

LAW REVIEW:

The First Fifty Years
of
HOUS. L. REV.

Craig Joyce
Matthew Hoffman

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Foreword

We are proud to present to you the 50-year history of the *Houston Law Review*. The following five Essays originally were published throughout the 2012–2013 school year, with one appearing in each of the five Issues of Volume 50. Each Essay contains three parts:

- (1) A narrative tracing the events of a single decade;
- (2) “Oddments,” a short section which provides additional interesting pieces of information not included in the narratives themselves; and
- (3) “By the Numbers,” a statistical overview of the Volumes published during that decade.

This Book concludes with “All the Numbers,” which summarizes the data from all 50 years. We have compiled all of this content (and made only the slightest of revisions to ensure consistency among the Essays) so that you may enjoy the history of the *Houston Law Review* as a cohesive narrative.

The members of the *Houston Law Review* salute Professor Craig Joyce and Matthew Hoffman for writing these wonderful Essays and preserving our history. Please join us in celebrating *Houston Law Review*’s achievements of the past five decades.

Publication of this Book is made possible by the generous support of the University of Houston Law Foundation, the John Mixon Society, Don Riddle, Marvin Nathan, and Dean Richard Alderman, all of whom *Houston Law Review* gratefully acknowledges.

We hope that these Essays inspire future generations of the *Houston Law Review* to “Carry on Boldly.”

Edward Goolsby
Editor in Chief
Board 51
March 2014

DRIVEN:
The First Decade
of
Houston Law Review

Craig Joyce

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ESSAY

DRIVEN: THE FIRST DECADE OF *HOUSTON LAW REVIEW*

*Craig Joyce**

In the beginning was . . . the word?¹ Not exactly. Before *Houston Law Review* was begat, the University of Houston was. No one can understand the history of *HLR* without knowing the history of the institution from which it sprang.

* Andrews Kurth Professor of Law, University of Houston Law Center. I am indebted hugely to the student members of *Houston Law Review*, whose diligent efforts helped so much to make possible the publication of this first installment of a planned five-part telling, decade-by-decade from 1963 to date, of the history of a remarkable institution. In particular, I thank Matthew Hoffman, Editor in Chief of Board 49 and University of Houston Law Center Class of 2012, who shared the vision, green-lighted the effort, and advanced the project's progress in every way possible. Mr. Hoffman will become, officially, a co-author of the series, beginning with its second installment. Thanks as well to Rebekah Reed of Board 49 and Katherine Witty of Board 50, for their generous gifts of time and insight during the preparation of this manuscript, to Peter Danysh, Casey Holder, and Cade Mason, Board 50's Editor in Chief, Chief Articles Editor, and Managing Editor respectively, for graciously allowing my "voice" to survive the *Review's* rigorous editing process, and to the many 2Ls and 3Ls who provided incidental labor along the way. I am grateful, too, to Mike Willatt (Board 1), Marvin Nathan (Boards 2 and 3), Lawrence Pirtle (Board 3), Alvin Zimmerman (Boards 3 and 4), Wendell Alcorn (Boards 5 and 6), Steven Segal (Boards 7 and 8), and Carol Dinkins (also Boards 7 and 8), and D. Jansing Baker (Board 10), all of whom contributed substantively to the present essay, and to Christopher Dykes, Reference and Research Librarian at the O'Quinn Law Library, for helpful assistance in the compilation of data. Due to the careful reading accorded the manuscript by so many former editorial board members (including Board of Directors chair Robert Sergesketter and vice chair Justice Jeff Brown, both Board 32, and my long-time, greatly-to-be-revered faculty colleague John Mixon), readers have been spared many an error that otherwise might have been published in the pages that follow. Most of all, I express my profound appreciation to *all* the members of Boards 1 through 10, who actually *lived* the story I have been privileged merely to recount.

In keeping with the general practice in historical essays, all notations hereafter appear as endnotes at the conclusion of this essay, where the reader will find also a compilation of statistical trivia of perhaps more than passing interest, at least to some!

* * *

(MORE THAN) HUMBLE BEGINNINGS²

The official motto of the University of Houston is: “In Time.”³ Just-in-time, in the Japanese industrial sense? Mañana, in the American slang sense? In due course,⁴ in the plodding sense generally associated with American academic writing? Perhaps all of the above.

Stripping aside all else, the University of Houston, as founded, was about *leveling*. The purpose of the University was to uplift the working people of the City of Houston and give them a chance to succeed, or fail, in college.⁵ As founded, UH was all about the Open Door, with due allowance for substantial numbers of students exiting by the Back Door when they did not succeed.

The University began life, under the leadership of enterprising Houston public school superintendent E.E. Oberholtzer, in 1927, and became a four-year institution (assuming its present name) seven years later.⁶ In those days, the University of Houston offered a chance to obtain, but clearly not the guarantee of, a post high school degree on a shoestring. Not surprisingly, at a school which continually has faced significant financial challenges in advancing its mission, academic quality was, generally speaking, less important than tuition income.⁷

A.A. White's Law School

Against this background, nothing more startling could have occurred than the creation in 1947, within the University of Houston, of a college dedicated to *excellence*. A.A. White, the founding dean of the College of Law⁸ and a top-ranking law graduate at SMU (with graduate study at Columbia), saw no reason for the law school Oberholtzer had engaged him to begin to be anything less than first rate. While the University could provide his new law school no better quarters than old military services barracks (later upgraded to the basement of the university library), White was undeterred:

I told President Oberholtzer my ambition would be to make the law school better than the University.⁹

Oberholtzer had in mind a *big* law school, defined by quantity: the more students the College of Law enrolled, the more income it would produce. White had in mind a *quality* law school.

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Dean White apparently operated on a short leash. On the one hand, he set high standards. Other Texas law schools required 90 college hours and a C average for admission. White stipulated the same hours but a C+ average, making the requirements of his fledgling College of Law the most rigorous in the state. On the other hand, White acquiesced in the need to create an evening division of the law school, staffed by part-time professors from the local bar, to bring in additional income.¹⁰

Dean White set out to lay a firm foundation for the school by hiring top-notch faculty. White's first hire, signaling his intentions, was Lewis Roberts, a University of Kentucky Law School faculty retiree with a Ph.D. and a national reputation as a legal scholar. Other early additions included Dwight Olds, poached from Wake Forest Law School, who soon would hold the record for most frequent publication during the first decade of *HLR's* existence; C.W. Wellen, a Harvard LL.M. student referred to White by Harvard Dean Erwin Griswold; and David Vernon, a Harvard LL.B. with an S.J.D. from New York University. Vernon departed after a year and went on to a distinguished career in legal academia, including the deanship at Iowa. But his credentials, however shortly they may have graced the University of Houston College of Law, were emblematic of the caliber of the faculty A.A. White sought to achieve.¹¹

Indeed, of the College's first nine faculty hires, more than half held J.D.s from such non-Texas law schools as Harvard, Michigan, and Chicago,¹² and all but one had, or would shortly obtain, graduate study outside the state, capped by such advanced degrees as LL.M., Ph.D., and S.J.D.¹³

Two homegrown Texas products, however, would go on to be central players in the history of the College of Law: Newell Blakely, a UT grad rescued by White from two years of law practice in Harlingen, Texas, who would become a beloved teacher and White's successor as dean (although, ironically, his vision of a great law school differed sharply from White's); and John Mixon, the first University of Houston College of Law graduate to be hired as a professor at his alma mater when Vernon's resignation left a sudden hole in the teaching ranks—who would himself become beloved by literally generations of students, remain on the faculty for 55 years, and leave behind him, among his many other good works, the history of the law school from which (as the endnotes reveal) much of the material in the present section of this essay has been lifted with its author's blessing.¹⁴

Despite, however, the promising omens just recited, the future of A.A. White's vision, and the history of the College of Law he founded, would soon take a radically different direction.

Nothing Succeeds Like Successors

In the spring of 1956, A.A. White resigned suddenly in mid-semester from the deanship of the College of Law (and from its faculty, although he would return in 1962 and serve as interim dean in 1974–1976). Conflicts with University of Houston administrators, never fully enamored of White's vision for the law school, apparently came to a head in ways which White could no longer tolerate. White regarded law as a noble profession and believed that law schools should train highly qualified students to serve an increasingly complex society. He was dismayed when the University chartered, over his opposition, a law fraternity with an "Aryan clause" (i.e., no Jews allowed). Then, the University turned down flat his proposal to build or rehab a downtown building to get the College of Law out of the university library's basement¹⁵ and into a space capable of supporting a top-quality institution. A.A. White's last act as dean would be to hire another College of Law graduate, John Neibel, to take over his classes. Neibel eventually would build the new building that White had longed for, and White would live long enough to see it go up.¹⁶

White had tried to build an institution, too—one that reflected his admiration for national law schools that admitted students of proven ability and hired professors who would teach law in its societal context, inquiring after the social impact of laws, considering how the legal system might serve society better, and publishing widely. Newell Blakely, while loyal to White when White was dean (as White would be to Blakely when he rejoined the faculty during Blakely's deanship), saw things differently.

Blakely, not White, was by then the College of Law's most respected teacher. His classroom discipline was legendary. So, too, was the discipline of his approach to legal education. Blakely (at least according to John Mixon, a contemporary of both) regarded law more statically than did White, as something to be learned by memory and induction—that is, through piecing together reasons and principles gleaned from readings of assigned cases and interrogations by Blakely, a master of the Socratic method.¹⁷

Dean Blakely also had firm ideas—and ideas distinctly different from his predecessor's—about how the College of Law should be comprised. He installed a new system of admissions that much resembled the philosophy of the College's parent institution,

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the University. Gone immediately were A.A. White's selective admission standards, which Blakely regarded as elitist. (Shades of E.E. Oberholtzer!) Instead, Blakely opened admissions to anyone with a flat C average (and 90 hours of college).¹⁸ According to Mixon, the school's new dean defined its purpose as

teaching traditional doctrine to large numbers of unscreened students, with a tough grading system [based on Darwinian selection] that flunked out half the class to identify those who were worthy to graduate and practice law.¹⁹

Besides his open admissions policy and unqualified support for the evening division, Blakely's revamped vision for the College of Law led to a starkly different policy regarding faculty hiring. For Blakely, the primary purpose of a law school was to train students to practice law so that they could serve their clients capably, and the primary instrument for carrying out that mission was a corps of outstanding teachers. He rejected White's preference for selecting professors from the national market in favor of hiring more aggressively from the local bar, and specifically from the ranks of the College of Law's own growing list of graduates.²⁰

Likewise, and in keeping with his view of a law teacher's proper role, Blakely did not expect professors to engage significantly in research or publication. Indeed, in his first five years as dean, Blakely and his new faculty hires published next to nothing²¹—although Blakely himself would later become a publishing legend through his masterful explication of the Texas Rules of Evidence in the pages of *Houston Law Review*.

Beginning in 1963, for reasons and by means that need not detain us here (in part because they are told so well elsewhere),²² Newell Blakely's vision for the College of Law had begun to encounter stiff opposition. Many of the faculty who had been hired by A.A. White continued to cherish the educational ideals he had championed. Among Blakely's own hires, many became converts to those ideals.²³ Outside the walls of the College of Law, a President of the United States was assassinated, the civil rights and women's rights movements gained force, the U.S. Government conducted war in a faraway place while riots broke out on campuses nationwide, and in general both society and the law began to move away from Blakely's understanding of law as "a self-referential and neutral system whose formal content was independent of social and community interests" outside the legal system itself.²⁴

Newell Blakely resigned as dean effective at the end of the school year in 1965. His successor, John Neibel, who had been A.A. White's last hire, succeeded him. Neibel struggled for almost a

decade to bridge the gap between White's founding vision for the College of Law and the more local version espoused by Blakely. Along the way, many capable hires joined the faculty's ranks (none more notable for this history of *Houston Law Review* than a University of Michigan Law School graduate and local Houston practitioner named Sidney Buchanan, of whom more later),²⁵ and Neibel succeeded in building a new building—a concept first urged by White, then adopted by Blakely, but finally made a reality (albeit on the University of Houston campus and on a huge scale which neither White nor Blakely had imagined) by Neibel.²⁶

Then Neibel himself was gone, in a rare show of faculty unanimity²⁷ which suggested that the College of Law could no longer straddle the White and Blakely visions. Sooner or later, one would prevail. In the meantime, it seems fair to say, the law school would exist somewhere in between.

