

A REFLECTION OF SCHOLARSHIP:
SIXTY-FIVE YEARS OF THE *SOUTH CAROLINA LAW REVIEW*

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I. INTRODUCTION

For over sixty-five years, the *South Carolina Law Review* and its predecessor publications have chronicled legal education and scholarship in South Carolina. As the *Year Book of the Selden Society*, then as the *South Carolina Law Quarterly* and the *South Carolina Law Review*, the publication has mirrored and aided the development of legal scholarship in South Carolina, while reporting the growth of the University of South Carolina School of Law and the South Carolina Bar. Since 1937, the publication has progressed from a provincial chronicle of law school events to an established academic journal with a worldwide readership. Over time, the publication has gradually gained

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autonomy from those institutions that supported and funded its creation. Through article selection, issue advocacy, editorial opinion and institutional ambition, student editors at the University of South Carolina School of Law (“USC Law School”) have influenced the last fifty years of legal practice in South Carolina. This manuscript documents how the Law Review has reflected—and altered—the last sixty-five years of legal education and scholarship in the Palmetto State. Section II briefly describes the current purpose and structure of the *South Carolina Law Review*, then details the development of scholarly legal publication at USC Law School. Section III describes the growth of that journal and the publication’s gradual editorial and institutional independence. Section IV describes the editorial section and the descriptions of faculty, student and Bar life depicted in those editorials. Section V describes how the publication’s selection of articles reflected the legal, political and social issues of the time. Finally, this paper notes the modernization of the publication. The paper concludes by observing that while the publication has progressed through various names, formats and designs, the overall journey has been towards the attainment of an independent, student-managed and student-edited journal.

A brief description of the current organization of the Law Review will preface the historical accounts. The *South Carolina Law Review* is the flagship publication of the USC School of Law. It is student-managed and student-edited by second and third year law students who are responsible for all editorial, financial, logistical and publishing decisions.¹ Students select which articles will be published, edit those articles, speak

¹ Volume 55 of the Law Review has 69 members. In recent years the total number of members has ranged from 60 - 70 students. The various editors (all 3Ls) comprise the Board of Editors. Under the bylaws of the *South Carolina Law Review*, the full membership elects an editor in chief. The editor in chief appoints all the editors, and is ultimately responsible for all aspects of the Law Review. Financial and business affairs

with the authors during the editing process, arrange the manuscripts for publication, and make all the logistical, business and financial decisions inherent in the publishing process. Student editors prize the autonomy to make editorial and management decisions without outside influence or control. The ability and responsibility to make independent editorial and management decisions is the fundamental characteristic of a student-edited law review. While students have the power to make editorial and management decisions, they must also live with the consequences and ramifications of those choices. Since the creation of student publications at USC Law School, students have made efforts to gain—and guard—that independence.

II. THE YEAR BOOK OF THE SELDEN SOCIETY

The first student legal publication at USC Law School was the *Year Book of the Selden Society*, an outgrowth of the student chapter of the Law School's Selden Society.² The Selden Society chapter at USC was formed in 1933 to promote interest in “legal history and the scholarly aspects of the legal profession” among law students.³ The Law School Library was a member of the original American extension of the society, which was a British organization “devoted entirely to English legal history.”⁴ Originally, the

are delegated to a managing editor; a committee of senior editors reviews article submissions and selects articles to publish; and a student works editor oversees the development of student notes and comments for the Survey issue.

² A publication named the Carolina Bar Journal briefly existed in 1831. Sara Leverette, *The Carolina Bar Journal*, 12 S.C. L. Q. 193 (1960). The Journal published four issues and contained articles on legal topics and some unreported cases by the state judiciary. While it was likely the first scholarly legal publication in the State, it was produced by practicing attorneys and not students.

³ *Preface*, THE YEAR BOOK OF THE SELDEN SOCIETY (March 22, 1937).

⁴ Selden Society, available at <http://www.selden-society.qmw.ac.uk/> (accessed Dec. 29, 2004). The Selden Society was founded in 1887 by British legal professor and historian F.W. Maitland. McCue, *Memorial to the Historian's Historian*, THE TIMES (London), January 4, 2001. The Society's original goal was to

Selden Society at USC Law occasionally met for presentations and discussions of papers of “current legal interest.”⁵ The Society included students as well as faculty, and both were welcome to present papers before the membership.⁶ In 1936-1937, the student executive officers of the Selden Society collected several papers presented at the meetings and printed them as *The Year Book of the Selden Society*.⁷ Noting the “los[s] [created] by limiting the use of the papers to a single reading,”⁸ the editors produced a seventy-page pamphlet of recent papers for members of the bar, financed by advertising.⁹ Subsequent editions specifically noted the Year Book was “distinctly a student publication” designed to provide a “practical viewpoint to the student and at least thought provoking moments” to members of the bar.¹⁰ The articles presented in the first issue included nine articles, nine biographies, two book reviews, and “A Short History of the School of Law of the University of South Carolina.”¹¹

