

History of the *Rutgers Law Review*

The history of *Rutgers Law Review* closely mirrors that of Rutgers Law School itself. Its earliest predecessor, the *New Jersey Law Review*, was first published in 1915, seven years after the New Jersey Law School, the earliest predecessor to the modern Rutgers School of Law, was founded as New Jersey's first law school in 1908.

The inaugural issue opened by reprinting a rousing address on legal professionalism and ethics given on January 6, 1915, by William Howard Taft. In his remarks to the men (and even at that time the occasional woman) of New Jersey Law School, President Taft, while acknowledging the "popular feeling at various times against the profession," exhorted his audience to live up to the model of a "lawyer of ideals" who "answers every call that comes for public service, who sacrifices the prospect of a good and lucrative practice, to the call of his country or his state for service in the common weal." Other articles in that volume commented favorably on the protection of individual rights in the early constitutions of New Jersey, excoriated lawyers representing large businesses for opposing revisions to the worker's compensation laws, and noted the pending legal challenge to the legitimacy of the newly constituted Board of Public Utility Commissioners created by Governor (later President) Woodrow Wilson to mitigate the effects of monopoly enterprises.

Despite the auspicious beginning, however, this initial attempt at publishing critical legal scholarship at a New Jersey law school did not flourish. For reasons about which, after the passage of almost a century, we can only speculate, publication was suspended in 1916, and did not resume until a renumbered Volume I appeared almost twenty years later in 1935. Its reappearance may have been triggered, in part, by the launching of *Mercer Beasley Law Review* in 1932 by the then cross-town rival of New Jersey Law School, the Mercer Beasley Law School.

Any rivalry between the schools, however, was short lived. In 1936, the two law schools merged and became the University of Newark School of Law. The two journals joined to become the *University of Newark Law Review*, which published seven volumes from 1936 until 1942, when drastically declining law school enrollments caused by World War II brought the Newark law school itself to the brink of closure. Nevertheless, even in wartime, the *University of Newark Law Review* published some significant articles calling for reform of the New Jersey State Constitution, and particular the labyrinthine New Jersey court system, thus presaging the constitutional convention that led to the 1947 New Jersey Constitution and the modern New Jersey judiciary.

The modern history of *Rutgers Law Review* dates from the absorption in 1946 of the University of Newark by Rutgers University, which had just been designated by the

New Jersey Legislature as the State University of New Jersey. Volume 1, Issue 1 of *Rutgers Law Review* was published in the Spring of 1947 as the self-proclaimed successor to all three previous journals, and the journal has published continuously for the sixty-four succeeding years.

Just as Rutgers, The State University grew from a small colonial land grant college to a major public research university, so too the law school and its law review have expanded their scope and aspirations to a national level. Any attempt to canvass or inventory in a comprehensive way all the articles of significance that have since appeared in the *Rutgers Law Review* in its modern iteration would be a perilous and probably unsuccessful endeavor, but a few examples are illustrative, albeit not definitive.

One early 1956 article, written by former Rutgers Dean and then New Jersey Appellate Division Judge Alfred C. Clapp, probably required not only intellectual fortitude but also some measure of personal daring to write and publish. In an article written for a symposium on the Uniform Rules of Evidence, Judge Clapp argued for the inclusion of the privilege against self-incrimination in New Jersey's state rules of evidence. At the time, the Fifth Amendment privilege was not binding *ex proprio vigore* on the states, and New Jersey was the only American jurisdiction whose state constitution had not been construed to establish it independently, so the debate was one of immediate and topical interest.

In the context of the McCarthy era, to publish these remarks in the spring of 1956 was no small act of political courage both by Judge Clapp, and also by the student editors of the *Law Review*. While by this time Senator Joseph McCarthy had himself been removed as an individual political force, the House Un-American Activities Committee was still very much in operation, and the curtailment of civil liberties prompted by the "Red Scare" and the condemnation of "Fifth Amendment Communists" were still very much a part of the political mainstream. Although the United States Supreme Court ruled, at almost the same time that Judge Clapp's article was published, that terminating a public college teacher for invoking the self-incrimination privilege before a legislative committee violated due process, it was not until the early 1960s that the constitutional legitimacy of the privilege was clearly established and became relatively safe territory for public dialogue. Judge Clapp's article thus stands as an early example of the role of scholarly discourse in applying neutral principles of law to temper the results-oriented politics of the moment.

The late 1960s and 1970s were a time of foment for the nation, and so too for Rutgers Law School. In 1966, the law school's south Jersey campus in Camden, which had been administered by the Dean of the law school in Newark but with its own faculty, was created as a separate and equal unit of the University, and eventually the students there founded a new law journal, the *Rutgers-Camden Law*

Journal, now known as the *Rutgers Law Journal*. Meanwhile, the original school, known thereafter as Rutgers School of Law-Newark, was affected by the social unrest of its environs, including the Newark riots of 1967 and the takeover of Conklin Hall in 1969. Rather than seeking to shield itself from these realities, the Law School sought both to reform itself to embrace the urban community that surrounded it and to champion the use of the law as an instrument for positive social change. Internally, the law school created the Minority Student Program in 1968 in order to diversify a student body that had been overwhelmingly white and male. It was the age of the “People’s Electric Law School.”

To this day, *Rutgers Law Review* continues to tackle the most controversial and complex contemporary legal questions. Ten years after 9/11, *Rutgers Law Review* has engaged the national security community’s most prestigious legal minds, including former Department of Homeland Security Secretary Michael Chertoff and former Third Circuit Chief Judge John Gibbons, to discuss the balance between individual liberty and security, a discussion that culminates with its publishing of *A New Type of War* and Volume 63, Issue 4.

In closing, and with all due respect to the words of the former president of the Board of Trustees of Mercer Beasley Law School, Arthur Egner, written almost eighty years ago, the history of the *Rutgers Law Review* to date rebuts his contention that an abundance of legal scholarship will not lead “to a substantial increase in our fundamental legal knowledge.” We hope that in hindsight, he would agree.

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