In the meantime, too, the College of Law's first student-led journal would emerge amidst all of the institution's upheavals. But where would it fit within the landscape of the battle-scarred terrain that lay between the competing visions of A.A. White and Newell Blakely?

Enter Houston Law Review

Just before the foundations of Newell Blakely's ideal law school began to crumble, philosophically speaking, in 1963, he made a fateful decision. Blakely had earlier observed to John Mixon, newly returned from his year at Yale with an LL.M. in hand, that he knew how to get national attention (had he wanted it) for the College of Law: "Just hire a bunch of New York liberals who want to write law review articles. That would do it." But, the dean advised the professor, "I wouldn't want to teach in a school like that."²⁸

Many of Dean Blakely's students, however, wanted to *learn* at a law school like that—not a school with a bunch of New York liberals as the faculty, necessarily, but one with a law review.²⁹

The students got up a petition, evidently supported by members of the faculty like White and Mixon. Even faced with a formal request from a committee of the Student Bar Association, however, Dean Blakely was reluctant. The students could have a law review, he decided, but only if they raised enough cash to cover start-up costs. With the assistance of College of Law alumni/ae and other members of the Houston Bar,³⁰ they did just that.³¹

Officially, *Houston Law Review* came into being on November 1, 1962, with the filing of its articles of incorporation at the office of the Texas Secretary of State. The initial organizational meeting

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occurred on January 11, 1963. The publication of *HLR*'s first volume³² followed sometime thereafter the same year. The law school around the *Review*, like the nation itself, was in upheaval. Funding, as always at the University of Houston, was scarce, and bodies were few (14 members in all). In short, the editors of the upstart journal had little to sustain them except their confidence in their own abilities and the hope that the new venture would survive. The few, the brave . . .

In Volume 1, Issue 1, after the first of many pages of advertising necessary for "lift off!" (in the parlance of the day in Houston, site of NASA's Johnson Space Center, itself newly opened for business in 1963),³³ *HLR*'s first Editor in Chief would write:

The editors recognize that they yet have much to learn about publishing a law review, and that only the passage of time accompanied by much hard work will establish the fine traditions that will make the Review enduringly great.³⁴

"Enduringly great"? In the circumstances into which *Houston Law Review* had been born?

Absurd.

Or maybe not. After all, *Houston Law Review*'s first faculty advisor turned out to be none other than A.A. White. White had, in fact, suggested the creation of the law review even before the students did,³⁵ although it was they who got the job done. Their dexterity as editors, and that of their advisor, would quickly be tested.

CONDOMS AND COCKROACHES

Condoms and cockroaches did not grace the pages of any volume of *Houston Law Review* during Decade 1 of its existence. But they nearly did. Volume 1, although necessarily cobbled together in short order by Board 1,³⁶ came and went without incident and with many excellences, as will appear below. Board 2's editors,³⁷ however, shortly found themselves confronted with the tantalizingly titled *Trouble in a Bottle: From Condoms to Cockroaches*—a voluminous examination of contaminated bottle litigation from across the country. Wisely, they declined to print it,³⁸ realizing that, as a start-up organization with big goals but limited resources, *Houston Law Review* should seek out and publish only serious-minded pieces that would advance its cause.

Still, the pages of Volume 2 reveal the dichotomy. Condoms and cockroaches were nowhere to be found; in their place were articles on fair use in copyright law, nontaxable corporate separations, and the constitutionality of wiretapping—all topics of

national concern. Yet an examination of the table of contents reveals all Volume 2 authors to be practitioners rather than professional legal scholars, with one noticeable (and soon-to-be common) exception: College of Law professor Dwight A. Olds. Olds indeed authored *three* articles, including an assessment of mechanics' liens under Texas law and a practitioner-oriented piece instructing lawyers on the practical consequences of recording acts. As the sole representative of legal academia in Volume 2, Olds joined a group of local practitioners to comment on matters important to the Houston Bar, while simultaneously addressing the kinds of scholarly legal topics necessary to begin to bring the *Review* attention on the radar screen of respected publications.

As *Houston Law Review* was setting up shop in its early years, the focus was clear: to achieve its founders' aims, the publication's contents eventually would have to include nationally relevant articles by nationally renowned scholars. But such articles were not readily available to *HLR's* editors in its beginning years so, along with the practitioners, the school's faculty—Olds, Mixon, Neibel, Raymond Britton, and others—pitched in vigorously to provide articles of quality.

Thus, local practitioners and College of Law professors dominated the pages of the early volumes. The mix, however, was unstable from volume to volume.

The Academy or the Bar?

The academy or the bar? Who would be the *Review's* primary audience, and what would they read? Fifty years of hindsight evidence the steady emergence of a tier-one law journal as the leading edge of a tier-one law school. Today's *Houston Law Review* is a national top-50 publication that consistently prints only top-flight articles by professional authors of recognized stature.³⁹ Yet the success ultimately achieved was not always so certain, and certainly not guaranteed.

As suggested in *Humble Beginnings* above, during the early days of the *Review* the College of Law itself faced an identity crisis, which in turn was reflected in the content of *HLR's* volumes. As the law school struggled to define itself—would it compete with the top academic institutions in the region, or would it settle for a role that favored degree volume over scholarly research?—the *Review* faced a similar dilemma. Volumes 1 and 2 illustrate the contrast.

The first article published in the first issue of *Houston Law Review* was penned by a member of the law school's own faculty.

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John Neibel, soon to be dean, opined on the *Implications of Robinson v. California*, echoing Justice Potter Stewart (who himself was echoing the appellee's brief) with these, the first words published in the inaugural issue of the *Review*: "It is generally conceded that a narcotic addict, particularly one addicted to the use of heroin, is in a state of mental and physical illness."⁴⁰ How appropriate that the first sentence of the *Review's* first article should feature the College of Law's dean quoting a Supreme Court case about an issue of national concern. After all, six of Volume 1 and 2's professional articles would be written by the school's faculty; only one was by a law professor from another school.

Practitioners generally led the way in the earliest volumes. Nonetheless, while the *Review* did focus heavily on scholarship of interest chiefly to Texas lawyers (topics ranging from Texas criminal courts of inquiry to apartment ownership in Texas), the nationwide scope of content necessary to achieve steadily increasing quality was not altogether an afterthought. Commentaries on multiple Supreme Court cases (*Robinson v. California*⁴¹ and *Reed v. Steamship Yaka*⁴²), privity in the sale of goods, patent litigation, copyright fair use, migrant-labor laws, the legality of wiretapping, and nontaxable corporate separations satisfied those readers from the academy concerned with more than Texas-centered scholarship.

The bell cow of the early years was Justice Tom C. Clark.⁴³ Surrounded in the pages of the *Review* by members of the local bar and professors from the local law school, Justice Clark stands out as a herald of the publication's promising future. His slightly offhand-sounding title: *Random Thoughts on the Court's Interpretation of Individual Rights*. A United States Supreme Court Justice opining on American liberty, quoting Justice Holmes, and providing metaphysical and historical justifications for the Court's role in protecting human dignity, all in the *Review's* very *first* volume!

The Academy Pulls Ahead

What Clark had begun in Volume 1, Solicitor General Archibald Cox carried forward in Volume 3. Long before the *Review* hosted its first Frankel Lecture or printed its first symposium issue (events which would become the hallmarks of its mature years), Cox's 1965 address to the Student Bar Association's Annual Spring Banquet was reprinted as an article in Volume 3, Issue 1. *The Constitutionality of the Proposed Voting Rights Act of 1965* afforded the *Review* its second article by a figure prominent on the national scene. And like Clark's article before it, Cox's address ensured that

Houston Law Review would enter into the national dialogue concerning the ongoing struggle for greater civil rights for all Americans.

Serious law journals address the serious legal issues of the day. The civil rights movement was the paramount social issue of the day as the *Review* pressed forward in its first decade. Articles by Justice Clark and Solicitor General Cox ensured that the journal's two most visible pieces in its earliest volumes would provide important commentary on the changing landscape of individual rights in the United States. And they were not alone.

Throughout the decade, the *Review* published numerous articles containing commentary on the civil rights movement. Joining Clark and Cox were, among others, Professor Alfred Avins of Memphis State University with *Social Equality and the Fourteenth Amendment: The Original Understanding*, Professor Nathaniel E. Gozansky of Emory University School of Law with *School Desegregation in the Fifth Circuit*, and practitioner Robert W. Doty with *The Texas Voter Registration Law and the Due Process Clause*.

As the decade progressed, the *Review's* contents became increasingly more diverse and accomplished, as did the CVs of the published authors. *Houston Law Review* would never abandon its commitment to educating the Texas Bar (indeed, even today its online-only *HLRe: Off the Record* demonstrates a continued commitment to publishing articles of practical importance to Texas lawyers), but achieving the *Review's* larger goals required an increased reliance on national law professors. Volumes 4 through 10 brought just that.

Harvard, Stanford, Pennsylvania, George Washington, Emory, Alabama, U.C. Davis, and American University—law professors from these diverse schools (and many others) helped to enhance the *Review's* budding credibility. Justice Clark returned in Volume 6; justices of the Supreme Courts of Texas and Colorado published articles in Volumes 4 and 10; Texas trial court judges appeared periodically; and United States Senator Mike Mansfield published in Volume 9. A geographically and professionally diverse group, these authors provided articles concerning issues of critical national prominence, including nuclear power regulation, the role and power of the Supreme Court, societal resistance to the law, and obscenity and the law.⁴⁴

While local law professors and practitioners continued to make regular and vital contributions, by the end of the *Review's* first decade its ambition to become a journal of steadily broader scope and recognition was evident. In spite of a marked reliance on

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practitioner-oriented articles early on, the *Review* had begun to emerge as a serious engine of scholarly research.⁴⁵ To get better, however, as the editors of the publication quickly recognized, *Houston Law Review* would have to grow.

Ramping Up Production

As the ambition and visibility of the *Review* increased, so necessarily did its size (both in paper and in people). To accommodate longer articles, more distinguished authors, and more diverse subject matter, the heft of each volume began to increase.

Volume 1 introduced the journal to the world as a three-issue, 312-page publication. Volumes 2 and 3 followed suit, each with three issues and barely 400 pages of length. But just as Volume 4 brought more law professors than ever before (including authors from George Washington University and the University of Iowa), so too did it bring an additional issue.⁴⁶ Volume 4's four issues gave way in Volume 5 to five issues, which remains *HLR's* normal publication output to this day. By the end of the decade, in stark contrast with the production of earlier years, Volume 10's five issues spanned more than 1,200 pages.⁴⁷

The publication's swift growth, both in content and in size, reflected a changing organizational vision, membership, and structure. As the editors pressed to become ever better, they implemented changes to realize that objective. And much did change over the first half-century of the journal's existence. But one consistently present and vital piece of the *Review's* contents appeared right from the start, only to grow in prominence as the years went by.