The editors of the Year Book had ambitious plans for their nascent publication. In only the second edition, the Year Book sought to be a “reflection of the scholarship and zeal” of those who study the law.¹² And in January 1938, with the publication of only two pamphlets, the Year Book stated its intentions: “It is the hope of those who have founded the Year Book . . . that it will become, in the not too distant future, a Law

preserve and publish primary sources, and the group continues to publish about one volume per year. In 2001, Maitland's memorial was unveiled in Poet's Corner of Westminster Abbey; his is the only memorial to a professional historian. *Id.*

⁵ *The Year Book*, THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1939).

⁶ *The Selden Society*, THE YEAR BOOK OF THE SELDEN SOCIETY (June 1939).

⁷ The students included Chancellor Bernard M. Thompson; Vice-Chancellor Gedney M. Howe, Jr; Recorder Thomas H. Pope, Jr., and Warden of the Exchequer Billy C. Coleman. *The Selden Society*, THE YEAR BOOK OF THE SELDEN SOCIETY (Mar. 22, 1937); *The Selden Society*, THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1939).

⁸ *The Year Book*, THE YEAR BOOK OF THE SELDEN SOCIETY (Mar. 22, 1937).

⁹ *Id.*

¹⁰ *Foreword*, THE YEAR BOOK OF THE SELDEN SOCIETY (June 1938).

¹¹ *The Year Book*, THE YEAR BOOK OF THE SELDEN SOCIETY (Mar. 22, 1937).

¹² *Foreword*, THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1938).

Review of the University of South Carolina.”¹³ Subsequent editors added a notes portion to the publication to examine recent South Carolina Supreme Court cases,¹⁴ and solicited articles from practicing attorneys as well as law professors.¹⁵ Articles included in the first ten years of the *Year Book* were primarily from practicing attorneys in South Carolina and members of the faculty at the law school. The *Year Book* apparently had success in soliciting articles, because by 1940 the editors had to warn that it could “not guarantee publication of every article submitted.”¹⁶

By the early 1940s the *Year Book* had evolved into a recognizable scholarly legal publication. Issues generally contained two or three lead articles by attorneys or professors, followed by several student articles or notes, and notes or comments on recent state or federal cases. An editorial section chronicled events at the Year Book and within the law school. While early issues emphasized the articles as being of practical value to readers, the publication soon recognized its academic virtues; by 1941, editors characterized the *Year Book* as a “voluntary effort on the part of students in legal research and case analysis relating to interesting points of law.”¹⁷ At various points, the publication sought to provide a forum for student research, to highlight areas of law in need of change,¹⁸ and to provide “great practical help” to members of the state bar.¹⁹

¹³ *The Year Book*, THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1938). Subsequent issues reiterated the intention of “becoming a full seized law review expressing the best of thought and learning of the South Carolina Bar.” *The Year Book*, THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1941).

¹⁴ *The Year Book*, THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1939).

¹⁵ *The Future of the Year Book*, THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1940).

¹⁶ *Progress*, THE YEAR BOOK OF THE SELDEN SOCIETY (June 1940).

¹⁷ *The Year Book*, THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1941).

¹⁸ *Editorial*, THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1942). Prefacing an article by Sol Blatt on annulment of marriage in South Carolina, the editors noted “the deplorable state of this field of our law,” and hoped that “needed reforms would be speedily forthcoming.” *Id.*

¹⁹ *Principal Contributions to the Issue*, THE YEAR BOOK OF THE SELDEN SOCIETY (June 1948).

The *Year Book* altered the Selden Society. With the publication of the *Year Book*, the society limited the number of its meetings to stimulate “interest in the Society and its work.”²⁰ A decade after original publication, the Society restricted its activities to publication of a *Year Book* every semester and rarely met formally.²¹ Publication halted from December 1944 to April 1947 due to lack of finances and manpower during World War II, but the *Year Book* quickly reintroduced itself with an eighty-eight page edition after the war.²² By 1948, the *Year Book* regularized its content and was the established publication at the law school.

