

SEVENTY-FIVE YEARS OF THE UNIVERSITY OF COLORADO LAW REVIEW

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I was delighted when the Board of Editors of the *Review* invited me to participate in the celebration of its seventy-fifth year of publication, by writing a summary of the history of the *Review* and commenting on it. I am qualified for this task primarily by longevity, since I have been associated with the publication in one way or another for fifty-four years, or more than two-thirds of its history.¹ It was pleasant to discover that longevity qualifies one for more than Medicare.

When the invitation was issued, I remembered that several earlier issues of the *Review* had included historical summaries prepared by the Board of Editors, and I immediately looked to these for guidance and assistance. Two of these have appeared, celebrating the first fifty and the first sixty years of the *Review*.² Both are excellent pieces, well written and full of relevant information, and I recommend them highly to anyone interested in this history. Unfortunately for my aspirations, together they have already captured much of what I would like to say about the *Review*. In what follows, I will try not to repeat too much of their content, but some overlap is simply unavoidable.

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1. For three years as a student, beginning in 1950, for six years as a subscriber after graduation, for thirty-eight years as a member of the law faculty at Colorado, including five years as dean, and as an interested observer since my retirement in 1997. For the past twenty-five years I have had the pleasure of sponsoring annual awards for writing and leadership of members of the Board of Editors.

2. Board of Editors, *Beginning the Second Fifty Years: A Glance at the First Fifty*, 51 U. COLO. L. REV. 5 (1979); Board of Editors, *The University of Colorado Law Review at 60: Changes with Colorado, the West, and the World*, 60 U. COLO. L. REV. 1 (1989); see also Editorial Statement, *Upon the Seventy-Fifth Volume of the University of Colorado Law Review*, 75 U. COLO. L. REV. n.p. (2004); Gordon L. Allott, *Beginning the Second Fifty Years: A Tribute*, *University of Colorado Law Review at Age 50*, 51 U. COLO. L. REV. 1 (1979).

Because of my long association, not only with the *Review* but also with the University of Colorado School of Law, it occurred to me that additional insights I might bring to this overview are some observations about the historical linkage between the two.³ I will also try to focus attention on the past fifteen years, since this is the period not covered by the earlier histories.

The *University of Colorado Law Review* published its first issue in December, 1928, under the title *Rocky Mountain Law Review*. Volume One Number One was notable for several reasons. In addition to the student notes of current decisions usually found in law reviews, the issue included two leading articles of local interest (a Manual of Colorado Procedure for Corporate Organization,⁴ and a discussion of the Legal Phases of Cession in Rocky Mountain National Park⁵) and one of much more esoteric character: A Contrast in the Law Careers of Bacon and Coke.⁶ This combination set an admirable standard for editorial policy which was preserved for many years, namely, a balance between practical and theoretical legal discussions. A second notable feature was that one of the leading articles, the piece on Rocky Mountain National Park, was written by a senior law student⁷ rather than by a professor, judge, or practicing lawyer. Acceptance of the work of student authors for leading articles is extremely rare in law reviews, but in its first year the *Review* published several of these.⁸ One may speculate that the fledgling publication had some diffi-

3. For a helpful view of the early years of the Law School see Adolph Grundman, *Legal Education in Colorado: The Formative Years*, 54 U. COLO. L. REV. 555 (1983).

4. Cecil Mead Draper, Clifford C. Keith & Edwin F. Keith, *Corporate Organization: A Manual of Colorado Procedure*, 1 ROCKY MTN. L. REV. 3 (1928).

5. William Sherman Bell, *The Legal Phases of Cession of Rocky Mountain National Park*, 1 ROCKY MTN. L. REV. 35 (1928).

6. James Grafton Rogers, *Bacon and Coke: A Contrast in the Law Career*, 1 ROCKY MTN. L. REV. 30 (1929).

7. Bell, *supra* note 5, at 35. Bell, who was then on the Board of Editors, graduated in 1929.

8. See Harry E. Howlett, *Creating a Diversity of Citizenship to Obtain Federal Jurisdiction*, 1 ROCKY MTN. L. REV. 108 (1929); Moses Lasky, *From Prior Appropriation to Economic Distribution of Water by the State—Via Irrigation Administration*, 1 ROCKY MTN. L. REV. 161 (1929). A concluding section of Lasky's article was published in 2 ROCKY MTN. L. REV. 35 (1929), after his graduation. Lasky, of course, went on to a highly successful career in practice in San Francisco, and became one of the Law School's major benefactors. In addition to establishing the faculty library when the new building addition opened in 1974, Lasky endowed a professorship in his name which is now held by Professor Charles Wilkinson.

culty in attracting established authors in that first year.⁹ In any event the Board abandoned the practice in 1929, and thereafter apparently made only one exception.¹⁰

The inaugural issue also included an editorial which noted that there were already seventy-three law reviews covering legal problems of national and international scope, and suggested that the “usefulness (of this review) will be enhanced by a policy of confining its investigations to the Rocky Mountain states of Arizona, Colorado, Idaho, Montana, New Mexico, Oklahoma, Utah and Wyoming.”¹¹ This was coupled with the caveat that “[n]o hesitation will be shown, however, when it seems wise to go outside of these jurisdictions for comparative material or matters of national importance.”¹² This editorial was probably written by Professor (then Instructor) Laurance Wheeler DeMuth, who was the initial faculty advisor of the *Review* and a primary moving force in the establishment of a law review for the Law School.¹³

The name selected for the publication, *Rocky Mountain Law Review*, clearly reflected this early regional limitation of the proposed scope of the *Review*. It also reflected an important reality in the early life of the Law School. At that time there was no law school in New Mexico, and the law schools in the other Rocky Mountain states were considerably younger than the Colorado Law School.¹⁴ The consequence was that students from these other states frequently studied law in

9. It is interesting to note that the original table of contents for all four issues of Volume 1 “earnestly solicited” articles. After Volume 1, “earnestly” was dropped.

