON THE EDITORIAL BOARDS

The graduates of a large number of Colleges are represented among the editors of the *Review*. Chief among these are Columbia with 95; C. C. N. Y., 50; Yale, 49; Harvard, 34; Princeton, 23; Amherst, 18; Williams, 14; University of Georgia, 9; Cornell, 7; Hamilton, 7, and Leland Stanford, 5. Other colleges and universities represented are Alabama, Allegheny, Baylor, Bowdoin, Brown, California, Cincinnati, Colgate, Colorado, Dartmouth, Denison, Emory, Fordham, Georgetown, Illinois, Iowa, Indiana, Johns Hopkins, Kansas, Kentucky, Kenyon, Knox, Lafayette, McGill, Marietta, Marshall, Michigan, Minnesota, Missouri, Nebraska, New York University, Notre Dame, Oberlin, Ohio Wesleyan, Pomona, Reed, Rensselaer Poly., Richmond, Rochester, Rutgers, St. Francis Xavier, Sacred Heart, Seton Hall, Simpson, Southern Methodist, Syracuse, Texas, Trinity, Tufts, Tulane, Union, Utah, University of the South, Vanderbilt, Vermont, Washington, Wesleyan, Whitman, Whitworth and Wyoming.