III. GRADUAL INDEPENDENCE—THE *SOUTH CAROLINA LAW QUARTERLY*

From the post-war era until the 1960s, the *Year Book* and its successors grew in scope, size, and budget and developed into an independent, student-managed publication. Recognizing the rapid growth of the *Year Book*, editors in early 1948 proposed to change the name to the *South Carolina Bar Journal* and publish quarterly issues jointly with the state bar and the law school.²³ Although under a different title than initially proposed, Volume One of the *South Carolina Law Quarterly* was published in September 1948. This new journal represented a complete break with the *Year Book*, as it was re-numbered at Volume One rather than as a continuation of its predecessor. The primary

²⁰ *The Selden Society*, THE YEAR BOOK OF THE SELDEN SOCIETY (June 1939).

²¹ *The Selden Society . . . the Year Book*, THE YEAR BOOK OF THE SELDEN SOCIETY (Apr. 1947).

²² THE YEAR BOOK OF THE SELDEN SOCIETY (Apr. 1947).

²³ *The South Carolina Bar Journal?*, THE YEAR BOOK OF THE SELDEN SOCIETY (Feb. 1948).

purpose of the new journal was practical and educational; it sought to be of use to practitioners and provide a “compilation of legal thought for students.”²⁴

The *Quarterly* also sought to “promot[e] a closer harmonious relationship between the present and future members” of the Bar.²⁵ The Bar was instrumental in organizing and funding the new publication and initially exercised control over most aspects of the journal. At a 1948 meeting of the South Carolina Bar Association, a subcommittee of the Bar's Committee on the Law School noted the need for a legal publication in the state, “with leading articles . . . by members of the bar and . . . the law teaching profession . . . and case notes written mainly by the students of the law school.”²⁶ The subcommittee noted that several other state Bars had recently initiated similar joint publications with law schools in their states, including Georgia, Tennessee, Mississippi and Arkansas. The meeting unanimously adopted the subcommittee recommendation that the publication be “put into effect.”

In the inaugural preface of the *South Carolina Law Quarterly*, the student editor noted it was “a joint enterprise in every sense of the word—both editorially and financially” with the Bar.²⁷ Although the *Quarterly* was nominally a joint publication, the Bar had significant editorial, financial and logistical control. The Bar controlled much of the budget of the publication; in its second year of publication, the Bar financed about one-fourth of the overall budget of the *Quarterly*. This amount covered the production costs of the issue containing the proceedings from the annual bar meeting, and

²⁴ *Editor's Foreword*, 1 S.C. L. Q. (Part III) (1949).

²⁵ *Executive Committee Foreword*, 1 S.C. L. Q. (Part I) (1948).

²⁶ *Transactions of the Fifty-Fourth Annual Meeting of the South Carolina Bar Association*, 1 S.C. L. Q. 26 (1948).

²⁷ *Editor's Foreword*, 1 S.C. L. Q. (Part I) (1948).

the costs of distributing the issue to members of the Bar Association.²⁸ In 1949, the Bar Association increased its dues and allocated the increase to the *Quarterly*, with each member to receive a copy.²⁹ The Bar considered the *Quarterly* a priority, and allocated considerable resources to the publication: expenditures on the *Quarterly* represented over 23% of the Bar's 1951 budget;³⁰ over 20 % of the 1953 budget;³¹ 18% of the 1955 budget³² and 13% of the 1959 budget.³³ Between 1951 and 1959 the amount paid to the *Quarterly* grew from \$1,697 to \$3,255.³⁴

With the considerable financial investment came editorial control. The inaugural edition's cover prominently stated it was published by the South Carolina Bar Association and the Law School (in that order), and the editorial foreword from the Bar Executive Committee preceded the student editor's foreword. The masthead initially listed Bar Association Advisors, then included the "Bar Association Executive Committee and Law Quarterly Advisors." Every volume of the *Quarterly* included the proceedings of that year's Bar Association meeting, which sometimes dominated an entire issue. Early issues included biographies of deceased members of the bar. Articles were almost exclusively by members of the South Carolina Bar, written at the strong request of the Bar; a recommendation from the Bar's Law School Committee urged that each Bar member "make a special effort to arrange his time so as to comply with . . . a request" to

²⁸ *Transactions of the Fifty-Fifth Annual Meeting of the South Carolina Bar Association*, 1 S.C. L. Q. 341 (1949).

²⁹ *Id.* at 342.

³⁰ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 4 S.C. L. Q. 4 (1951).

³¹ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 4 S.C. L. Q. 455-56 (1952).

³² *Transactions of the Annual Meeting of the South Carolina Bar Association*, 7 S.C. L. Q. 513 (1955).

³³ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 11 S.C. L. Q. 464 (1959).