A Curious Fascination

Among the professional pieces published in Volume 1 was one with a particularly "non-Texas" flavor: an article on an exclusively federal topic titled *The Need for the Impartial Expert in Patent Litigation*. Although the article's central focus was more trial advocacy than substantive patent theory, the presence of patent law in Volume 1 foreshadowed intellectual things to come.

Indeed, each of the *Review's* first five volumes contained articles addressing intellectual property and/or entertainment law. In Volume 2, although the editors declined to publish Arthur Bishop's commentary on prophylactics and pesky pests, in its place they printed his other submission, *Fair Use of Copyrighted Books*. Articles on prior restraint in the motion picture industry, the patentability of inventions, and international licensing agreements

followed in Volumes 3 through 5. Barely has a volume gone by since that time without the inclusion of one or many articles on IP law, an emphasis (at least partially explained by the importance of patents and trade secrets to Houston's petrochemical, biomedical, and astrophysical industries) that has remained constant through the years.

"Off the Record"

Volume 2's first issue introduced a special section of the *Review* intended to balance the competing visions of the publication. *Off the Record's* stated purpose was "to present discussions of problems of practicing attorneys in an informal manner, rather than to replace the regular article section."⁴⁸ All practicing attorneys with experience in a particular field were invited to submit short pieces.

Submissions such as *Operation of the Discovery Rules*, *Alternative Testamentary Administrations*, and *"In Lieu" Royalty Agreements in the Oil Industry* afforded practitioners a steady voice in the *Review* and a continued interest in the contents of publication. Although this section eventually was set aside as the *Review* grew in size and stature, *Off the Record* would come full circle in 2010 when Board 48 began publication of the practitioner oriented *HLRe: Off the Record*, a feature designed to advance many of the same goals of the original feature first conceived in 1964.

The Content's the Thing

Board 1 Editor in Chief Dan Matthews set forth the *Review's* ultimate vision in his editor's page of Volume 1, Issue 1. Enduring greatness was the goal, but much work would be needed to get there. The arc of Decade 1 illustrates an organization initially regional (and often simply state-based) in scope, publishing the output of mostly practitioners and Houston law professors but fitfully providing a glimpse of the levels of scholarship and acclaim to which the early editors aspired. Professors, judges, and academics from around the country filled the *Review's* pages as the decade progressed, necessitating an increase in annual issues from three to five. "Off the Record" and other such ephemera gave way to Harvard, Stanford, and Penn. As the decade concluded, much had been accomplished.

A PERFECT ARISTOCRACY⁴⁹*Membership and Logistics: An Overview*

Fourteen members strong, the pioneer Board of the *Houston Law Review* was small in number, though not in achievement. Law reviews are repopulated annually by their school's highest achieving first-year students, and "continued membership is based on higher performance than is demanded of non-members."⁵⁰ Whether selection is based on grades, a writing competition, or a combination of both, spots are limited.⁵¹ And so the 14 members of Board 1 had much to celebrate—the requisite success required for initial membership brought about the opportunity to print the *Review's* first pages.

By design and by necessity, the size of a law review is closely linked to the size of its law school. And the College of Law in 1962 was not large—a few hundred at most. A small law class birthed a small *Law Review* board; a small board required a relatively modest structure, at least by the standards of today.

Board 1 was indeed simply organized: an Editor in Chief, supported by a single Articles Editor, Comment Editor, Casenote Editor, Book Review Editor, and Business Manager, with a population rounded out by eight members of the Editorial Staff. No Managing Editor, no Chief Articles Editor, and certainly no Alumni Developments Editor (there being, obviously, no alumni to develop). But as the *Review* labored along through the remainder of Decade 1, the membership structure would evolve annually.

The position of Managing Editor was added by Board 2 and remained a constant thereafter. But beyond that, few masthead changes made during those early years were permanent. Board 6 took a bifurcated approach: there were Editors of Student Writings and Editors of Non-Student Writings (but very little else). By Board 7, they had become, respectively, Casenote and Comment Editors and Articles Editors. Board 8 introduced the title of "Members." And at the end of the decade, Board 10 did away with Associate Editors, instead crediting them on the masthead simply as Editors.

The main constant was a limited size throughout most of the decade: 14 members of Board 1, down to 10 by Board 6, but rising slightly to 11 on Board 7 and 13 on Board 8. What would it take for the *Review* to grow, given its insistence on asking only a small percentage of each class into membership?

The answer? The law school itself would have to grow. And grow it did.

Newell Blakely, it will be recalled, had embraced A.A. White's ambition to build or buy space for a downtown law building. While their motives may have differed (both getting out of the cramped university library basement and getting closer to the practicing bar and the judiciary featured in each man's vision, though in differing measure), Blakely and White's efforts produced exactly the same result: nothing.

Their successor, John Neibel, proved a better institutional politician than either. In 1966, the University announced that it would fund a law building—on campus. The promise helped gain the College of Law membership in the Association of American Law Schools.⁵² And it opened up the prospect of a greatly expanded student body, with concomitant results for the membership of *Houston Law Review*, through an ingenious⁵³ hub-and-satellite design, including a projected five teaching units (and an underground library) capable of accommodating up to 2,500 students, if ever completely built.

As the first (and still only) two teaching units rose and became occupied in 1969 and 1975, the school's enrollment skyrocketed. Increased enrollment led, in turn, to a larger *Review* (an important development, considering that the page length per *HLR* volume had quadrupled from Volume 1 to Volume 10). By Board 10, membership had risen to 30.

The growing number of members did not immediately produce a notably more sophisticated Editorial Board structure. Members and Editors comprised 80% of Board 10. They were led by an Editor in Chief and a Managing Editor, along with two Article Editors and two Comment and Casenote Editors. But if the hierarchical organization of the *Review* remained somewhat thin, the addition of many additional hands at least made easier the processes of reviewing submissions, selecting articles, editing galley proofs, and printing five issues per volume.

Along with arduous labor, membership on *Houston Law Review* (or any law review) carries with it many benefits as well. The success, the prestige, and the responsibility accompanying law review membership really never changes. Famed scholar (and *Yale Law Journal* Editor in Chief) Karl Llewellyn encouraged first-year law students concerning the merits of attaining membership in his school's most elite student organization thus:

We have in law schools an aristocracy of a peculiar kind. We may almost say it is a perfect aristocracy. One achieves membership exclusively in terms of his performance. Membership carries honor, but the honor that it carries is the duty to work and slave and drive oneself as no other student is

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expected to. A perfect aristocracy, then, because continued membership is based on higher performance than is demanded of non-members. Now this law review is a scientific publication, on which in good part the reputation of the school depends. Here is a thing American. Here is a thing Americans may well be proud of. There is not so far as I know in the world an academic faculty which joins its reputation before the public upon the work of undergraduate students—there is none, except in the American law reviews. Such an institution it is an honor to belong to. And by virtue of the terms of tenure of office of this you may be sure: to earn that honor is to earn an education. I hold out before you, then, as the goal of highest achievement in your first year, this chance to enter on real training in your second.⁵⁴

At the University of Houston College of Law during Decade 1, what sort of person rose to that challenge?

*The Boys of Pointe du HLR*⁵⁵

The young men and women who served on *HLR* during its early years bore the burden not only of advancing their own careers but also of bringing closer to reality the dream of excellence that A.A. White had dreamed for the College of Law and the first-born of its scholarly publications, *Houston Law Review*.⁵⁶

Truth to tell, the “men and women” of Decade 1 were mostly men. Given the demographics of law school enrollments nationwide at the time, things could hardly have been otherwise.

But by only the seventh year of its existence (Board 7 in 1969–70), *Houston Law Review* had its first female Editor in Chief, Marjorie Caldwell.⁵⁷ Carol Eggert Dinkins,⁵⁸ who served on Caldwell’s successor board and helped oversee the publication of Volume 8, has clear memories of life at the College of Law of that era:

There were not many women—[I along with] two others walked across the stage [at Commencement] in June of 1971 The professors were, as you would imagine, very professional with us and made no distinctions between us and the male students. It was not easy for women to get a job in those days, and there weren’t many in the firms. For example, Marjorie was the first woman associate at V&E [Vinson & Elkins] in 1970 When I made partner at the end of 1979, *Texas Monthly* carried a blurb about it, as it was the first for any large law firm in Texas.⁵⁹

Seven years after Marjorie Caldwell became Editor in Chief of *Houston Law Review*’s Volume 7, the “other *HLR*” (*Harvard Law*

Review) would elect its first female President, Susan Estrich—heading up Volume 90.

Marvin Nathan⁶⁰ served as Managing Editor of Volume 2 and Editor in Chief of Volume 3. *Review* members, he recalls, were “few in number in contrast with the current editorial board,” resulting in what he regarded as his greatest challenge during the early days of the publication: “to instill pride and to inspire tradition.”⁶¹ The viewpoint of Nathan’s boards was intensely forward looking, yet pragmatic and self aware:

The vision of the editorial boards at the time was to try to change the image of the law [school] as much as we could as quickly as we could . . . We wanted, as a group, more recognition, more approbation, in the community. We were not so much focused on our standing nationally. That wasn’t as important as our regional standing.⁶²

Indeed. First things first. Presciently, however, and happily for *HLR*’s later national standing, it was Nathan’s Board that “summarily rejected” *Condoms and Cockroaches* for publication by *Houston Law Review*.

Lawrence (Larry) Pirtle,⁶³ an Associate Editor on Board 3, remembers conducting the publication’s affairs with Nathan and others from an office in the *Review*’s old university library basement “about the size of a modest-sized closet of today.” Substantively, his strongest memory is of the “Boys from the Basement”⁶⁴ publishing in Volume 3 Solicitor General Cox’s address regarding the constitutionality of the then-proposed Voting Rights Act of 1965. The events of the day, he recalls, including those considered in the pages of *Houston Law Review*, “raised issues and fundamental differences which are still echoing (even more loudly) today.”⁶⁵

Echoing Pirtle, Alvin Zimmerman,⁶⁶ who served as Managing Editor on Board 4 under John O’Quinn (see below), recalls his experience as the first editor to attend a meeting of the National Conference of Law Reviews. While gratified “because we were complimented for being such a young law review but . . . having such a professional publication” (news that “brought . . . high fives from everyone” when reported back in Houston), Zimmerman realized that still greater efforts would be required if *HLR* were to move up in the ranks.⁶⁷ “[W]e wanted . . . eventually to be able to compete with any other major law review,” he recalls. But “to begin that quest, we needed [to put out] not less than four issues.”⁶⁸ Board 4, accordingly, did just that.

Probably few members of the Decade 1 boards would contest that, among any number of extraordinary members of *Houston Law*

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Review, John O'Quinn⁶⁹ towered above them all—not always to their comfort—by virtue of both his physical stature and his sometimes outlandish appetites and professional achievements.⁷⁰

O'Quinn was raised by his father, who ran an auto repair shop near Houston's Rice University. His alcoholic mother had deserted the family when O'Quinn was four years old.⁷¹ He enrolled at Rice, where he accumulated 90 hours of credit, accompanied by at best middling grades earned amidst off-and-on probation. He never graduated.⁷² It didn't matter. Under the Blakely Rules then in force at the University of Houston College of Law, a degree was not required. Ninety credit hours and C (or thereabouts) was good enough for admission.

Fortunately for himself and the law, O'Quinn caught fire at UH, pushing not only himself but everyone around him tremendously hard. He became Editor in Chief of *Houston Law Review* (not only presiding over the expansion of the publication from three issues per volume to four, but also adding *HLR's* first effort resembling a modern symposium issue).⁷³ After specially petitioning to be allowed both service on the *Review* and participation in advocacy competitions (a practice forbidden by College of Law regulations but allowed by the administration in O'Quinn's instance), he won a national moot court competition.⁷⁴ He finished first in his class.