10. Courtland H. Peterson, *Unemployment Insurance in Colorado—Eligibility and Disqualification*, 25 ROCKY MTN. L. REV. 180 (1953). I had always supposed that this exception was made because of the excellence of the piece, but I recently re-read it and have concluded there must have been some other reason.

11. *Editorial*, 1 ROCKY MTN. L. REV. 47 (1929).

12. *Id.*

13. *Id.* Although the editorial does not show any attribution of authorship, the masthead of the inaugural volume shows only seven student members of the Board of Editors, a business manager but no Editor in Chief, and the name of the faculty adviser. Although DeMuth was clearly the primary faculty member involved with the *Review* in its early years, and served as faculty adviser through the first eleven volumes, the Fifty-Year Historical Survey says that the *Review* was the brainchild of then-Dean James Grafton Rogers. Gordon L. Allott, *Beginning the Second Fifty Years: A Tribute*, 51 U. COLO. L. REV. 1, 7 (1979).

14. The Colorado Law School was founded in 1892. Law schools were founded in the other states as follows: Oklahoma and Idaho (1909), Montana (1911), Utah (1913), Arizona (1919), Wyoming (1920), New Mexico (1947). Source: Information obtained by the author via e-mail to the dean's offices of the schools in question, not only as to founding dates but also dates that law reviews in those schools were established.

Boulder,¹⁵ and this early geographical orientation of both the Law School and the *Review* demonstrates another way in which the two have been intertwined over the years. Subsequent editorials in Volume One invited articles by members of the bar of all the states in the region. These editorials suggested that the states of this region were likely to have similar legal developments, notwithstanding diverse sources of their laws, and since none of the other law schools in the region had law reviews, that this publication might serve the needs of all these states.¹⁶

Law schools are generally regarded as either 'local' or 'national.' Local law schools are traditionally those whose central purpose is understood to be training students to pass the bar examination in the state where they are located.¹⁷ Law reviews in such schools, much like the bar journals published by state bar associations, have focused almost exclusively on treatment of legal problems in that state. National law schools, on the other hand, have been those which purport to qualify graduates to take the bar in any state, and in which neither teachers nor courses are primarily centered on an exposition of local law. Law reviews in national schools tend to follow a similar pattern, some of them eschewing the publication of local law subjects altogether. In the modern era of intense competition between law schools for qualified students, of course, virtually all schools claim to be national schools, whether they deserve that title or not. It may be that a similar claim is made by most law reviews. Both the Law School and the *Review* have assuredly passed the milestone of national character.

In this connection another parallel between law reviews and their parent schools surfaces, at least when the law school in question is part of a publicly supported state institution like the University of Colorado. Just as law faculties in these institutions debate their responsibilities for the admission of resident students, boards of editors in such schools face perplexing decisions about the desirability of publishing material which

15. A history of the University of Colorado notes that enrollment in the Law School reached seventy in its tenth year (1901), and that many students were from other states. WILLIAM E. DAVIS, *GLORY COLORADO! A HISTORY OF THE UNIVERSITY OF COLORADO 1856-1963*, 87 (1965).

16. *Editorial*, 1 ROCKY MTN. L. REV. 134, 135 (1929); *Editorial*, 1 ROCKY MTN. L. REV. 271, 272 (1929).

17. Historically these have included many schools accredited by the state but not by the American Bar Association or the Association of American Law Schools, and most 'night' or 'part-time' law schools.

will be useful to or at least of special interest to members of the local bar. I have not attempted any statistical analysis of our *Review's* editorial policies over the years, but I can at least report a strong impression from scanning the tables of contents of these past seventy-four volumes. The number of leading articles dealing with Colorado law as such has gradually declined, but the content of student work—both notes and comments—has continued to reflect local law issues. Whether this outcome was the result of conscious decision-making by boards of editors over the years is impossible to document, but it seems a clearly defensible compromise. Moreover, the decision in recent years to publish one issue per year as a “Natural Resources Issue” has two interesting aspects. First, it both exploits and reinforces the national reputation the Law School has built over the past twenty years as a pre-eminent center for the study of natural resources law. Second, when viewed in the context of the whole history of the *Review* the devotion of an issue per year to this subject has a distinct ‘*déjà vu* all over again’ flavor. Although much of natural resources law has a federal base, the subject is probably of greater interest to lawyers practicing in the Rocky Mountain region than to any other group of lawyers in the country. In that sense the *Review* has returned in part to its roots of regional orientation.