³⁴ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 4 S.C. L. Q. 4 (1951); *Transactions of the Annual Meeting of the South Carolina Bar Association*, 11 S.C. L. Q. 464 (1959).

write for the *Quarterly*.³⁵ Student editors apparently did little more than edit articles produced and selected by the Bar. Most importantly, in 1953 the Bar Association proposed an annual “Survey” issue, dedicated to the review and analysis of case law decided in that year.³⁶ These brief survey pieces were written entirely by members of the faculty and the Bar, with oversight by a faculty member who was Chairman of the Survey issue. Professor Coleman Karesh of USC Law School chaired the first Survey, published in 1955 and covering twenty-six topics.³⁷ Survey issues generally critiqued and analyzed cases from the state Supreme Court and United States Court of Appeals for the Fourth Circuit, opinions from the United States Supreme Court involving South Carolina law, and notable legislation adopted by the General Assembly that year.³⁸

In the late 1950s and into the 1960s, students gained an enhanced role in editorial and structural control as the publication formalized into an established law review. In 1956, the *Quarterly* stopped printing editorials on events at the law school and limited publication to scholarly academic works. Volume 14 (1962-1963) marked the last issue which published proceedings from the annual conference of the state Bar; by 1973, no mention of the Bar or the Bar Association advisors appeared on the masthead of the publication. In 1962, the *Quarterly* began to produce five issues a year (including the survey issue). An increasing number of authors were practitioners or professors from outside South Carolina, commenting national legal issues. In recognition of an

³⁵ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 1 S.C. L. Q. 342 (1949).

³⁶ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 5 S.C. L. Q. 485 (1953). This Survey of South Carolina Law issue would be an annual publication of the journal for the next 48 years. Volumes 53 and 54 of the *South Carolina Law Review* did not publish a Survey issue. Volume 55 resurrected the Survey issue.

³⁷ *Editor's Foreword*, 7 S.C. L. Q. (Issue 4) (1955).

³⁸ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 9 S.C. L. Q. 511 (1957).

increasingly broad academic focus and wide breadth of content, the journal was renamed the *South Carolina Law Review* in 1962.³⁹

At the same time, the publication saw a dramatic increase in subscriptions. In 1949 the *Quarterly* had about 550 subscribers;⁴⁰ by 1951, circulation was at about 850,⁴¹ and increased to about 1000 by 1952.⁴² By 1962, subscriptions were at 1600, including almost 400 out of state subscribers.⁴³ By the end of the 1960s, total paid circulation was over 2600.⁴⁴ Increased subscriptions necessitated a greater focus on the internal financial affairs of the publication. In 1965 the Law Review established a Business Board to oversee the “financial, technical and administrative duties concerning business affairs of the Law Review.”⁴⁵

As subscriptions increased, students gained a greater role in the Law Review's most recognizable issue, the Survey of South Carolina Law. By 1965, both students and practitioners wrote articles for the Survey issue; by 1967, the Law Review took “its largest step in its evolution” and produced the Survey issue entirely with student works. While the editors believed that student material “could not, of course” replace works by faculty and practitioners, the editors believed the Survey's usefulness to the bar could be maintained while enhancing the issue as a legal training tool for student editors.⁴⁶ Under

³⁹ See *Editor's Note*, 14 S.C. L. REV. (No. 4) (1962)

⁴⁰ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 1 S.C. L. Q. 341 (1949). Subscribers included all the students and faculty of the law school.

⁴¹ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 4 S.C. L. Q. 13 (1951).

⁴² *Editor's Foreword*, 4 S.C. L. Q. (No. 4) (1952).

⁴³ *Editor's Note*, 14 S.C. L. REV. (No. 4) (1962).

⁴⁴ See *Statement of Ownership and Circulation*, 23 S.C. L. REV. (No. 5) (1971). Circulation is listed at around 1100 by 1985; however, circulation numbers do not reflect the availability of web-based electronic services (WESTLAW and LEXIS), which offer immediate access to articles. Such services became increasingly prevalent in the 1990s.

⁴⁵ *Editor's Note*, 17 S.C. L. REV. (No. 2) (1965).

⁴⁶ *Foreword*, 19 S.C. L. REV. (No. 1) (1967). At the time of the student takeover of the survey issue, the Editor in Chief was William Wilkins, now Chief Judge of the United States Court of Appeals for the Fourth Circuit, and the Articles & Book Review Editor was Jean Hoefer, now Chief Justice Jean Hoefer Toal of

student leadership, the Survey aimed to analyze “cases arising in South Carolina or affecting South Carolina law.”⁴⁷ The editors noted the inherent logistical advantages in producing the issue completely in-house. To broaden the scope of the Survey issue, editors increased the number of cases analyzed, while reducing the “detailed treatment” traditionally accorded to the more significant cases.⁴⁸ With student production of the Survey issue, student editors began to solidify their managerial and editorial control of the publication.