O'Quinn proved to be a bigger-than-life, big-case lawyer. He won enormous verdicts in gas royalty disputes and breast implant cases and was a major participant in the class action that extracted billions of dollars for the State of Texas from Big Tobacco. He celebrated his successes with extravagant Christmas parties. But he also "dealt daily with personal demons and addictions."⁷⁵

Not everyone liked John O'Quinn. Many physicians hated him because of the breast implant litigation, a fact that opened him to speculation that he "must have enjoyed great satisfaction when he funded a Texas Medical Center building with his name attached."⁷⁶ He was also a tenacious, even ferocious, advocate and more than once was accused of playing too close to, or across, the line in pursuit of success in his practice.

One of O'Quinn's great loves (perhaps not surprisingly in light of his growing-up years)—and one at which he felt compelled, as he did with everything in his life, to succeed—was assembling what became one of the nation's most impressive collections of antique cars. In all, he amassed more than 800 vehicles, including both enormously expensive classics (Lamborghini, Rolls-Royce, Duesenberg, and even a

Batmobile), plus a plain grey 1975 Ford Escort GL first owned by a young Polish priest who would become John Paul II.

On the morning of October 29, 2009, having forgotten a file he needed for a hearing later in the day in San Antonio, O'Quinn left Houston's Hobby Airport in the rain in his black Suburban and headed toward his home in Houston's tony River Oaks neighborhood, speeding along at 76 miles per hour on a slick, winding road posted at 40 mph. He lost control of the vehicle. The Suburban slid first, then flew across three lanes of traffic, a wide grassy median, and three more lanes of oncoming traffic, before it crashed head-on into a massive oak. O'Quinn was killed instantly. Many of the autos from his beloved collection were exhibited at his memorial service.

John O'Quinn's is an out-sized story. But stripped of its wholly personal extravagances, it is much like the story of *Houston Law Review*.⁷⁷ O'Quinn had come up from the bottom. He possessed enormous drive always to be better. He worked with all the might he had. And in the end, he succeeded in making something of himself.

* * *

"Context matters," Justice Sandra Day O'Connor once observed.⁷⁸ So it was with *Houston Law Review* during the first decade of its intended journey toward "enduring greatness."

Fourteen members, a closet-sized office, and barely 300 pages—*Houston Law Review* had been born amidst humble circumstances in 1963. The dedicated editors of Boards 1 through 10 strove to make the *Review* a publication of substance and quality, if still a publication with only regional ambitions. They hobnobbed with their fellow wizards⁷⁹ (at the National Conference of Law Reviews), broadened the horizon of the journal's subject matter, published a precursor to later symposium issues, and grew the organization in prestige, scope, and size.

By the end of Decade 1, it could be said truly of the men and women of *Hous. L. Rev.* that, like perhaps their most famous member, they were . . .

Driven.

1. Cf. *John* 1:1.

2. The following section, unless otherwise noted, is drawn principally from JOHN MIXON, *AUTOBIOGRAPHY OF A LAW SCHOOL* (2012) [hereinafter MIXON] (used with its author's enthusiastic endorsement), plus the personal recollections and reflections of this essay's author. The publication of the MIXON HISTORY celebrated the 65th anniversary of the founding of what is now the University of Houston Law Center, with funding for the book made possible by the John Mixon Society and through the generosity of Don R. Riddle, UHLC Class of 1966,

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an Associate Editor of *Houston Law Review* on Board 3, and the Law Center's long-time good friend.

3. PATRICK J. NICHOLSON, *IN TIME: AN ANECDOTAL HISTORY OF THE FIRST FIFTY YEARS OF THE UNIVERSITY OF HOUSTON 1* (1977).

4. Not to be confused with "all deliberate speed." *Cf. Brown v. Bd. of Educ.*, 349 U.S. 294, 301 (1955).

5. Houston offered other educational opportunities for local high school graduates, of course, but none on such easy terms. In particular, Rice Institute (as today's Rice University was then known) was highly selective in its admission policy. The founders of the University of Houston saw the need for an alternative. NICHOLSON, *supra* note 3, at 13.

6. *Id.* at 31, 65.

7. MIXON, *supra* note 2, at 43. UH became a state university in 1963, but the University of Texas and Texas A&M University, both with longer traditions and deeper alumni bases, continue to dominate other state universities where state funding support is concerned.

Today, however, the University of Houston is a Carnegie Tier One university and home to one of the nation's leading Honors Colleges.

8. At least insofar as the early pages of *Houston Law Review* (an esteemed but obviously limited frame of reference) disclose, there is an "alternate universe" possibility to the received wisdom regarding the "Bates College of Law" nomenclature: the University of Houston College of Law as a whole may never have been named, formally, Bates. A one-page announcement in Issue 5:2 describes plans for the construction, initially, of several structures that would include "an administrative unit, a library, and a teaching unit" (emphasis added), but with up to four more teaching units to be built later. "Future growth in enrollment will be met," the announcement continues, "by the construction of a new law school, sharing library and administrative facilities and guided by the philosophy of Bates College, but otherwise independent, with its own student body, faculty, and curriculum." (Emphasis again added.) In short, and at least arguably, what was then meant by "Bates College" was merely the first teaching unit (together with the central library and administration building), with the naming of the second, and any other future teaching units (or "schools"), to abide—perhaps in the hope of a major donation in exchange for naming rights. That never occurred.

9. A.A. White, as told to John Mixon in the 1980s. MIXON, *supra* note 2, at 39.

Currently, the University of Houston Law Center ranks in the top quartile of American law schools. *See Best Law Schools*, U.S. NEWS & WORLD REPORT (2012), available at <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings/page+3>.

10. *See generally* MIXON, *supra* note 2, at 44.

11. *Id.* at 45–64.

12. Dean White was willing to hire from in-state as well, but did so rigorously. Simon Frank, for example, had been a straight A student at the University of Texas School of Law. White simply was unwilling to compromise on quality. MIXON, *supra* note 2, at 52.

13. *Id.* app. VIII (Tenure Track Faculty Hired, 1947–2011). White, who himself had spent a year of graduate study at Columbia, believed strongly in the value of post-J.D. education. He encouraged Blakely to take a year off in 1953 to earn an LL.M. from Michigan; and Blakely in turn, when he became dean, often sent his locally hired professors off to "finishing school" at highly regarded institutions like Yale, where UH law grad John Mixon would polish his credentials. Mixon suggests that Blakely thought he had little to fear from Yankee influences upon his new hires, whereas in fact most of his newly minted LL.M.s returned to Houston more invested in A.A. White's conception of the role of legal education than they were in Blakely's. *Id.* at 133–34.

14. *Id.* at 49–50, 107–10. Mixon would bookend Decade 1 of *HLLR's* early history by publishing in both Volume 1 and Volume 10, writing frequently thereafter, and even contributing to the Decade 5 issue that celebrated his 50 years of teaching at the Law Center.

15. Basements, as the University would learn to its dismay half a century later when Tropical Storm Allison nearly destroyed its physical plant—underground library and all—in

2001, are no place to put a law school.

16. MIXON, *supra* note 2, at 113–15.
17. *Id.* at 49–52.
18. *Id.* at 120–23.
19. *Id.* at 113 (from an October 2012 draft revised subsequent to this essay’s original publication).
20. *Id.* at 130–33.
21. *Id.* at 122–23.
22. *See generally id.* at 183–232.
23. *Id.* at 133–34; *see also supra* note 13 (discussing Dean Blakely’s commitment to sending his local hires off to elite law schools to burnish their credentials with LL.M.s).
24. MIXON, *supra* note 2, at 122.
25. *Id.* at 224–26. *See particularly, hereafter, the story of Decade Two: Carry On Boldly.*
26. MIXON, *supra* note 2, at 234–46.
27. *Id.* at 298–99. A.A. White himself succeeded Neibel as dean, but only in a caretaker capacity. *Id.* at 304–05.
28. *Id.* at 186.
29. For the motivations of the early leaders of *Houston Law Review*, see “*The Boys of Pointe du HLR*” below.
30. One leading figure was Charles I. Francis, to whom Volume 8 was dedicated. Francis was vital in covering *HLR*’s start-up costs and contributing vision to the organization. The editors of Volume 8 praised Charles Francis, a graduate of the University of Texas School of Law, for “realiz[ing] that the country needed more good law schools and that competition stimulated education.” *Dedication*, 8 HOUS. L. REV. xxxi (1970).
31. MIXON, *supra* note 2, at 186–87.
32. Officially, as originally numbered, Volume I. The use of Romans for volume numbers was discontinued after only one volume and replaced in Volume 2 by the use of Arabic numerals (although not in the numbering of boards on the mastheads).
33. Originally christened the Manned Spacecraft Center but renamed in 1973 after former President (and Texan) Lyndon B. Johnson’s death, JSC would guide all U.S. space flight from Gemini through the current International Space Station. *Mission Control Fact Sheet, Houston*, NASA.GOV, http://www.nasa.gov/centers/johnson/pdf/160406main_mission_control_fact_sheet.pdf (last visited Aug. 28, 2012).
34. Dan G. Matthews, *Editor’s Page*, 1 HOUS. L. REV. viii, viii (1963).
35. MIXON, *supra* note 2, at 186–87.
36. Mike Willatt, who served as the articles editor for Volume 1, notes dryly: “My major responsibility was to find some articles. I suspect that the role has not changed, but the menu of contributors has probably enlarged considerably.” Questionnaire Response, Mike Willatt, Willatt & Flickinger (Nov. 3, 2011) (on file with Houston Law Review).
37. Physical copies of Volume 2 contain three different mastheads, an artifact indicative of the *Review*’s continually changing membership. Members came and went, as one former Editor in Chief recalls, “without any real predictability.” Some finished their degrees in mid-year; others accumulated the hours necessary to take the bar exam, got their licenses, and departed without obtaining a degree at all. “We never thought of ourselves as being on the board as a group, because there was a lot of transition within the boards. . . . We never knew from semester to semester who would be there.” Interview by Rebekah Reed with Marvin Nathan, Senior Partner, Nathan Sommers Jacobs (Feb. 16, 2012) (on file with Houston Law Review).
38. Ultimately, the article was published as *Trouble in a Bottle* (absent any mention of condoms or cockroaches in the title) by *Baylor Law Review* in 1964. *See generally* Arthur N. Bishop Jr., *Trouble in a Bottle*, 16 BAYLOR L. REV. 337 (1964).
39. Regrettably, brevity and clarity—not to mention the failure of early volumes of the *Review* to disclose the authorship, whether student or professional, of notes, comments, and

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the like—require this series of essays to focus primarily on the publication’s articles, which were drafted by, and credited to, professional authors.

40. John B. Neibel, *Implications of Robinson v. California*, 1 HOUS. L. REV. 1, 1 (1963) (quoting *Robinson v. California*, 370 U.S. 660, 667 n.8 (1962)) (internal quotation marks omitted).

41. *Robinson*, 370 U.S. 660.

42. *Reed v. Steamship Yaka*, 373 U.S. 410 (1963).

43. Justice Tom Campbell Clark (b. Dallas, Texas, Sept. 23, 1899; d. New York City, New York, June 13, 1977) was a Texas lawyer, appointed to the Supreme Court by President Harry S. Truman, who served as an Associate Justice from 1949 to 1967.