At what point, and why, did the Law School and the *Review* become ‘national?’ The process was gradual rather than cataclysmic,¹⁸ but several factors can be identified. First, involvement in legal education at the national level is a precondition to national status, and the Colorado Law School qualified from early days. Not only was it older than the other schools in this region, but in addition it was a charter member of the Association of American Law Schools, founded in 1901. In 1921 the Law School was honored by a report of the President of the Carnegie Foundation for the Advancement of Teaching Law, classifying it as “among those of highest standing in the United States.”¹⁹ Colorado was also among the schools first accredited by the American Bar Association when the ABA began issuing such approvals in 1923. In 1942 it became one of the law

18. One historian attributes the shift to the ‘national’ aspirations of Deans James Grafton Rogers and Robert L. Stearns, contrasting their philosophies with the ‘local’ views of the faculty at the University of Denver College of Law. Adolph Grundman, *Legal Education in Colorado: The Formative Years*, 54 U. COLO. L. REV. 555, 562–66 (1983).

19. See DAVIS, *supra* note 15, at 301.

schools accredited by the Order of the Coif, the most prestigious of the national honorary law societies.²⁰

A second factor was the ability of the Law School to attract outstanding law teachers from other schools to its summer programs. For example, Erwin Griswold, then a young professor at Harvard and later dean of the Harvard Law School for over twenty years, taught at Colorado for several summers during the 1930s.²¹ As time went on this list of outstanding national visiting teachers and scholars grew by leaps and bounds, especially after World War II.²² No doubt the salubrious climate of Boulder and the warm welcome extended by the law faculty contributed to this roster of famous law teachers. It was also aided by the establishment and funding of a 'named' position, the Charles Inglis Thompson professorship, which for many years was aimed specifically at the attraction of outstanding visitors.²³ The list of professors brought to the Law School for a term under this professorship reads like a twentieth-century Who's Who of legal scholars.²⁴ To make the point that these

20. In such membership it was preceded only by Oklahoma (1925). The other schools were much later: Utah (1953), Arizona (1969), New Mexico (1981), Arizona State and BYU (1984), and Wyoming (1985). Two schools, Montana and Idaho, have yet to achieve this status. Even to this day only about half of American law schools are so accredited. The history of the Order of the Coif, as well as a list of members and the dates of their admission, can be found at *The Order of the Coif*, <http://www.orderofthecoif.org/> (last visited Apr. 6, 2004).

21. Griswold recalled this experience with pleasure in his tribute to Justice Byron White. Erwin N. Griswold, *Reflections on Justice White*, 58 U. COLO. L. REV. 339 (1987). A personal anecdote: I was teaching as a visitor at the University of Texas Law School in 1974 when I was offered the deanship at Colorado. I encountered Griswold at a meeting in Austin at that time and discussed it with him. He urged me to accept, with this comment: "Colorado was well on its way to becoming a national school even back in the thirties, when I taught there."

22. See *infra* notes 24, 28.

23. The professorship was established in 1913 through a gift by the widow of Charles Inglis Thomson, Olivia Thomson, in his memory. Her husband had been a distinguished judge on the Colorado Court of Appeals from 1893 until the Court was abolished in 1905. The title was held initially by Dean Fleming, until his death in 1927. Thereafter, until World War II, the title was held by Professor Fred Folsom, who both taught law and (had earlier) coached the varsity football team. (The stadium was named after him, as well as the Boulder street which used to be 26th Street). After Folsom's death in 1944 Dean King proposed to the Board of Regents that this position be used to fund the temporary appointment of famous visitors, especially in the summer session, and the Regents adopted a resolution approving this use. For many years this practice was followed. The title was later conferred on Professor Richard Delgado, and is now held by Professor (former Dean) Hal Bruff.

24. Including Hersch Lauterpacht (Trinity College, Cambridge); Elliott Cheatham* (Columbia); Zechariah Chaffee (Harvard); Austin Scott* (Harvard); Edmund Morgan* (Harvard); George Osborne* (Stanford); Lewis Simes* (Michigan); Kenneth Davis* (Minnesota); Julius Stone* (Sydney, Harvard); James

eminent men contributed to the reputation of the *Review* as well as that of the Law School, I have marked with an asterisk each scholar in the list who later contributed an article to the *Review*.

The end of World War II brought not only a hugely expanded enrollment to the school, in the form of people returning to the university on the GI Bill, but also a new wave of outstanding young law teachers, including Clyde Martz, Austin Scott, Jr., Albert Menard, William Berg, Don Sears, Douglas Parker, and Homer Clark.²⁵ Dean Edward King and Professor DeMuth returned from military service to rejoin the faculty.²⁶ Although some of the older members of the faculty had done some writing in the pre-war period, the new additions brought new enthusiasm for scholarship both to the school and the *Review*. Martz published the first casebook in the United States on the law of natural resources. Sears and Fred Storke collaborated on a book on property security law in Colorado. Scott wrote extensively for many law reviews in the criminal law area. Clark began the work which ultimately led to his casebook and his hornbook on the law of domestic relations; the latter became the standard work on that subject in this country. Parker undertook the revision of a multi-volume work on the law of wills. Ed King published a book on the law of future interests in Colorado.