IV. LAW REVIEW COMMENTARY ON LAW SCHOOL LIFE AND DEVELOPMENT

From 1937 to 1956, each issue of the *Year Book* and *Quarterly* contained editorials commenting on news and developments at the Law School.⁴⁹ Similarly, until 1963 the publication included the proceedings from the annual meeting of the South Carolina Bar, including reports of the Bar's Law School Committee. Together, these sources chronicle the development of law school infrastructure, the growth and interests of the faculty, and the activities and achievements of students. The editorials and the proceedings depict the development of legal education in South Carolina.

the South Carolina Supreme Court. The first student-written survey included fifteen shorter-length articles, each on recent legal developments.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ These editorials usually took the form of an unsigned section under the masthead, which included paragraphs titled “The Law School,” “The Year Book,” and other student groups and faculty news.

A. *Law School Infrastructure*

Editorials and commentary in the publication describe the struggle for an adequate law school facility. Following World War II, students, faculty and Bar members grew increasingly vocal in their displeasure of the law school building. Soon after the War, student editors noted that “classes are crowded, and there is a strain on Library facilities,”⁵⁰ and bar members bemoaned that the conditions at the school were “almost beyond belief.”⁵¹ Student editors noted they would “join in that good old hymn, ‘This is the Day I Long Have Sought’” when a new building was constructed.⁵² Without improvements and a lower student-to-faculty ratio, the Bar noted that the school could not remain in the Association of American Law Schools.⁵³

Much of the pressure on physical resources at the Law School stemmed from increased enrollment.⁵⁴ Following World War II, enrollment skyrocketed, straining classroom space, library resources, and faculty workload. By 1947, student editors noted

⁵⁰ *The Law School*, 8 THE YEAR BOOK OF THE SELDEN SOCIETY 41 (Apr. 1947).

⁵¹ *Transactions of the Fifty-Fourth Annual Meeting of the South Carolina Bar Association*, 1 S.C. L. Q. 24 (1948).

⁵² *The Law School*, 9 THE YEAR BOOK OF THE SELDEN SOCIETY 70 (Sept. 1947).

⁵³ *Transactions of the Fifty-Fourth Annual Meeting of the South Carolina Bar Association*, 1 S.C. L. Q. 25 (1948).

⁵⁴ The editorials and proceedings periodically provide enrollment numbers from 1939 until 1955:

Year (Date reported)	Enrollment
January 1939	109
June 1939	107
April 1947	200
December 1948	306
March 1949	315
December 1949	244
March 1950 (First Year of New Building)	215
March 1951	169
Summer 1955	129
Fall 1955	107

that the building could reasonably accommodate 75 students, yet over 200 were enrolled, with 300 students expected in the following year.⁵⁵

Construction for a new law building began in early 1949; editors noted that the plumbing contractor was named “Blackstone.”⁵⁶ Classes convened in the new Petrigu Building in January 1950. Editorials describe “the latest type desks,” a practice court room, ample library facilities on the entire third floor, and cubicles on the mezzanine of the library where “students who like to type and who like to discuss a ‘point’” may do so “without disturbing others.”⁵⁷ Lounges and seminar rooms permitted student and faculty meetings, and an intercom system connected the various faculty offices.⁵⁸ Of particular note was the “large room on the second floor . . . set aside for the Editors and officials of the South Carolina Law Quarterly.”⁵⁹ Air conditioning was added in 1953, “much to the comfort of students and faculty.”⁶⁰ The USC School of Law would remain in Petrigu until construction of the present building in 1974.

At the same time, the editorials reported the growth of the law library and the law school’s resources. As of 1940, the law library had almost 17,000 volumes, and permitted members of the Bar to use the library and check out books.⁶¹ By 1953 the Law Library contained over 40,000 volumes and the recently-installed air conditioning system.⁶²

⁵⁵ *The Law School*, 9 THE YEAR BOOK OF THE SELDEN SOCIETY 70 (Sept. 1947).

⁵⁶ *The Law School*, 1 S.C. L. Q. 304 (1949).

⁵⁷ *The Law School*, 2 S.C. L. Q. 308 (1950). Student editors labeled the cubicles the most unique feature of the library. *Id.* at 454.

⁵⁸ *Id.*

⁵⁹ *Transactions of the Fifty-Sixth Annual Meeting of the South Carolina Bar Association*, 2 S.C. L. Q. 327 (1950).