44. For more detailed information on the subject matter of Decade 1’s contents, see “By the Numbers,” *infra*, at 28–35.

45. “I recall a pervasive sense throughout the tenure of Board 10,” recalls its Editor in Chief, Jan Baker, “that the Law Review had, in some fundamental way, ‘arrived’ as a scholarly law school publication.” Thanks to the hard work of their predecessors as well as their own efforts, the *Review* “was being increasingly cited by courts and commentators” and the Board 10 editors experienced “an influx of articles that were of increasingly high quality.” Questionnaire Response, D. Jansing Baker, Latham & Watkins LLP (May 24, 2012) [hereinafter Baker Questionnaire] (on file with Houston Law Review).

46. The expansion to four issues per volume was funded by a \$35,000 grant, to be paid at the rate of \$7,000 per year over five years, by the Maurice Frankel Foundation; and, not surprisingly, Issue 3 was dedicated to Frankel. “Financial instability,” the editors noted, “seems the natural state of law reviews, and no review could long endure without a subsidy of some kind.” *Dedication*, 4 HOUS. L. REV. (1966).

47. The technology used to produce the volumes, however, remained almost unimaginably primitive by today’s standards. “In the early years of the *Law Review*, it was printed on linotype machines. Copy was sent to the printer, and an operator retyped the copy on a linotype keyboard. The machine then created a line of type called a ‘slug,’ and each slug was—literally—a line of hot metal.” The labor-intensive character of the process also made changes “very expensive” and forced the editors to balance “the cost of each change . . . against [its] importance.” Baker Questionnaire, *supra* note 45.

Once the changes were made and the volumes published, there remained, of course, the question of how to get *Houston Law Review* noted in the legal world. Board 8 Editor in Chief Steven Segal relates that, prior to his board’s time in office, *HLR* had remained conspicuously absent from notice in *Shepard’s Citations*. Contacting the publisher, Segal was informed by *Shepard’s* that it “would consider our inclusion when there was a demand.” In response, Dean John Neibel placed in his annual letter to College of Law alumni/ae a message requesting that they write letters to *Shepard’s* demanding that henceforth it publish citations to *HLR* (or, as many of them apparently added, risk the cancellation of their subscriptions). “Not long after, we received a letter from *Shepard’s* advising that our *Law Review* was going to be added to their service. We joked in the office that the letter really said, ‘call off the dogs, you have created the demand.’” Questionnaire Response, Steven Segal, retired partner at Fulbright & Jaworski L.L.P. (Mar. 20, 2012) (on file with Houston Law Review).

48. *Editor’s Note*, 2 HOUS. L. REV. 69, 69 (1965).

49. KARL N. LLEWELLYN, *THE BRAMBLE BUSH* 105 (1930).

50. *Id.*

51. By Board 3, students writing onto the *Review* could choose between drafting a full-length article or, alternatively, submitting two case notes.

52. MIXON, *supra* note 2, at 235.

53. Ingenious, but flawed. For architectural reasons, the plans called for not only “basement” floors to all buildings, but “ground” (meaning “sunken into the ground”) floors as well. The early results, while hardly promising, at least provoked some amusement:

Professor Dwight Olds had famously predicted that TU 1 [i.e., the Bates College of Law building] would flood, no matter how it was designed, because of the fact that it

was to be built in an area . . . he knew to be flood prone. He was, of course, completely correct; TU 1 always flooded badly during heavy rains, with the result that any entrance with a door below grade was heavily sandbagged, in order to try to prevent flooding. On the instance of the heaviest storm that I can remember during my time in law school, a torrent of water had overwhelmed the sandbags and was flowing down the steps toward the below-grade entrance into TU 1. As I stood in the hallway, I saw water cascading down the stairs, then rolling into the elevator shaft and shorting out the elevator. As a result, the doors would open and close, the elevator would go up to the top floor, the doors would open and close, it would come back down, the doors would open and close, with the cycle endlessly repeating itself. Occasionally, sparks would fly out. I had never seen anything like it.

Baker Questionnaire, *supra* note 45. The design would have calamitous consequences for both the school and the *Review* during the latter's Decade 4.

54. LLEWELLYN, *supra* note 49, at 105.

55. A battlefield reference. Cf. STEPHEN E. AMBROSE, D-DAY 406–17 (1994). On the 40th anniversary of D-Day, standing above the beach where Allied soldiers had stormed ashore to liberate Europe from Nazi tyranny, President Ronald Reagan memorably described the Allied Expeditionary force thus: “These [we]re the boys of Pointe du Hoc. These [we]re the men who took the cliffs.”

56. As the foregoing subsection on membership and logistics makes clear, the boards of the earliest volumes were small. But by Volume 10, the mastheads (an unreliable measure but still the best one readily available) indicate that somewhere north of 150 students had, at one time or another, been members of *HLR* during Decade 1. Each had a story, but cumulatively, there are too many to attempt to tell here. With apologies for necessary omission and compression, what follow are but a few of those stories of sacrifice and achievement.

57. Caldwell's current contact information is unknown as of this writing. *Houston Law Review's* hope, however, is that these 50th Anniversary essays will elicit further information, including the whereabouts of former members, relevant to the history of the *Review's* first five decades. The essays will be compiled, and corrected as necessary, after the publication of their fifth episode.

58. Dinkins currently is a partner at Vinson & Elkins LLP, with offices in Houston and Washington, D.C., and serves as the firm's Group Leader for Environmental Practice.

59. E-mail from Carol Eggert Dinkins, Partner, Vinson & Elkins LLP, to the author (Aug. 30, 2012) (on file with Houston Law Review).

60. Nathan is Senior Partner at Nathan Sommers Jacobs in Houston, specializing in real estate law, business organizations, and finance. He, along with Lawrence Pirtle and Alvin Zimmerman, *see supra* text accompanying notes 63 and 66, in a December 14, 2012 oral history of Decade 1 on file with Houston Law Review.

61. Questionnaire Response, Marvin Nathan, Senior Partner, Nathan Sommers Jacobs (Nov. 11, 2011) (on file with Houston Law Review).

62. Interview by Rebekah Reed with Marvin Nathan, Senior Partner, Nathan Sommers Jacobs (Feb. 16, 2012) (on file with Houston Law Review).

63. Today, Pirtle is Of Counsel, focusing on tax law at Houston's Gardere Law Firm.

64. The phrase is taken from T. Gerald Treece, *My Friend John*, 47 HOUS. L. REV. 253, 253 (2010).

65. Questionnaire Response, Lawrence J. Pirtle, Of Counsel, Gardere (Nov. 30, 2011) (on file with Houston Law Review).

66. Zimmerman currently is chair of Zimmerman, Axelrad, Meyer, Stern & Wise, P.C., in Houston, and is board certified in family law.

67. While probably *HLR* had not moved up all *that* much in the ranks three years later despite the addition of a fourth issue, by Board 6 (1968–69) the *Review* was at least sufficiently “on the map” for its editors to be asked to journey to San Antonio, which they happily did, to assist in the start-up of *St. Mary's Law Journal*. Questionnaire Response, Wendell B. Alcorn, Jr., Alcorn Law Office (Dec. 4, 2011) (on file with Houston Law Review).

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68. Interview by Rebekah Reed with Alvin Zimmerman, Chair, Zimmerman, Axelrad, Meyer, Stern & Wise, P.C. (Oct. 16, 2011) (on file with Houston Law Review).

69. John Maurice O'Quinn (b. Houston, Texas, Sept. 4, 1941; d. Houston, Texas, Oct. 29, 2009) was the founding partner of The O'Quinn Law Firm and a famed Texas plaintiff's personal injury lawyer.

70. As did the institutional history of *Houston Law Review* earlier in this essay, the text below draws heavily upon MIXON, *supra* note 2. For the content that follows regarding John O'Quinn, see generally *id.* at 127–29.

71. Larry J. Doherty, who practiced law with O'Quinn early in their careers, credits childhood hardship and abuse as a factor in making O'Quinn a successful trial lawyer. *See id.* at 120 n.115.

72. Alvin Zimmerman, *In Memoriam*, 47 HOUS. L. REV. 255, 257 (2010).

73. Issue 4:3 was the initial installment in a planned series of surveys “annually reporting, discussing, analyzing, dissecting, and criticizing” the work of the U.S. Court of Appeals for the Fifth Circuit.

74. Despite his great intelligence, O'Quinn was not a natural as an advocate. His friend, Mark Lanier, has written:

John explained to me once that some cars come equipped with all you need, while other cars require installation of certain things. John self-installed communication skills in a way that made most think his skill set was original factory equipment! He joined Toastmasters, read speech books, and took every opportunity to watch the communication masters work. John would tear apart every great trial lawyer's successes to the nuts and bolts. John would then seek to rebuild them into his own practice.

W. Mark Lanier, *John O'Quinn: The Power of Drive and Hard Work*, 47 HOUS. L. REV. 249, 249 (2010).

75. MIXON, *supra* note 2, at 129.

76. *Id.* at 128. O'Quinn also was capable of generous gifts. A drive from Houston to Galveston, as Mixon notes, takes one through the John M. O'Quinn Estuarial Corridor. *Id.* He funded an environmental law chair at the University of Houston and, during one of the many lean periods in University support, renovated the Law Library.

77. O'Quinn served on *HLR's* Board of Directors from 1973 until the day of his death.

78. *Grutter v. Bollinger*, 539 U.S. 306, 327 (2003).

79. *Cf.* “The Wizard of Oz” (1939).

ODDMENTS

An oddment, according to the Merriam-Webster Dictionary, is “something left over”—or, more simply, an “oddity.” In the plural, oddments are “odds and ends.” <http://www.merriam-webster.com/dictionary/oddment>.

The following section, which will be a recurring feature of these essays, consists of interesting, perhaps even entertaining, bits and pieces of information which have found no convenient placement in the writing of an essay, but which seem (at least most of them) too good to be left as a “remnant” (another common definition of “oddment”) on the cutting room floor.

Ephemera. The brief life of “Off the Record,” at least in its paper incarnation, lasted only three volumes. As such, it was but one of many occasional features which flourished briefly during the first decade of *Houston Law Review*’s existence. Some, like “Books Reviewed” and “Books Received,” would persist throughout all ten volumes. Others, like “Off the Record” and “Current Materials” (citations to “items from other reviews selected by the *Houston Law Review* as being of probable interest,” with the suggestion that readers so interested obtain a copy of the article or comment listed “by writing to the review in which it appeared”), quickly went the way of the Dodo as the *Review* evolved and matured.

Passing the Hat. In addition to accepting the assistance of alumni/ae and friends like Charles I. Francis, early boards collected what small change they could from any source available. Advertisements figured prominently in the financing. For example, the early volumes frequently included ads from law book publishers—but from banks and clothing stores, too.

Cover Story. The *Review* underwent a visual makeover during its early years. The first five volumes of the publication had featured what might be described most charitably as a “functional” look (basically, the journal’s name, the volume and issue numbers plus the date, and a listing of contents, but with no shields or other graphical embellishments). In anticipation of the construction of the new buildings, however, the cover of Volume 6 sported both snazzier fonts and a new symbol perhaps suggestive of the five teaching units intended for the new building complex. As executed, however, the design resembled

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nothing so much as a pentagon-shaped copper snowflake—an unlikely symbol for a law school located in Houston, Texas!

Romance at the Review. Labor at *HLR* could prove fruitful in more ways than even Karl Llewellyn had promised, as Board 2's example demonstrated. Miller Walsh (a comment editor) and Mimi Nunn (the *Review's* secretary) were married at some point in 1964 and continued so for 43 years until Miller's death in 2007. http://www.chron.com/CDA/archives/archive.mpl/obits_4450664/walsh.html. No doubt many more such tales could be told.