Moore (Yale); Alexander Frey (Pennsylvania); Albert Ehrenzweig* (California-Berkeley); Edward Levi (Chicago—later U.S. Attorney General); Richard Powell (Columbia); Howard Williams* (Stanford); Paul Freund (Harvard); Glanville Williams (Oxford); Boris Bittker (Yale); Clarence Morris (Pennsylvania); Grant Gilmore (Yale, Chicago); Louis Jaffee (Harvard); Roger Traynor (Chief Justice, California Supreme Court); Norval Morris* (Chicago); Herbert Wechsler (Columbia); Jefferson Fordham (Pennsylvania, Utah); David Daube (California-Berkeley); Paul Mishkin (California-Berkeley); Rudolf Schesinger (Cornell, Hastings); S.F.C. Milsom (Cambridge); Telford Taylor (Yeshiva); Stefan Riesenfeld (California-Berkeley); Edward Cleary (Illinois, Arizona State); John Dawson (Harvard); Richard Maxwell (UCLA, Duke); Archibald Cox (Harvard, U.S. Solicitor General); Alfred Conard* (Michigan); Willard Pedrick (Arizona State); Victor Rosenblum (Northwestern); and Robert Drinan, Jr. (Georgetown).

25. Berg resigned in 1951 to become a personal assistant to Senator Wayne Morse, of Oregon. The others all remained on the faculty until the 1960s, or beyond. Martz served as the first Judicial Administrator for the state of Colorado in 1959–60, and after his return to the faculty resigned to join a Denver law firm. Scott died in 1966; Menard resigned several years later to accept the deanship at Idaho; Sears served as Dean from 1968 to 1973; both Sears and Clark taught until their retirements.

26. The other prior members of the faculty, Frederick Storke, William DeSouchet, and Benjamin Galland remained, having given the School of Law continuity during the war years.

Another important factor which contributed to the growing national stature of the both the school and the *Review* was the Coen Lecture Series, established in 1955 to permit the school to bring outstanding speakers each year.²⁷ The understanding from the outset was that the *Review* would be given the opportunity to publish the lecture, if the Editors found it to be of sufficient interest, and many outstanding articles over the years have come from that source. The eminence of these authors has made a major contribution to the reputation of the *Review* as well as that of the Law School.²⁸

The influx of students attending under the GI Bill affected both the *Review* and the school in important ways. As service veterans these students were not only older and more mature, but brought great seriousness of purpose to both enterprises. Many were married, and had children. Even their sheer numbers were important, putting pressure on class sizes for the School, but providing new resources of manpower for the Board of Editors.

A sense of the change of size both in the school and in the people working on the *Review* can be obtained by examining the annual catalogues for the Law School,²⁹ on one hand, and by comparing the mastheads of the various issues of the *Review*, on the other. The first inquiry reveals that total enrollment in the Law School in the 1930s, during the early life of

27. Like the Thomson Professorship, this series was established in 1955 through the gift of the widow of an outstanding lawyer, John R. Coen, in his memory.

28. Some of the notable Coen Lecturers: Guido Calabrese (Yale), Richard Posner (Chicago), Leonard Boudin (practioner, New York bar), William O. Douglas (U.S. Supreme Court), Eugene Rostow (Dean at Yale), Soia Mentschikoff (Chicago, Dean at Miami), Gordon Dean (Washington D.C), Julius Stone (Sydney), Geoffrey Hazard (Yale), John Frank (Arizona bar), Harry Edwards (D.C. Circuit Court), Frederick Juenger (California-Davis), John Coffee (Columbia), Ruth Bader Ginsburg (U.S. Supreme Court); Martha Minow (Harvard), Ernst von Caemmerer (Freiburg), Walter Schaefer (Supreme Court of Illinois), Irving Younger (Syracuse), Grant Gilmore (Yale), Konrad Zweigert (Hamburg), Rex Lee (BYU, Assistant U.S. Attorney General), Charles Black (Yale), Susan Rose-Ackerman (Yale), Antonin Scalia (Chicago, U.S. Supreme Court), Richard Epstein (Dean at Chicago), Joseph Sax (Michigan, Berkeley), Akhil Amar (Yale), Peter Strauss (Columbia); and Cherif Bassiouni (DePaul). Most of the papers delivered by these lecturers were published in the *Review*. The 2004 lecture was given by Professor Cass Sunstein (Chicago), but the scheduling of the lecture made it impossible to publish in Volume 75.

29. University of Colorado School of Law Catalogues (published annually). Now found in the Rare Books Room of the Fleming Law Library at the University of Colorado School of Law. One of the interesting features of the pre-World War II catalogues is that they listed the names and addresses of all the students enrolled in the law school.

the *Review*, averaged about 143 students, ranging from 137 in 1928 to 176 ten years later. The visit to the mastheads is even more dramatic because, during those early years, the total number of students working on the publication was only about eight or nine. Those numbers must be mind-boggling to current members of the Board, in terms of the amount of work they must have put into the *Review*. Admittedly, volumes were smaller in those days—only about 300 pages to begin with, and growing to about 400 by 1940. But less than ten people were producing four issues each year, of quite high quality, and the comparison with more recent numbers is striking. Volumes before 1990 rarely exceeded a thousand pages and members of the board and staff usually exceeded forty-five. In Volume 74, with a total of 1,636 pages, there were fifty-eight people involved in the production.³⁰ Remember, too, that in the early days there was no paid secretary or staff, there was no such thing as a computer—few students even had typewriters—and the space assigned to the production of the *Review* was one small office and a closet-sized storeroom in the basement of the old Guggenheim Law Building. I hope and believe that the quality of the current product is even higher than in the early days, but one must still be impressed by the work ethic and dedication of the pioneers.