⁶⁰ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 5 S.C. L. Q. 484 (1953).

⁶¹ *The Law Library*, 5 THE YEAR BOOK OF THE SELDEN SOCIETY 27 (1941). However, the library staff noted the high number of overdue books, and urged their “immediate return.” *Id.*

⁶² *To the Lawyers of South Carolina*, 6 S.C. L. Q. (No. 1) (1953).

B. Faculty Development

As the number of students increased, so did the faculty. By 1949, the school had eight full time faculty,⁶³ growing to twelve by 1954.⁶⁴ Following construction of the new building, the Bar turned its attention to faculty development at the Law School, including increasing faculty salaries to a level competitive with other law schools in the South. From 1951 until 1961, the Bar's Law School Committee repeatedly advocated for increases in faculty salaries, noting that faculty salary should be comparable with other southern law schools and with members of the judiciary.⁶⁵ Bar Committee Reports also noted the travel and honors received by faculty members, often in sections warning against "provincialism." The Bar often warned that "one of the vices often attendant upon the operation of a rather small law school is the danger of a drift towards provincialism,"⁶⁶ and encouraged faculty members to travel to conferences and symposia outside the state. The Law School itself attracted regional attention, with one-fourth of the entering class in 1953 hailing from outside South Carolina.⁶⁷

C. Law School Activities

Editorials in the *Quarterly* also contained reports of student life at the law school. From 1941 until 1956, student-written editorials reported the development of legal fraternities at the law school, student government elections, and membership in honorary

⁶³ *The Law School*, 2 S.C. L. Q. 100 (1949).

⁶⁴ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 6 S.C. L. Q. 409 (1954).

⁶⁵ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 7 S.C. L. Q. 530 (1955).

⁶⁶ *Id.*

⁶⁷ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 4 S.C. L. Q. 459 (1952).

academic organizations. A 1953 editorial noted the requirements for admission to Law School and for admission to the Bar. In 1952, the school began to require three years of “satisfactory academic work” for admission; previously, it had required only two.⁶⁸ By 1957, the Bar’s Law School Committee reported that the Law School required at least a C average and specific scores on the LSAT for admission; such requirements were “in fairness to him [the applicant] individually and to the legal profession and the public generally.”⁶⁹ Admission required at least a B average by 1959,⁷⁰ and an academic bachelor’s degree by 1961.⁷¹

Editorials also noted life *after* law school. As early as 1949, an editorial noted the concern that the profession was crowded and students had no way of knowing where jobs were available after graduation.⁷² The student editor solicited suggestions from the Bar. The Law School responded, and later that year the school opened a placement bureau at the law school to “assist graduates in obtaining positions and to prevent overcrowding of the profession in certain localities.”⁷³ A 1954 Bar Committee Report noted that 71% of graduates practiced law, 8% entered the armed forces, 4% practiced as in-house counsel, and 9% “entered the fields of Banking, Preaching, Insurance, and the like.”⁷⁴ Bar proceedings also note a 1950 Act of the Legislature that required Law School graduates to take the Bar examination. Previously, graduates of the USC Law School were exempt from the exam requirement. The Bar’s Law School committee approvingly noted that “the elimination of the diploma privilege is consistent with the best thought in legal

⁶⁸ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 4 S.C. L. Q. 457 (1952).

⁶⁹ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 9 S.C. L. Q. 528 (1957).

⁷⁰ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 11 S.C. L. Q. 427 (1959).

⁷¹ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 13 S.C. L. Q. 471 (1961). By 1960, about 90% of students entering the law school had bachelor’s degrees. *Id.*

⁷² *Editor’s Foreword*, 1 S.C. L. Q., v (1949).

⁷³ *The Law School*, 2 S.C. L. Q. 204 (1949).

⁷⁴ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 6 S.C. L. Q. 409 (1954).

education circles.”⁷⁵

V. ARTICLES AND SUBSTANTIVE CONTENT

A brief review of the articles published in the *Year Book, Quarterly* and *Law Review* reveals two transitions. One development is stylistic, reflecting the growth from an informal, essay-dominated publication to a formalized, academic journal. The other transition is substantive; over the last half century, articles in the publication have reflected the dominant political, social and legal issues of the time. As the journal matured, the articles grew increasingly formal yet continued to mirror contemporary legal and political topics.

The first several editions of the *Year Book* primarily contained short, student-written commentaries on the application of recent cases or legal theories. By the third volume, the *Year Book* generally contained two or three thirty-page articles by faculty or Bar members, an editorial section, a biography of a deceased Bar member, and several shorter student notes or a book review. The general format of longer professor/practitioner articles followed by student works is still followed today.