Clearly (En)titled. Hands down, the prize for best title of the decade goes to University of Houston College of Law Professor (and *HLR* Faculty Advisor) Alan D. Cullison, *Interpretations of the Eleventh Amendment (A Case of the White Knight's Green Whiskers)*, 5 HOUS. L. REV. 1 (1967) (arguing, per the abstract to his article and with reference to the White Knight's song to Alice in Lewis Carroll's *Through the Looking Glass*, that the Eleventh Amendment to the United States Constitution “does not mean what it says nor even what the [Supreme] Court says it means”).

BY THE NUMBERS. . .¹**ISSUES AND PAGES**

Volume	Issues	Pages
1	3	312
2	3	428
3	3	429
4	4	755
5	5	1048
6	5	1228
7	5	751
8	5	1002
9	5	1122
10	5	1214

1. Compiled by *Houston Law Review* Boards 50 and 51.

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**BOARDS, MEMBERS, EDITORS IN CHIEF,
AND FACULTY ADVISORS**

Board	Members ²	Editor(s) in Chief	Faculty Advisor(s)
1 (1963–64)	14	Dan G. Matthews, Morley H. White, and James H. Whitcomb	A.A. White
2 (1964–65)	13	James H. Whitcomb and Thomas S. Hornbuckle	A.A. White
3 (1965–66)	22	Thomas S. Hornbuckle and Marvin David Nathan	A.A. White and Alan D. Cullison
4 (1966–67)	9	Gerald J. Adler and John M. O'Quinn	Alan D. Cullison
5 (1967–68)	12	James R. Martin	Alan D. Cullison

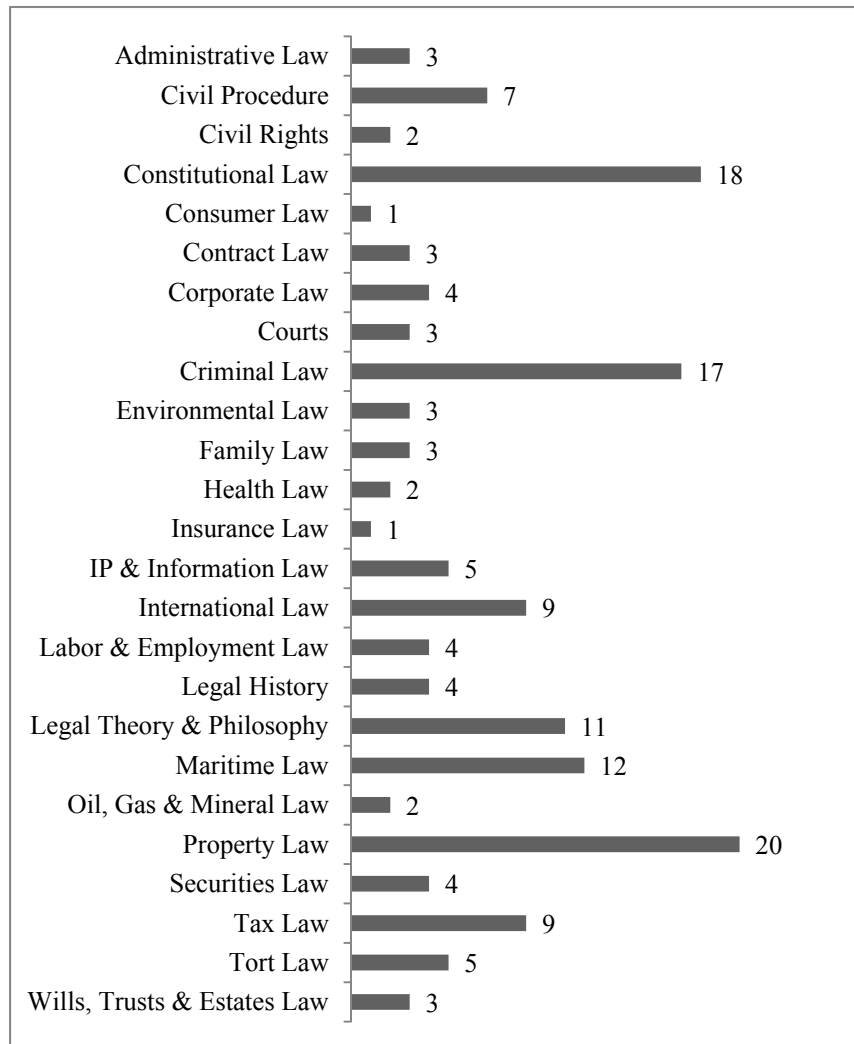
2. During the Review's first three years, membership appears to have come and gone issue-by-issue, thereby inflating totals until volume-by-volume membership became the norm in later years.

**MEMBERS, EDITORS IN CHIEF, AND
FACULTY ADVISORS**

Board	Members	Editor(s) in Chief	Faculty Advisor(s)
6 (1968–69)	10	Wendell B. Alcorn, Jr.	Alan D. Cullison
7 (1969–70)	11	Marjorie Caldwell	Alan D. Cullison
8 (1970–71)	12	Steven E. Segal	G. Sidney Buchanan
9 (1971–72)	19	William W. Wiggins	G. Sidney Buchanan
10 (1972–73)	30	D. Jansing Baker	G. Sidney Buchanan

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ARTICLE TOPICS

MOST PUBLISHED AUTHORS³

1. Dwight A. Olds (14 articles)

- T2. Carl O. Bue, Jr., John Mixon, and Daniel L. Rotenberg
(3 articles)

- T5. Gerald J. Adler, David N. Atkinson,
G. Sidney Buchanan, Tom C. Clark, Alan D. Cullison, Robert W.
Doty, W. James Kronzer, Henry P. Lundsgaarde,
Jim M. Perdue, John W. Sayer,
T.C. Sinclair, Edward W. Turley, Jr., and A.A. White
(2 articles)

3. Methodological Note: Professionally authored pieces appearing in *Houston Law Review* are described variously as, for example, “articles,” “essays,” “addresses,” “commentaries,” “forewords,” “introductions,” “prefaces,” “prologues,” “epilogues,” “books,” and “chapters.” The category ascribed to an individual piece by *Houston Law Review* does not connote an editorial judgment as to quality.

Nor does length necessarily equate to worth. In the *Review’s* fourth decade, for example, Volume 40:1’s *Occupational Health and Safety Act Symposium* “Foreword” (at 30 pages) rivals the total page count of the lead-off “Address” (12 pages) and one of the featured “Articles” (19 pages) combined. See Sidney A. Shapiro, *Foreword: Occupational Safety and Health: Policy Options and Political Reality*, 31 HOUS. L. REV. 13 (1994), Ralph Nader, *Address: Occupational Safety and Health Act*, 31 HOUS. L. REV. 1 (1994), and Thomas O. McGarity, *Article: Reforming OSHA: Some Thoughts for the Current Legislative Agenda*, 31 HOUS. L. REV. 99 (1994).

In order to achieve a bright-line rule that requires no qualitative or quantitative discrimination among the contributions to the *Review* described above, the editors of “By the Numbers” have simply counted each such professional authored contribution as an “article” for purposes of the present tabulation.

In the same spirit, each “chapter” of a book is treated in this series of essays as equivalent to an “article” for counting purposes. While no books appear in the Decade 4 tabulation above, tabulations in other decades do contain such recitations of chapters contributed. See, e.g., “By the Numbers” in Decade 2, counting 46 works total (40 chapters and 6 articles) by Jim M. Perdue, James B. Sales, and G. Sidney Buchanan in Volumes 11–20. Craig Joyce & Matthew Hoffman, *Carry On Boldly: The Second Decade of Houston Law Review*, *infra*, at 71.

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MOST CITED ARTICLES⁴

1. *Admiralty Law in the Fifth Circuit—
A Compendium for Practitioners: I*
Carl O. Bue, Jr.
4 HOUS. L. REV. 347 (1966) (14 citations)

2. *Civil Remedies Under the Texas Securities Laws*
Claude P. Bordwine, Jr.
8 HOUS. L. REV. 657 (1971) (8 citations)

- T3. *Manufacturers' and Contractors' Liability Insurance Policy:
The Care, Custody, or Control Exclusion Clause*
John Mustachio
6 HOUS. L. REV. 359 (1968) (7 citations)

- T3. *The Right to a Speedy Trial:
Standards for its Implementation*
William H. Erickson
10 HOUS. L. REV. 237 (1973) (7 citations)

5. *The Unconstitutionality of Criminal Liability Without Fault:
An Argument for a Constitutional Doctrine of Mens Rea*
James J. Hippard, Sr.
10 HOUS. L. REV. 1039 (1973) (6 citations)

4. Due to the limitations of the available databases, our numbers reflect only citations to these articles that occurred from the early 1980s forward and do not include citations during the 1960s and 1970s. Better data will be available for Decades 3, 4, and 5 of this history.

LONGEST ARTICLES

1. *Admiralty Law in the Fifth Circuit—
A Compendium for Practitioners: II*
Carl O. Bue, Jr.
5 HOUS. L. REV. 767 (1968) (159 pages)
2. *An Economic Analysis of Recent Attempts to Alter the Laws
Regulating the Prescription Drug Industry: The Canadian
Investigation and its Relevance for the United States*
Henry Steele
6 HOUS. L. REV. 666 (1969) (93 pages)
3. *Creating a Community:
Process of Land Development for Urban Growth*
Barow Burke, Jr. & C. Thomas Dienes
9 HOUS. L. REV. 189 (1971) (82 pages)
- T4. *The One Class of Stock Requirement of Subchapter S—
A Round Peg in a Pentagonal Hole*
Lorence L. Bravenec
6 HOUS. L. REV. 215 (1968) (75 pages)
- T4. *Admiralty Law in the Fifth Circuit—
A Compendium for Practitioners: I*
Carl O. Bue, Jr.
4 HOUS. L. REV. 347 (1966) (75 pages)

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**DEDICATIONS, TRIBUTES,
IN MEMORIA, ETC.**

Volume 3, Issue 1 contains a Dedication to Newell H. Blakely.

Volume 4, Issue 3 contains a Dedication to the Maurice Frankel
Foundation and its Board of Directors.

Volume 4, Issues 3 and 4 contain Dedications to Professor and
Law Librarian Mabel M. Smith.

Volume 5, Issue 1 contains a Tribute to A.A. White.

Volume 8, Issue 1 contains a Dedication to Charles I. Francis.

Volume 9, Issue 1 contains a Tribute to Dwight A. Olds.

CARRY ON BOLDLY:

The Second Decade
of
Houston Law Review

Craig Joyce & Matthew Hoffman

50 HOUS. L. REV. 689

ESSAY

CARRY ON BOLDLY: THE SECOND DECADE OF *HOUSTON LAW REVIEW*

Craig Joyce & Matthew Hoffman***

“Houston, Tranquility Base here. The Eagle has landed.”¹ So began the first communication by Apollo 11’s commander, Neil Armstrong,² to NASA’s Manned Space Flight Center on July 20, 1969. From the moon. To Houston.

* Andrews Kurth Professor of Law, University of Houston Law Center. Matthew Hoffman and I are indebted hugely to the student members of *Houston Law Review* for their continued diligence, and also their tolerant patience with our style and formatting peculiarities, as we move forward with this, the second installment of a five-part telling, decade-by-decade, of the history of a remarkable institution now celebrating its 50th Anniversary. Obviously and above all, I thank Mr. Hoffman, Editor in Chief of Board 49 and University of Houston Law Center Class of 2012, not only for his support in shepherding this project through its initial stages but for his generosity in joining me now as its co-author. Katherine Witty of Board 50 has provided invaluable support during the preparation of this manuscript, as have Peter Danysh, Board 50 Editor in Chief; Casey Holder, Chief Articles Editor; Cade Mason, Managing Editor; and the many 2Ls and 3Ls who furnished additional help along the way. Thanks also to Christopher Dykes of the O’Quinn Law Library’s crack staff. Mr. Hoffman and I are grateful, as well, to Nancy Taylor Reed (Shivers) (Board 14), Robert Pittsford and King Waters (Board 15), Donna Burnett and Arline Worsham (Board 17), David Caudill (Board 18), Claudia Wilson (Frost) and Bruce Levy (Board 19), Hon. Cathleen Cochran (Herasimchuk) (Board 21), Robert Sergesketter (Board 32), and longtime *Houston Law Review* Faculty Advisor Sidney Buchanan, all of whom contributed to the present essay and were offered the opportunity to set the record straight in the event of any well-intentioned misreadings by the authors regarding the “true history” of Decade 2. Mr. Hoffman and I express our profound appreciation to *all* the members of Boards 11 through 20, who actually *lived* the story that Matt and I have tried our best to recount faithfully here.