The next major event in the life of the *Review* was its change in name from *Rocky Mountain Law Review* to *University of Colorado Law Review* in 1962. Dennis Hynes,³¹ who was Editor-in-Chief for 1959–60, tells me that he suggested the name change before his departure. His concern, and that which finally led to the change, was that most of the other law schools in the region had by then established law reviews, and that a nation of readers no longer associated the *Rocky Mountain Law Review* with the University of Colorado. The editorial explaining the change adopted this reasoning, in addition suggesting that most readers east of the Mississippi thought that the Rocky Mountains were in Nevada, and that they supposed the *Review* was a joint enterprise of western law schools.³²

30. See Scott R. Peppet, *On the Value of the University of Colorado Law Review*, 75 U. COLO. L. REV. n.p. (2004) (describing the current state of the *Review* as well as the amount of effort involved in publishing the *Review*).

31. Dennis Hynes graduated in 1960. After practice in New York City, he was appointed to the faculty of the Law School in 1964, and retired last year after a distinguished career of both teaching and scholarship.

32. *Editorial*, 35 U. COLO. L. REV. ii (1963). For several years (Volumes 31 through 35) the masthead read “The University of Colorado Rocky Mountain Law

At about this same time, in the early 1960s, legal education both in Colorado and across the nation was on the threshold of enormous change. From 1925 until 1960 the total number of law students enrolled in schools in the United States (and in Colorado) was fairly stable.³³ There was, of course, a dip in the numbers during World War II because of military service,³⁴ but that was more than compensated for by the bulge in enrollments after the war from students returning under the GI Bill. In Colorado the total enrollment returned in the mid-1950s to only slightly larger than pre-war levels.³⁵ Suddenly, however, legal education became the graduate education of choice, not only in Colorado but across the nation. From 1960 to 1963 applications for admission doubled, and rapid increases continued for the next decade. Admissions committees, accustomed to admitting more students than were actually expected to enroll, were caught by surprise. Instead of the normal percentage of 'no shows,' much larger numbers of students appeared. At Colorado, if my somewhat hazy memory serves correctly, in the first year of the 'bulge' our admissions committee admitted about 120 applicants, expecting about sixty-five to enroll. About eighty-five appeared, which put an enormous strain on class sizes in the first year. The classrooms in the (then new) Fleming Law Building had been built for a maximum of about sixty to sixty-five students, and the only room which would hold the whole entering class was the courtroom. When the same experience occurred the following year (we were slow learners!) almost 100 students enrolled. Sectioning of classes became imperative—something we had never done before. But admissions pressures continued to grow year after

Review" but that recognition of course was not carried over to citations to the *Review*.

33. The national figure of total law student enrollment for this period averaged about 25,000. Source: A study of American Bar Association annual statistical indices, done by the author while he was Dean, for a report to the Board of Regents.

34. During WWII, the *Review* switched to a semi-annual publication and combined issues 1-2 & 3-4 due to the fact that "a large percentage of the students from the University of Colorado School of Law are now serving in the armed forces of the United States." *Editorial Note*, 15 ROCKY MOUNTAIN L. REV. n.p. (Issue 1 & 2, December 1942). Each of the two issues had a separate Board of Editors. See Appendix, *infra*.

35. There were seventy-five students enrolled in the first-year class in 1950, but attrition reduced that number to about forty-five by the time the class graduated. From 1954 to 1957 enrollment in the first year at the Law School averaged about sixty-four, and with some attrition that meant the total enrollment in the school was only about 150.

year. Total enrollment (all three classes) in the Law School increased from 197 in 1963 to 327 in 1968, and to 467 in 1971.

This greatly increased demand for legal education was, of course, happening all over the United States. Many schools, especially private institutions heavily dependent on tuition for their resources, seized the opportunity to expand their student bodies in a way fully responsive to the numbers of applications, often with a 'quality-be-damned' attitude that doubled and tripled their faculty-student ratio and put enormous strain on their libraries and physical facilities. In 1971 the faculty at our Law School, after long debate, decided to call a halt to expansion, and to preserve the quality of the educational experience at a relatively small law school by limiting enrollment to 500 or less. Any further expansion, we argued, should occur only *after* resources had been made available to meet the demand. That limitation, of course, has remained in effect ever since, and the quality of the education available here has been the beneficiary of that policy.³⁶

One notable feature of expanded enrollment was a dramatic increase in the number of women applying for admission to law school. This was apparent in the first new wave of applicants in the 1960s, and the percentage of women enrolled grew steadily thereafter. While this was generally true across the United States, it was certainly reflected in striking changes in enrollment at our Law School. In recent years it has often been true that women represent more than half of the total student body, and their presence has been demonstrated not only in numbers but in the quality of scholarship. While in the Dean's office I compiled some statistics on this subject, and found that about 60 percent of the students in the top 10 percent of the class over a number of years were women, although at that time their numbers were less than half of total enrollment. A similar shift has appeared in the leadership of the *Review*. Karen Gehlhausen served as Editor-in-Chief for Volume 50 in 1978, and at that point was only the second woman to

36. Without such a limitation the practice of assuring first year students of one 'small section' would have been impossible. It also permitted the offering of seminars for in-depth studies by a relatively small number of students, the maintenance of a respectable student-faculty ratio, and the continuation of the 'open-door' policy permitting individual students to consult with faculty members on a one-to-one basis.

hold that office.³⁷ Since then, however, sixteen of the twenty-seven editors-in-chief have been women.³⁸

There is, I submit, a very direct relationship between the quality of education in a law school and the quality of its law review. I believe that proposition is demonstrable in our Law School, where the maintenance of a small student-faculty ratio, the insistence on high standards of excellence in hiring as well as in admissions, and the preservation of a 'small-school' atmosphere have been the keys to success. The quality of the *Review* over the past twenty-five years has reflected that same success.