Article selection reflected contemporary legal and political issues. While opinions expressed in articles can not be imputed to the publication or its editors, recurring themes do reflect prevailing sentiment of the time. In almost every volume from 1937 until the 1960s, the publication contained an article or note on an aspect of the civil rights movement. The legal implications of the civil rights movements was the

⁷⁵ *Transactions of the Fifty-Fifth Annual Meeting of the South Carolina Bar Association*, 1 S.C. L. Q. 340 (1949).

dominant theme throughout articles during that time, and numerous works explored a variety of issues related to legal and political equality. Despite the heavy substantive emphasis on legal issues surrounding the civil rights movement, the editorials and the Bar's Law School Committee Reports never directly mentioned the law school at South Carolina State University or the segregated status of USC Law School.

In its early years, student works in the *Year Book* reflected white southern hostility to the civil rights movement. The *Year Book* (1937–1948) contained about four student works relating to racial issues, including an inflammatory 1938 student note concluding that an anti-lynching bill pending in Congress was unconstitutional. Declaring that "lynching is no crime in the United States nor it is an increasing offense," the authors sarcastically asked why the law should create a cause of action for "the family of a negro who has raped innocent white girls and has been lynched."⁷⁶ Yet not all student works used their platform to advocate against the developing civil rights movement; a 1947 student note by future Governor John West summarized recent federal and state case law on the exclusion of African Americans from juries. The author acknowledged the "striking" attitude of the South Carolina Supreme Court, which reasoned that the absence of black jurors was due to "the usual and customary method for presenting the names of the jurors for each week."⁷⁷ A 1951 summary of recent cases included *Briggs v. Elliott* from Clarendon County.⁷⁸

Longer-length articles in both the *Year Book* and *Quarterly* also reflected white southerners' hesitancy towards the civil rights movement. A 1949 article on Federal

⁷⁶ Note, *The Constitutionality of the Proposed "Anti-Lynching" Bill*, 2 THE YEAR BOOK OF THE SELDEN SOCIETY (Part II) 12, 21 (1938).

⁷⁷ John C. West, *Negroes on Juries*, 9 THE YEAR BOOK OF THE SELDEN SOCIETY 53 (1947).

⁷⁸ *Recent Cases*, 4 S.C. L. Q. 177 (1951).

Civil Rights Legislation concluded that “the nation’s present system of civil rights law . . . is fitting and efficient to promote the progress of minorities in our society.”⁷⁹ A 1951 article on restrictive covenants criticized the United States Supreme Court for prohibiting states from enforcing such agreements, characterizing such action as “dangerous” and an attempt at policy creation.⁸⁰ However, other articles were more open to civil rights enforcement, including a 1947 article which noted that federal civil rights protections would “afford protection to the victim of abuse and prevent[] local law enforcement from taking the law into their own hands.”⁸¹ The editors included a preface to a 1950 article on nullification and secession which noted that the editors “do not advocate secession from the union.”⁸² In 1966 the Law Review published remarks of Attorney General Nicholas deB. Katzenbach, who addressed the law school during the annual “Law Day” and spoke of progress in implementing *Brown v. Board of Education*.⁸³

Bar proceedings published in the *Quarterly* demonstrated the Bar’s segregated status. While soliciting financial support for the school, in 1952 the Bar’s Law School Committee encouraged its members to take interest in the USC Law School, “the only one for the training of white law students in the State.”⁸⁴

Other articles and comments reflected other issues of the time. In the early 1950s, works on steel seizures and airplane torts appeared. In 1957, the *Quarterly* published a note on the legal implications of test-tube babies, and in 1963 included a note on

⁷⁹ Frank Sloan, *Federal Civil Rights Legislation and The Constitution*, 1 S.C. L. Q. 245, 265 (1949).

⁸⁰ Richard Baker, *Restrictive Covenant Cases Revisited*, 3 S.C. L. Q. 351, 364-65 (1951).

⁸¹ Preston H. Callison and T.H. Rawl, *Federal Prosecution of Civil Rights Cases*, 8 THE YEAR BOOK OF THE SELDEN SOCIETY (Part II) 30, 40 (1947)

⁸² Howard Newcomb Morse, *Doctrines of Nullification and Secession - A Historical Study*, 2 S.C. L. Q. 245 (1950).

⁸³ Nicholas deB. Katzenbach, *Law Day Address*, 18 S.C. L. REV. 371 (1966). The same year, the Law Review included the essay *Contempt for the Law: The Dagger of National Suicide* by F.B.I. Director J. Edgar Hoover. 18 S.C. L. REV. 217.