In keeping with the general practice in historical essays, all notations hereafter appear as endnotes at the conclusion of this essay, where the reader will find also a compilation of statistical trivia which the authors and the members of Board 50 hope will enlighten and amuse, if not necessarily in equal degree.

** Law Clerk to United States District Judge David Hittner; J.D. 2012, University of Houston Law Center; Editor in Chief, *Houston Law Review*, Board 49.

The journey to the moon had begun several years earlier when President John F. Kennedy announced, on September 12, 1962, also in Houston:

We choose to go to the moon. We choose to go to the moon in this decade and do the other things [which JFK had pledged that day], not because they are easy, but because they are hard, because that goal will serve to organize and measure the best of our energies and skills, because that challenge is one that we are willing to accept, one we are unwilling to postpone, and one which we intend to win . . .³

Houston Law Review's journey had begun in 1962 as well.⁴ Whereas Kennedy had committed the United States to go to the moon, the students and faculty who began *HLR* had committed to something infinitely more modest: starting up a student-run and edited journal of law. But while the President and NASA could bring to their chosen task the resources of an entire nation, the founders of *HLR* could summon only the meager assets of a local Houston law school—and their own “Driven” determination.

Both the nation and the *Law Review* would meet the challenges that faced them in their respective first decades—the United States within the calendar decade promised by President Kennedy, the *Review* with the publication of its tenth volume in 1972–1973. Neither goal would be achieved without struggle and sacrifice.

The saga of humankind's first venture to another world has been chronicled ably elsewhere.⁵

This is the story of Decade 2 of *Houston Law Review*.

* * *

GROWTH AND CHANGE

Like any teenager, *HLR* had in its youth enjoyed many moments on which it could look back fondly. There had been in Decade 1, for example, not one but two articles by a Justice of the Supreme Court of the United States, Tom C. Clark, who fortuitously hailed from Texas.⁶ Also fortuitously, a Solicitor General of the United States, Archibald Cox, had delivered an address to another College of Law organization, and *Houston Law Review* had published it.⁷ Nor were those the only notable successes during the *Review's* first decade.⁸

Still, the pickings for a start-up journal always are thin⁹ and, although *HLR* had made much of its own good fortune, quality had been uneven. The early years necessarily laid the

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framework for the “blast off” that would ultimately propel the journal to heights unimaginable in the early 1960s. But the first volumes of Decade 1, in particular, were populated frequently by what a neutral observer today might categorize as “filler” pages. “Books Received,” “Index of Current Material of Interest from Other Reviews,” and other such sections provided the *Review* the opportunity to flesh out its pages with lists of whatever books had appeared somehow in the *HLR* inbox and references to what scholars in *other* journals were publishing. Interesting reads, no doubt, but not the kind of scholarly analysis that major national law journals publish. Then, too, and with notable exceptions duly celebrated in *Driven: The First Decade of Houston Law Review*,¹⁰ many pages in the early volumes had, of necessity, been occupied by pieces from local practitioners and College of Law professors writing on matters of relatively narrow interest.

In Decade 1, survival had been paramount. The product had been variable. What would be the next step? The answer, in the famously cheerful injunction of *HLR*'s young faculty advisor, Sidney Buchanan (of whom much more hereafter): “Carry on boldly!”

*HLR in Situ*¹¹

Throughout its “teenagerhood,” *Houston Law Review* of course remained under the parental wing of the University of Houston College of Law. That single fact was fraught with many consequences. We deal immediately with only the first and most obvious of those impacts.

HLR had been born in the womb of the University of Houston's main library. It was a small place, and periodically damp.¹²

The opening in 1969 of the first of the law school's three new buildings—including (along with the library and an administration/auditorium structure) the building that housed Bates, the school's first of an intended five “colleges of law”¹³—brought some relief. The new building had two authentically above-ground floors called First (or BLB-1st) and Second (BLB-2d), but also a suspiciously named “Ground Floor” which was in fact sunk *halfway* into what appeared to be the water course of a sometime tributary of nearby Brays Bayou, plus a *fully* underground “Basement.” Flooding was a regular event in the new buildings, and the results sometimes comical, what with water-logged elevators going up and down, up and down, mindlessly opening their doors at every level and offering free firework displays to amused observers.¹⁴ On at least one occasion,

HLR's members scurried to lift page proofs above the water line while being themselves trapped in the publication's below-ground offices.¹⁵

So much for the fun part of the move into the Bates Building. The salient point is that, in the four decades to come, *Houston Law Review* never would get its collective head fully above-ground and safe from what to this day remain known euphemistically, in official University of Houston-speak, as "water intrusions."

Swelling Numbers

Along with free hot and cold (but mostly cold) running water, *HLR*'s transition from the UH main library's basement to its larger, albeit still subterranean quarters in the new College's buildings, accompanied by substantial growth in the number of enrolled students (see below), dramatically increased the journal's membership, and so offered the *Review* new challenges and opportunities.

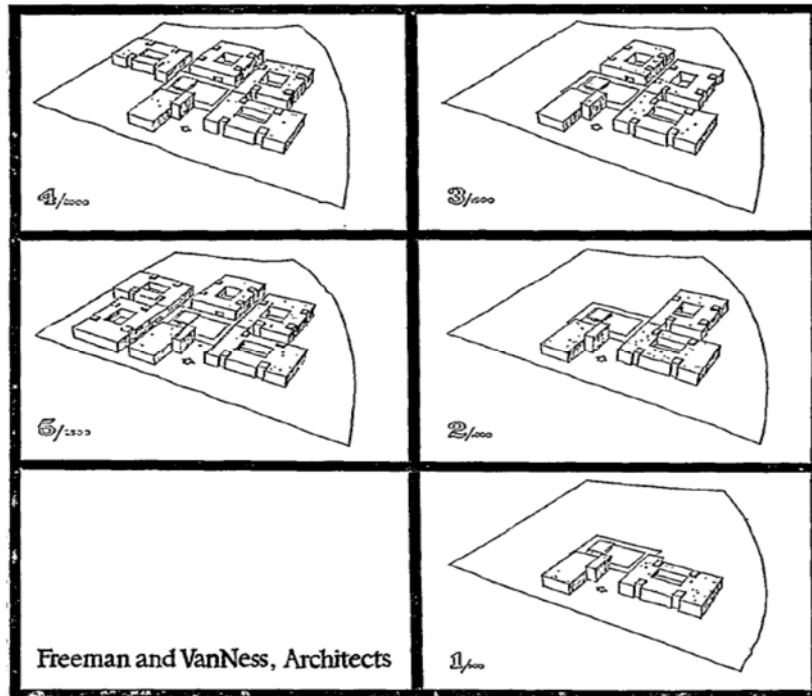
During Decade 1, enrollment at the College of Law had shrunk slightly from 501,¹⁶ when *HLR* began operations in 1963–1964, to 485 in 1968–1969, immediately preceding the College's move from the center of campus to its new buildings on UH's perimeter the following year. When Decade 1 closed with the publication of Volume 10 in 1972–1973, the expansion of numbers facilitated by the opening of the Bates Building was complete, having upped the total student population to 714 in anticipation of the further physical expansion immediately to come.

A second teaching unit, faithful to the plan of the Bates Building,¹⁷ welcomed its first entering class in the fall of 1975 (although admissions had been ramped up the preceding year in anticipation of the new addition). The figures on the following page show the master plan as originally conceived (although only phases 1 and 2 ultimately would be built).¹⁸

Teaching Unit II ("TUII"), so-called because no donor had been located to take up the new naming opportunity,¹⁹ was designed, like Bates before it, to hold up to 500 students—complete with their own faculty, carrels, satellite library, and of course the two subsurface floors, had the scheme to create a second, distinct "college of law" been carried forward. In the event, the age of specialization had begun to settle onto the practice of law as well as into academic curricular offerings. The plan to foster multiple, almost independent, colleges of law within the larger school quietly died.²⁰

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Still, the huge expansion in the number of enrollees at the law school ushered in by the opening of TUII could not be, or at least was not, undone.²¹ Thus, when the full effects of TUII's expansion of the school's physical campus came online with the arrival in 1977–1978 of the third class to occupy the complex's newest building, total enrollment at the College of Law had expanded likewise: from 501 in Board 1's time to 1,137 when Board 15 assembled for duty a mere 14 years later. Thus, occupation of the new complex, *in toto*, had more than doubled the College's enrollment.²²

A bigger school meant a bigger faculty, many of whom would soon commit articles of high quality to *HLR*. During the 15 years spanning the opening of the first buildings in the College of Law's new complex in 1969 through the occupancy of TUII in 1975, to the close of Decade 2 in 1983, the school—under Dean John Neibel (1965–1974); Interim Dean A.A. White (1974–1976) and Associate Dean Michael T. Johnson; Dean George Hardy (1976–1980); Interim Dean Michael T. Johnson (1980–1981); and Dean Robert L. Knauss (1981–1993)—hired an astonishing 49 new faculty members.²³ The White/Johnson/Hardy deanships proved to be particularly potent. Along with further articles by holdovers from prior deanships, like A.A. White, Sidney Buchanan, and John Mixon, *HLR* publications by new hires like

David Crump, Richard F. Dole, Jr., James B. Gambrell, Stephen K. Huber, Raymond T. Nimmer, J. Thomas Oldham, Yale L. Rosenberg, Ira B. Shepard, and Stephen Zamora would help establish firmly the *Review's* reputation for consistent quality during Decade 2 and beyond.²⁴ They published in *Houston Law Review* not because the hometown journal needed them to fill pages, as had been true so often during Decade 1, but because by Decade 2 publication in *HLR* meant exposure in an increasingly well-known legal journal to an increasingly broad audience.

A bigger school also meant a bigger *Houston Law Review*. Board 1 had consisted of at most 14 members, although in truth exact numbers for Decade 1 membership are difficult to compute because of the instability built into the counts by members' comings and goings (graphically preserved by early volumes in which the masthead changed with each issue). By contrast, Board 15—the first fully post-TUII board in the school's history because both the 2Ls and the 3Ls had been admitted since that building's occupation—consisted of 49 members, an increase in size of 350%.

By Decade 2's end in 1982–1983, 39 “candidates” would join 39 editors on the Board 20 masthead—a sharp increase from the 30 members and editors, total, who had served on Board 11.²⁵ During the same decade, the *Review* nearly achieved gender parity. By Board 15, total student membership had become majority female—a first in the history of the organization.²⁶ For statistics on the top of the *HLR* masthead, see “Oddments” below.

The swelling numbers presented to *HLR* both opportunities and challenges. How to put so many new members to good use? How to organize energies and projects efficiently? What to publish, given the staggering number of new hands on deck? At least partial answers to these questions are provided in BEYOND COCKROACHES hereafter.²⁷

But first, a moment to address an issue which had been present at *Houston Law Review's* founding and which, in part because of the publication's new numbers and growing ambition, never really had gone away.