As promised at the outset of this brief overview, I have looked most closely at the volumes issued during the past fifteen years, since these represent those not yet within the purview of any article surveying the history of the *Review*. The most striking aspect of these volumes is the sheer number of symposium issues which have appeared. From Volumes 60 through 74, comprising fifteen volumes and sixty-one issues, twenty-seven issues have been general in nature, not centered on a particular theme or topic. On the other hand thirty-four issues have been symposia, each with a collection of articles considering various aspects of a single topic. According to the editorial by the Board of Editors commemorating the first fifty years of the *Review*, the first symposium appeared in Volume 21 (*Colorado Divorce Law and Practice*), and one symposium a year was the practice until 1969. For the following decade the practice was abandoned, but the editorial that year promised to reinstate the custom of symposia with an issue on environmental law.³⁹ Since then, of course, the symposium format has assumed a dominant role.

A survey of the contents of these last fifteen volumes reveals an exciting list of topics. In addition to the almost annual natural resources issues,⁴⁰ the following collections have appeared in the volume numbers indicated:

60. *Terrorism and the Law*

61. *Focus on the First Amendment*, and

37. Kathryn Freed was the first female Editor-in-Chief for the *Law Review* for Volume 17 in 1945. See Appendix, *infra*, for list of Editors-in-Chief.

38. This includes the recently elected Editor-in-Chief for Volume 76, M. Brooke McKinley. See Appendix, *infra*.

39. Gordon L. Allott, 51 U. COLO. L. REV. 1, 11 (1979).

40. See David Getches, *A Tradition of Scholarship in Natural Resources Law*, 75 U. COLO. L. REV. n.p. (2004) (detailing the history of the Natural Resources Issue).

- Constitutional Law and the Experience of Judging*
62. *Postmodernism and the Law*
 63. *Constitutional Theory and the Practice of Judging, and Legal Scholarship*
 64. *Sentencing Reform in the United States, and Constitutional Law: Freedom of Speech in a World of Private Power*
 65. *Guaranteeing a Republican Form of Government*
 66. *Governing by Initiative, and LLCs, LLPs, and the Evolving Corporate Form*
 67. *O.J. Simpson and the Criminal Justice System on Trial*
 68. *Gay Rights and the Constitution: The Amendment 2 Controversy, and Affirmative Action: Diversity of Opinions*
 69. *Crime Is Not the Problem: Lethal Violence in America*
 70. *Foreign Affairs Law at the End of the Century*
 71. *Telecommunications Law for the 21st Century, and Law and Character*
 72. *New Structures for Democracy*
 73. *Conservative Judicial Activism*
 74. *Justice White and the Exercise of Judicial Power*
 75. *Constitutional Conflicts on Public Lands*

Many of these symposia in recent years have been the product of papers delivered at various conferences at the Law School, many sponsored by the Natural Resources Law Center, the Byron White Center for the Study of American Constitutional Law, and the Board of Editors of the *Review*. The guest speakers brought to these conferences have added to the reputations of both the School and the *Review*, in the same way that the Thomson visitors and the Coen lecturers have done in the past. Because each of these conferences has involved ten or more speakers, the list is too long to report comprehensively; it includes not only well known academics but also judges and political figures.⁴¹

As a former symposium editor for the *Review*,⁴² I am sympathetic with the use of this format. It can be intellectually stimulating and useful to explore various facets of the same general topic. As a friend and friendly critic of the *Review* I

41. Citations to articles in the *Review* by members of the judiciary and other celebrities are collected in Editorial Statement, *Upon the Seventy-Fifth Volume of the University of Colorado Law Review*, 75 COLO. L. REV. n.p. (2004), in notes 4, 6–12.

42. *Editorial Note*, 25 ROCKY MTN. L. REV. 401 (1953).

would offer two comments, probably inconsistent with one another. First, reflecting my own personal bias, it seems to me that more attention ought to be paid to international and comparative law. Only one issue in these past fifteen years has addressed that subject directly,⁴³ but we live in what is an increasingly global economy and society. Second, reflecting a criticism I hear from alumni, the topics addressed by the *Review* have become increasingly esoteric. Constitutional law is both interesting and important, but it plays a minor role in the lives of most practitioners. It has, however, been a dominant theme in the subjects addressed by the *Review* over the past fifteen years. During this period the *Review* has published a total of 364 articles. Almost 40 percent (144) of these articles have been on subjects of constitutional law. No other subject comes even remotely close to that coverage.

I conclude this brief survey of the *Review's* history with thanks to the Board of Editors for inviting me to participate. It has given me renewed appreciation for the enthusiasm and dedication of the students who produce this excellent publication. I will follow its continuing improvement in the future, as I have in the past, with great interest.

