

# Remarks at the Twenty-Fifth Anniversary Dinner of the *Yale Journal on Regulation*

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This is a very exciting evening for me. It is one thing to participate in starting a new institution, with all of the attendant excitement, inevitable frustrations and, hopefully, ultimate success. It is quite another to see that twenty-five years later, that institution continues to exist, to thrive, and to evolve to meet the challenges of the day.

Tonight, I thought that I would very briefly give you a quick look at the largely unknown history of the birth of the *Yale Journal on Regulation*, and give you a sense of why it took its original form.

In her book *The Creative Habit*, the choreographer Twyla Tharpe says that “whom the gods wish to destroy, they give unlimited resources.”<sup>1</sup> If that is true, then the gods wanted the *Journal* to succeed.

Twenty-five years ago the idea of the *Yale Journal on Regulation* was somewhat controversial. On the one hand, a core group of Yale Law students with a strong interest in the law, economics, and public policy associated with regulation believed there was a need for a preeminent national forum for in-depth discussion of regulatory issues. On the other hand, the Law School administration was concerned about the ability of the student body to support a second major journal. The *Yale Law Journal* was, of course, a long-established entity. Could the school's student body sustain another major journal? In a moment, I will discuss how this issue was resolved, and its implications for the development of the *Journal*.

However, before focusing on the details of our launch, I thought I should discuss why we believed in the value of creating a new journal focused on regulation. First, there were a large number of new ideas emerging in microeconomic theory with potential implications for regulatory policy. We believed that we could play a role in accelerating the movement of groundbreaking academic research into valuable public policies by encouraging scholars to write about their findings in terms that policymakers without extensive backgrounds in economics could understand. Second, we were amidst the Reagan presidency, and the idea of regulation in general was in

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1 TWYLA THARPE, *THE CREATIVE HABIT* 129 (2003).

many ways under attack. Without adopting a political orientation one way or the other, we also believed that a forum focused on discussing the potential implications of many of the then emerging approaches to deregulation was appropriate. In general, we were also convinced that as our society grew more complex, new and different types of regulatory policies would need to evolve. So, we believed that there was a good chance the need for this forum would continue, as it has, for a very long time.

Now, back to the details of the Journal's start-up. Ultimately, this *Journal* received a modest amount of funding from the school. It was by no means enough to create a full-fledged, influential publication. So, our limited financial resources dictated that we launch the *Journal* as a financially self-sustaining entity: something that was generally regarded as impossible for a student-run scholarly effort.

This necessity for an immediate financial success became a blessing in disguise. It led us to ask the fundamental question: what would be the *Journal's* contribution to the world and why would it be valuable enough for people to pay to read it in large numbers?

At the time, the only other publication devoted solely to regulation issues was *Regulation* magazine, which, as compared to an academic journal, published far shorter, less in-depth articles. We concluded that to succeed we would need provocative articles that broadly addressed the major issues in regulation by authors recognized as the leading thinkers in their specialties. We believed the combination of articles that addressed innovative, broad themes combined with the name recognition of the authors and the prestige of the law school would allow us to quickly building a large paying subscription base. In particular, we hoped to attract subscriptions from mainstream college libraries, individuals, government libraries, and Washington think tanks. In short, in the same way that regulation itself involves broad public policy choices and analyses from many disciplines, we wanted to attract readers from outside the law school and the legal profession.

We were fortunate in two regards. Leading scholars and policymakers thought the *Journal* would serve a valuable purpose and readily agreed to provide articles. At the same time, our idea that a focus on this type of article would attract a large number of paying subscribers *worked*. In retrospect, I like to believe this is also one case where all of the relevant markets functioned efficiently.

You can see, in part, our priorities when I tell you that we marked the day we became one of the twenty highest subscription journals originating at any law school. By this measure, we were quickly having an influence on the world that was larger than many of the primary journals at the vast majority of the nation's law schools.

A few final thoughts: we always anticipated that over time the *Journal* would start to accept both great articles by less established scholars and student

notes. This appropriate evolution did happen, and made the *Journal* an even stronger entity.

However, even as it became clear the *Journal* was a success, and an influential entity in the larger world, we had one great worry. No matter what we did, we could not ensure that the next group of students would have the interest or enthusiasm for maintaining and building this fledgling institution. It seems as if we discussed this question endlessly, but we ultimately recognized that the best we could do was to leave the *Journal* on the firmest footing possible and hope that all of our efforts would not collapse for lack of interest among subsequent generations of students. That is why this dinner, which marks the long continuity of this institution, is so meaningful for me.

I will leave you with a question that relates to maintaining the vibrancy and preeminence of the *Journal* over the next twenty-five years. Today, we are at a crossroads. There is an emerging consensus on the need for broad-based and innovative regulatory reforms. So I ask today's editors, who are appropriately charged with the future of the *Journal*: As a subscriber, will I see the *Journal* address these major regulatory issues that now confront our society? Will future issues discuss ways of ensuring we never again come close to the meltdown of our financial system? Will articles address how we can ensure the safety of children's toys and other imported products? Will an upcoming issue leave me pondering innovative solutions for our pressing environmental problems?

Finally, Mark and I are speaking tonight, but the start of the *Yale Journal on Regulation* was a group effort. I think everyone in the small cadre of our founding generation should be acknowledged. The other people who put so much time and energy into building the *Journal* ex nihilo are Bill Adkinson, Jr., Steve Creager, Dan Esty, John Firestone, David Huebner, Ken Johnsen, Lee Kyriacou, Gene Schaerr and Ruben Smith. If not for these people, we would not be here tonight.