⁸⁴ *Transactions of the Annual Meeting of the South Carolina Bar Association*, 4 S.C. L. Q. 459 (1952).

tidelands protection on the South Carolina coast. In early 1972, the *Law Review* included a note on abortion law in South Carolina, and the following year included both a "justification" and a "rebuttal" to the constitutional amendment on prayer in school.⁸⁵

Article content also reflected World War II and the Korean War. A preface to a 1942 issue was dedicated to a member of the class of 1942 killed in military service, and a 1942 editorial examined how "the legal talent of this country can best be utilized" in a time of war, while noting that the "leaders of our nation have come largely from the ranks of the lawyers."⁸⁶ The same issue contained the creed "I am the lawyer" by a New York state judge, hailing the civil responsibilities of the Bench and Bar. In 1943, the *Year Book* produced a "War Issue" which included articles on price control and civilian adjudication in military tribunals.⁸⁷ Demands of the war interrupted production of the *Year Book* for several years, and enrollment at the law school skyrocketed following the conflict.⁸⁸

The publication has also chronicled numerous conferences, symposia and special events. In March 1950, the *Quarterly* hosted a meeting of the Southern Law Review conference,⁸⁹ and in 1963 the *South Carolina Law Review* again welcomed the conference to Columbia.⁹⁰ (In 2005, the Law Review will host the 2005 National Conference of Law Reviews.) And in December 1974, the *Law Review* included the proceedings from the dedication of the new law school building. The Law Review

⁸⁵ See 24 S.C. L. REV. 705 (1972).

⁸⁶ *Lawyers and the War*, 6 THE YEAR BOOK OF THE SELDEN SOCIETY 38 (Jan. 1942).

⁸⁷ *The Year Book*, 7 THE YEAR BOOK OF THE SELDEN SOCIETY (Part I) (June 1943).

⁸⁸ See *supra* notes 22 and 54.

⁸⁹ *The Law School*, 2 S.C. L. Q. 202 (1949).

⁹⁰ 15 S.C. L. REV. 4 (1963).

published the dedication remarks of both Governor John West and United States Supreme Court Justice Lewis Powell.⁹¹

VI. MODERN ERA

Since the mid 1970s the *South Carolina Law Review* has modernized, incorporated technology into the publication process and increasingly structured individual issues around a specific topic. In 1972 the publication changed cover designs, forgoing the traditional blue cover in favor of a khaki design still used today. Volume 44 was the first issue to be arranged using desktop publishing.⁹² In the mid 1990s the Law Review developed an internet website.⁹³ However, the most significant development in the last twenty-five years of the publication has been increased use of symposia issues which focus on a single topic. Beginning in 1978 with a symposium on Public Employee Labor Relations in the Southeast, almost every year has included at least one symposium or focus edition, including: Legal Malpractice (1979 and 1994); Nuclear Waste Management (1981); Torts and the Unborn—The Rights of Parent and Child (1982); Environmental Law (1990); Bankruptcy (1992, 1993, 1999); Domestic Issues and Crimes of Intimacy (1997); Courtroom Advocacy (1999); Professionalism (2001, 2003, 2004); and “Sealed Settlements” (2004). Symposia issues permit the editors to solicit specific authors, often by leveraging interests or participants unique to South Carolina. As of 2003, at least seven articles from the *South Carolina Law Review* have been cited by the

⁹¹ 26 S.C. L. REV. 381 (1974).

⁹² *Editor’s Note*, 44 S.C. L. REV. 1 (1992).

⁹³ www.sclawreview.org

United States Supreme Court, including three student comments. Over sixty-five articles have been cited by federal Courts of Appeals.

VII. CONCLUSION

When students at the University of South Carolina Law School launched their fledgling publication in 1937, the editors hoped it would be a “reflection of the scholarship and zeal” of those who study the law.⁹⁴ Over the following sixty-five years, that publication developed from a Bar-dominated entity to an independent, established, student-managed and edited academic journal. During that time, the *Year Book*, *Quarterly*, and *Law Review* have chronicled the development of legal education in South Carolina; reported on the activities of law professors, students, and the legal community; reflected the changing political and legal environment in the South; and noted the emerging legal issues affecting the state and nation. Sixty-five years after the original publication of the *Year Book of the Selden Society*, the *South Carolina Law Review* stands as the principal legal publication in South Carolina, and continues its role as both a reflection of, and contributor to, legal education and thought in South Carolina.

⁹⁴ *Foreword*, 1 THE YEAR BOOK OF THE SELDEN SOCIETY (Jan. 1938).