43. See Symposium, *Foreign Affairs Law at the End of the Century*, 70 U. COLO. L. REV. n.p. (1999) (Issue 4).

APPENDIX

UNIVERSITY OF COLORADO LAW REVIEW / ROCKY MOUNTAIN LAW REVIEW Editors-in-Chief

Vol.	Title ⁴⁴	Name (Issues) ⁴⁵	Years
1	Board of Editors	William S. Bell Paul S. Fries George S. Koch Jesse E. Pound Paul Strong I. Marion Wilford	1928–1929
	Business Manager	William L. Lloyd	
2	Managing Editor	Paul Stowe Fries	1929–1930
3	Managing Editor	Glenn A. Laughlin	1930–1931
4	Managing Editor	Donald S. Graham	1931–1932
5	Managing Editor	David W. Carmody	1932–1933
6	Editor-in-Chief	Harold A. Grant	1933–1934
7	Editor-in-Chief	James K. Groves	1934–1935
8	Editor-in-Chief	J. Hartley Murray	1935–1936
9	Editor-in-Chief	William A. Baker	1936–1937
10	Editor-in-Chief	Louis O. Kelso	1937–1938
11	Editor-in-Chief	Edward Scheunemann	1938–1939
12	Editor-in-Chief	Laurence B. Flanders	1939–1940
13	Editor-in-Chief	Dudley I. Hutchinson, Jr.	1940–1941
14	Editor-in-Chief	Howard K. Phillips (1–2) J. W. Hawley, Jr. (3–4)	1941–1942
15	Editor-in-Chief	J. W. Hawley, Jr. Robert G. Barngrover	1942–1943

44. The initial Board of Editors had no explicit offices except that of Business Manager, which was occupied by William L. Lloyd. The subsequent lead editors of the Law Review have been variously referred to as Managing Editors (Vols. 2–4); Editors-in-Chief (Vols. 6–17; 19–75); and simply Editor (Vol. 18).

45. Alternately termed “Number.” The Law Review has published at least four issues annually, with the exceptions of Volumes 15–17 during WWII. Typically, the Editor-in-Chief serves as head of the Board of Editors for all four issues of a Volume. During the history of the Law Review, however, numerous exceptions have occurred. Where the Editor-in-Chief did not serve the entire four issues of a single volume; the issue numbers are indicated in parenthesis behind their name. Due to the difference between the calendar year and the academic year, Boards of Editors would sometimes split volumes, and hand over production of one or more issues to the incoming board. Where the masthead has indicated a change in the board mid-volume, the incoming Editor-in-Chief is listed for the multiple volumes in which they appear.

16	Editor-in-Chief	W. E. Bondurant, Jr.	1943– 1944 ⁴⁶
		Worth F. Shrimpton, Jr.	
17	Editor-in-Chief	William Y. Wilson	1944–1945
		Kathryn Freed ⁴⁷	
18	Editor	George Louis Creamer	1945–1946
19	Editor-in-Chief	Alvin Weinberger (1–4)	1946–1947
20	Editor-in-Chief	Alvin Weinberger (1) ⁴⁸	1947–1948
		John C. Mott (2–4)	
21	Editor-in-Chief	John B. Barnard, Jr.	1948–1949
22	Editor-in-Chief	Houston G. Williams (1–2)	1949–1950
		T. Henry Hutchinson (3– 4)	
23	Editor-in-Chief	T. Henry Hutchinson (1)	1950–1951
		Fred A. Deering (3–4)	
24	Editor-in-Chief	Richard R. Helmick	1951–1952
25	Editor-in-Chief	Laurence W. DeMuth, Jr.	1952–1953
26	Editor-in-Chief	Robert L. Shanstrom	1953–1954
27	Editor-in-Chief	Ben E. Chidlaw	1954–1955
28	Editor-in-Chief	Thomas P. Deering	1955–1956
29	Editor-in-Chief	Arthur E. March, Jr.	1956–1957
30	Editor-in-Chief	Morton Lee Davis	1957–1958
31	Editor-in-Chief	Forrest E. Cook	1958– 1959 ⁴⁹
32	Editor-in-Chief	J. Dennis Hynes	1959–1960
33	Editor-in-Chief	Gilbert L. McSwain	1960–1961
34	Editor-in-Chief	Thomas C. Seawell	1961–1962
35	Editor-in-Chief	William D. Swenson	1962–1963

46. During WWII, the Law Review switched to a semi-annual publication and combined issues 1–2 and 3–4. Each of the two issues had a separate Board of Editors.

47. Kathryn Freed was the first female Editor-in-Chief for the Law Review in 1945. The next female Editor-in-Chief would not appear until thirty-three years later when, in 1978, Karen C. Gehlhausen served as Editor-in-Chief for Volume 50. Since Volume 50, fifteen out of twenty-six Editors-in-Chief have been female.

48. Alvin Wienberger (Vols. 19–20 (Issue 1)) and Kristina M. Kalan (Vol. 71) both supervised the publication of five issues. Volume 57 published five issues under the supervision of David T. Brennan, but with the assistance of the incoming board, including Randolph H. Grubiss who split the fifth issue, and then also published four other issues. Although Volume 31 arguably published five issues by publishing a special issue dedicated to a different periodical, there is no masthead that attributes the supervision of the special issue to Volume 31's Board of Editors.

49. The Law Review published a special issue in June of 1959, Richard Peete, *Anecdotes of the Jealous Mistress: Selections from the Gustave Ornauer Collection*, ROCKY MTN. L. REV., June 1959, in order to celebrate the 100th anniversary of the ROCKY MOUNTAIN HERALD.

