

***Foreword to the 50th Anniversary Edition of the
Melbourne University Law Review***

FOREWORD

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Well before the first edition of the *Melbourne University Law Review* was published, there were those who predicted the end of the student-edited law review.¹ And since 1957, many others have made similar predictions.² They have pointed to the difficulty of having students choose and then edit scholarly work. What skills do students bring to these tasks, the critics ask. The students may learn from their experience, but are they not unsuited to the tasks? And does the emergence of new fields of legal scholarship like the economic analysis of law and critical legal studies mean, as has been suggested,³ that there are some kinds of legal writing that student editors can ‘barely comprehend’? Debates of these kinds have been continued in the pages of this *Review*.⁴

Fifty years ago, the then Dean of the Melbourne Law School, Professor Zelman Cowen, established the *Review* as the first Australian student-edited law review modelled on the *Harvard Law Review*. Contrary to the predictions of those who have foreseen the end of journals like this *Review*, it has survived. It has played, and continues to play, an important part in publishing work that is valuable to those who study and practise law. Why is that so?

This *Review* serves, and will continue to serve, the purposes of those who set it up, and the needs of academic and professional lawyers, when it publishes work warranting the description of first-rate legal scholarship. Such work is thoughtful. It eschews the superficial, and confronts the deeper and more difficult questions presented by the subject. It provokes the reader to think about that subject and provides the tools with which the reader may consider the validity of the author’s arguments and conclusions. Of course, authors and editors must combine to ensure that the work is presented clearly, avoiding the many traps that wait to snare the legal writer. As the Foreword to the first edition of this *Review*’s *Australian Guide to Legal Citation* records,⁵ one of the deeper traps,

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¹ See, eg, Fred Rodell, ‘Goodbye to Law Reviews’ (1936) 23 *Virginia Law Review* 38.

² See, eg, James Lindgren, ‘An Author’s Manifesto’ (1994) 61 *University of Chicago Law Review* 527.

³ Chief Judge Richard A Posner, ‘The Future of the Student-Edited Law Review’ (1995) 47 *Stanford Law Review* 1131, 1133.

⁴ Justice Michael Kirby, ‘Welcome to Law Reviews’ (2002) 26 *Melbourne University Law Review* 1; John Gava, ‘Law Reviews: Good for Judges, Bad for Law Schools?’ (2002) 26 *Melbourne University Law Review* 560.

⁵ (1st ed, 1998).

for both authors and editors, is the ‘drab, Latinate, plethoric, euphemistic style’ condemned by Judge Richard Posner.⁶

But important as issues of style and presentation are, the critical test for any law review is, and always will be, whether the material that it publishes meets the requirements of good scholarship. If it does not, it should not be published. If it does not, the law review that publishes the material fails its readers and all of those who stand behind it — its founders, its past and present editors.

Anniversaries, especially when they are golden, provoke reminiscence and congratulation. But an anniversary, like the one that this edition of the *Review* marks, should provoke deeper reflection than may be provided by the reminiscences of those who participated in the work of the *Review* decades ago. That deeper reflection will consider what has been done in the past, but it must focus upon what the future should hold for this *Review*.

It would be contrary to human experience if hindsight did not suggest that at least some of what has appeared in the *Review* over the last 50 years may now be said not to have met the exacting standards that must be met. But the *Review* has survived and prospered because those exceptions have been rare. The challenge for those who will take charge of the *Review*’s work in future years will be to maintain the *Review* as a journal that publishes first-rate legal scholarship. If that is done, the author of the Foreword to the centenary edition of the *Review* will have as pleasurable a task as does this author in marking the milestone, offering congratulations to those associated with this particular edition, and wishing the succeeding generations of editors success in the future.

⁶ Judge Richard A Posner, ‘Goodbye to the Bluebook’ (1986) 53 *University of Chicago Law Review* 1343, 1349.