36	Editor-in-Chief	John L. Hay	1963–1964
37	Editor-in-Chief	John M. Yeager	1964–1965
38	Editor-in-Chief	J. Lawrence Hamil	1965–1966
39	Editor-in-Chief	Douglas L. Grant	1966–1967
40	Editor-in-Chief	Arthur C. Daily	1967–1968
41	Editor-in-Chief ⁵⁰	James R. McCotter (1–3)	1968– 1969 ⁵¹
	Co-Editors-in-Chief	Robert F. Hill (4)	
		James E. Scarboro (4)	
42	Co-Editors-in-Chief	Robert F. Hill (1–3)	1970–1971
		James E. Scarboro (1–3)	
	Editor-in-Chief	John C. Guadnola (4)	
43	Editor-in-Chief	John C. Guadnola (1–2)	1971–1972
		Steven C. Alberty (3–4)	
44	Editor-in-Chief	Steven C. Alberty (1–2) ⁵²	1972–1973
		James D. Brown (2–4)	
45	Editor-in-Chief	John W. Rosenbloom	1973–1974
46	Editor-in-Chief	Matthew D. Skeen	1974–1975
47	Editor-in-Chief	Marc R. Brosseau	1975–1976
48	Editor-in-Chief	Dennis B. Wanebo	1976–1977
49	Editor-in-Chief	David S. Steefel	1977–1978
50	Editor-in-Chief	Karen C. Gehlhausen	1978–1979
51	Editor-in-Chief	Bonnie Poitras Tucker	1979–1980
52	Editor-in-Chief	Stephanie J. Frye	1980–1981
53	Editor-in-Chief	John R. Paddock, Jr.	1981–1982
54	Editor-in-Chief	Daniel F. Warden	1982–1983
55	Editor-in-Chief	Elizabeth T. Wald	1983–1984
56	Editor-in-Chief	Charles R. Beach	1984–1985
57	Editor-in-Chief	David T. Brennan (1–5) ⁵³	1985–1986

50. James R. McCotter was the only Editor-in-Chief to be awarded the title "His Royal Majesty." 41 U. COLO. L. REV. 95 (1969).

51. Volume 41 took two years to publish one volume. Issue 1 was published February, 1968. Issue 2 was published May, 1969. Issue 3 was published August, 1969. Issue 4 was published December, 1969. Due to the insertion of an additional year, since Volume 41, the volume number and the anniversary of the Law Review coincide.

52. In Issue 2, the Boards of Editors issued a split masthead, listing Steven C. Alberty as Editor-in-chief of the 1971–72 Board of Editors and James D. Brown as the Editor-in-Chief of the 1972–73 Board of Editors. 44 U. COLO. L. REV. 219 (Dec. 1972).

53. Volume 57 contained an unprecedented five issues spanning Fall 1985–Fall 1986. See 57 U. COLO. L. REV. n.p. (Issue 4, Summer 1986) (after page 791). Prior to Volume 57, the order of publication for the issues was: Issue 1 (Fall of Year 1); Issue 2 (Winter of Year 2); Issue 3 (Spring of Year 2); Issue 4 (Summer of

		Randolph H. Grubiss (5) ⁵⁴	
58	Editor-in-Chief	Randolph H. Grubiss	1986–1987
59	Editor-in-Chief	Conrad T. Swanson	1987–1988
60	Editor-in-Chief	Debra L. Donahue	1988–1989
61	Editor-in-Chief	Beth A. Wendel	1989–1990
62	Editor-in-Chief	Mark DeVrieze	1990–1991
63	Editor-in-Chief	Robert Alexander	1991–1992
64	Editor-in-Chief	Geraldine Bedford Hughes	1992–1993
65	Editor-in-Chief	Jody L. Harper	1993–1994
66	Editor-in-Chief	Quinn F. Roy	1994–1995
67	Editor-in-Chief	Peter J. Perla	1995–1996
68	Editor-in-Chief	Melanie B. Lewis	1996–1997
69	Editor-in-Chief	Victoria V. Johnson	1997–1998
70	Editor-in-Chief	J. Wells Dixon	1998–1999
71	Editor-in-Chief	Kristina M. Kalan ⁵⁵	1999– 2000 ⁵⁶
72	Editor-in-Chief	Susan F. Fisher	2000–2001
73	Editor-in-Chief	Aaron Poledna	2001–2002
74	Editor-in-Chief	Jacqueline Cooper	2002–2003
75	Editor-in-Chief	Katherine A. Burke	2003–2004
76	Editor-in-Chief	M. Brooke McKinley	2004–2005

Year 2). After Vol. 57, the publication order was Winter, Spring, Summer, Fall of the same year, which continues to the present. The Board of Editors dropped the seasons from the issue number in Volumes 60–66.

54. In Issue 5, the Boards of Editors issued a split masthead, listing David T. Brennan as Editor-in-chief of the 1985–86 Board of Editors and Randolph H. Grubiss as the Editor-in-Chief of the 1986–87 Board of Editors. 57 U. COLO. L. REV. n.p. (Issue 5, Fall 1986).

55. Listed as “K. Kalan” on the mastheads.

56. Due to the publication of the symposium dedicated to “Telecommunications Law for the 21st Century,” in Issue 4, the Board published a special Issue 5 in order to publish the Byron R. White Conference papers dedicated to “Law and Character.”