The Small Matter of Financing

Houston Law Review had been founded in 1962 on the proverbial shoestring. After a request from the Student Bar Association and with the support of faculty members like A.A. White and John Mixon, Dean Newell Blakely had approved the creation of a student journal of academics only after making the

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students promise to raise the necessary start-up funding themselves.²⁸

Keeping the journal financially viable throughout the remainder of Decade 1 and on into Decade 2 had required many strategies, including assiduously peddling law-publisher and clothing-store advertisements within the volumes themselves²⁹ and seeking support directly from College of Law and *HLR* alumni/ae, as well as from the Texas Bar, through enhancing the quality of the *Review's* state-based content.³⁰

During the second decade of *HLR's* existence, however, Houston was greatly reliant on the energy industry to sustain the local economy, and with it the Texas *government* economy—which, in turn, contributed mightily to the funding of the University of Houston, the College of Law, and *Houston Law Review*.

Thus, the international energy upheavals of Decade 2 hit home powerfully at *HLR*. First came the OPEC-initiated oil shock of 1973, followed by Congress mandating a maximum speed limit of 55 mph across the United States, including the vast American West,³¹ and President Jimmy Carter going on television to urge every citizen to “put on a sweater” and conserve energy aggressively in what he termed the “moral equivalent of war.” The second oil bust that began in 1979, following hard on the Iranian Revolution, set in motion other worrying developments in the Texas Oil Patch. The *Review* was notably responsive to the energy crisis gripping the nation, as the decisionmakers of Decade 2 ensured due coverage in numerous energy-themed issues and conferences.³²

Funding came and went but, by the end of Decade 2, financing *Houston Law Review* had returned as an issue. Board 19's business manager reports that the *Review* was in “shaky financial standing” by the time his board took office, but that “actually sending out bills” (the business manager had an accounting background) “helped.”³³

At a meeting of the Board of Directors in 1981, the student editors reported publishing costs nearly twice the funding they were receiving from the Law Center (\$48,000 and \$24,000, respectively). “Simply stated, the *Law Review* does not have enough money in its operating expenses to pay for the issues it has scheduled for publication.”³⁴

Something had to change. Accordingly, Associate Dean Raymond T. Nimmer mandated a solution: the *Review* would need to develop a source of private funding.³⁵

So there it was again, the question that faced so many of the boards which served during the first two decades of the *HLR*'s history: how to make ends meet? By the end of Decade 2, the *Review* would have to find an answer.

BEYOND COCKROACHES³⁶

During its first decade of life, *Houston Law Review* had been faced with existential issues—for example, whether to publish an article partially titled *Condoms and Cockroaches*³⁷—and survived notwithstanding.³⁸ The Decade 1 editors left behind the legacy of an increasingly sophisticated publication growing in size, scope, and prestige. The vanguard decade was about ramping up production, increasing author quality, and expanding the scope of its scholarship. But maintaining a commitment to serving the practical needs of the Texas Bar was a parallel goal worth pursuing—a goal that the journal would never abandon. Indeed, the contents of *Houston Law Review*'s Volumes 11–20 demonstrate a continued interest in serving the Texas legal community while simultaneously striving to attain consistently high quality.

Highest Quality Service to the Texas Bar

By the end of the first decade, the *Review* had published nationally relevant articles by nationally renowned scholars from Harvard, Stanford, Pennsylvania, George Washington, and other top institutions. Decade 2 continued the trend, featuring authors from schools like Michigan, Columbia, NYU, and Duke. But the contents of Decade 2 reveal more than a singular focus on big names from established schools. The emphasis for this young journal, embedded within a state law school still struggling somewhat to define its own identity, was Texas-focused scholarship, published at the highest level of quality.³⁹

Volume 11's lead piece—more a book than a traditional law review article⁴⁰—succinctly encapsulates one of the major themes of Decade 2: "This work includes chapters that are strictly practical in nature . . . [and] is submitted to the bench and bar of Texas."⁴¹ Jim Perdue's *The Law of Texas Medical Malpractice* spanned nine chapters across all five issues of Volume 11. It meticulously chronicled topics ranging from informed consent and evidentiary burdens to physician negligence and vicarious liability. By the final chapter, Texas lawyers had the closest thing to a treatise in the field of medical malpractice that had yet existed.

Each article is structured identically: first, a quotation from a famous personage—Aristotle, Shakespeare, and Marcus

Aurelius—opining in a way related to the topic at hand; then, an introductory section generally describing the history of the law and announcing what would follow in the main body of the chapter; and finally, as many as eleven subsections detailing with specificity the “ins and outs” of that chapter’s concentration. Texas law was the focus, and Texas lawyers were the intended audience. Yet *HLLR*’s publication of this series of articles was not entirely inconsistent with its desire to become a national journal. The law of medical malpractice was, at the time, undergoing a period of expansion and transformation nationwide.⁴² Perdue himself acknowledged the need to consider the Texas-centered nature of his articles in a wider context: “In addition to collating Texas authority, an attempt has been made to point out areas where the law may not be particularly clear and where the law may undergo future modification.”⁴³

Today, *Perdue on Medical Malpractice* is remembered as one of the most influential works published in the history of the *Review*. This quasi-book ushered in a new era in *HLLR*’s service to the Texas Bar. Together, Perdue’s *Medical Malpractice* and a similar work in Volume 14 co-authored by Perdue with legendary Houston practitioner James Sales, *The Law of Strict Tort Liability in Texas*,⁴⁴ ensured that local attorneys would be well-prepared to litigate the high volume of med-mal and products liability cases that arose in Texas (and across the nation) during the following years.⁴⁵ Other “themed issues” and numerous individual articles published throughout Decade 2 would prove similarly beneficial for practitioners in other areas of interest to Texas lawyers.

From corporate law to appellate advocacy and small claims litigation, Volumes 11–20 offered dozens of articles focused on the types of practical legal issues that Texas lawyers encountered every day. The decade began with articles like practitioner Edward A. Turley’s *Changing Capital Structures and Shareholders in a Closely-Held Texas Corporation*⁴⁶ in Volume 11, and SMU professor Roy Ryden Anderson’s *Coercive Collection and Exempt Property in Texas: A Debtor’s Paradise or a Living Hell?*⁴⁷ in Volume 13. Sandwiched in between in Volume 12 was *Appealing Jury Findings*,⁴⁸ an article by now-famous Law Center alumna Michol O’Connor.

Among the topics continuing to receive attention in the pages of the *Review* throughout the decade was one which, along with health law, would come to loom large in Decades 3–5: computer and intellectual property law. In Volume 17, Raymond T. Nimmer, one of the many Decade 2 College of Law hires and distinguished scholars who had begun to come online as *HLLR*

contributors, published *Consumer Payment Systems: Leverage Effects Within an Electronic Funds Transfer Systems*,⁴⁹ presaging his own later transformation from an expert on commercial transactions (rapidly electronifying by 1980) into one of the nation's foremost scholars in information law. By 1983, as Glenn J. O'Grady of IBM would report in *Protection of Computer Software—An Update and Practical Synthesis*,⁵⁰ “[t]he computer software industry [wa]s exploding.”⁵¹

The decade ended as it had begun, with numerous practitioner-oriented pieces filling the pages of the later volumes. Volume 18 featured articles by attorneys from Vinson & Elkins and Fulbright & Jaworski on ecological considerations in oil and gas development and practical considerations with Texas abortion law. Volume 19 included articles from UH College of Law professors on property division in Texas divorces, the regulation of foreign bank operations in Texas, and real property law in the context of cotenancies. And Volume 20's *Texas Rules of Evidence Handbook*⁵² rounded out the decade's Texas-centered focus by ushering in a publication that continues to this day to be widely employed by Texas litigators practicing in state court.

Throughout the decade, regardless of the subject matter treated, the *Review* strove to assure consistently high quality in the pages it published. And, albeit with a particular focus on providing product for the benefit of Texas practitioners, *HLR* aimed its sights higher in Decade 2 by beginning to publish the kinds of “themed issues,” like Perdue's *Medical Malpractice*, that are a hallmark of law review success everywhere.

Themed Issues: The Beginning

Top law reviews regularly host symposia, which result in published articles written by the symposia's distinguished speakers.⁵³ A symposium technically is “a conference or meeting to discuss a particular subject,” which produces “a collection of essays or papers . . . by a number of contributors.”⁵⁴ But other events—a lecture with commentators, a conference that produces papers, or even papers generated without any physical gathering of the participants—likewise may be presented in the pages of a law review in what, for want of a better term, might be called, generically, “themed issues.”⁵⁵

Themed issues bring attention to the organization in the legal community to which they are directed, give the student editors an opportunity to plan and execute a professional event, and (often with the assistance of the law school's faculty) bring in top academics from around the country to inform the journal's

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readers on the topic at hand. Themed issues, even those bereft of a physical “symposium” event, are vitally important to successful journals.

In *Houston Law Review*'s teenage years, the publication of themed issues skyrocketed (a trend that would continue unabated throughout the next three decades). These themed issues allowed the *Review* to work towards its goal of achieving national recognition while simultaneously serving the needs of the Texas Bar and focusing on consistent quality in the published scholarship. Seven of the decade's 10 volumes contained at least one themed issue, with Volumes 14 and 18 each containing two. Bookended by Perdue's *The Law of Medical Malpractice* in Volume 11 and Newell Blakely's *Texas Rules of Evidence Handbook* in Volume 20, Decade 2's contents also included: four energy symposia (Volumes 15, 16, 17, and 18); Professor Sidney Buchanan's nine-chapter book, *The Quest for Freedom: A Legal History of the Thirteenth Amendment* (Volumes 12 and 13); Sales & Perdue's *Strict Liability in Texas* (Volume 14); a symposium on tax reform (Volume 14); and a symposium on health law (Volume 18). Individually, these themed issues produced numerous articles written by academics and practitioners on a broad range of topics and intended for a wide-ranging audience.

During the 1976–1977 academic year, the College of Law teamed with the University of Houston College of Business Administration to host *A Symposium on Tax Reform at the Crossroads*. This symposium addressed “legislative prospects for reform, basic tax reform in general, international aspects of tax reform, and taxation of national resources.”⁵⁶ The symposium included articles by U.S. Representative Bill Archer, Washington, D.C., tax lawyer William Goldstein, U.S. Treasury Department tax lawyer Charles Kingson, and Texas energy lawyer Frank Burke Jr.—a demonstration of the *Review*'s ability and desire to include scholarship geared toward both local and national interests.

Volume 18, under EIC David Caudill (who, inspired by Sidney Buchanan's example, went on to become a law professor himself),⁵⁷ brought about a different kind of themed issue, with several nationally known professors joining Jim Perdue to consider various issues in the area of health law, although without the traditional label of “symposium.” University of Tennessee College of Law professor Joseph H. King authored *The Duty and Standard of Care for Team Physicians*;⁵⁸ two practitioners from Washington State contributed *Hospital Admitting Privileges and the Sherman Act*;⁵⁹ a law professor from the University of New Mexico combined with a philosophy

professor from the University of Albuquerque to publish *Defining the Role of the Physician: Medical Education, Tradition, and the Legal Process*;⁶⁰ and Jim Perdue produced *An Analysis of the Physician's Professional Liability for Radiation of the Fetus*.⁶¹

Volume 16's Energy Symposium, hosted in 1979, featured articles by several Washington, D.C., energy practitioners, current and former divisional directors of the Federal Energy Regulatory Commission, and a professor of law from Tulane University. In Volume 17's Energy Conference, hosted in 1980, participants included a Washington, D.C., energy practitioner, an attorney licensed in Minnesota, New York, and Texas, the general counsel to a Houston-area energy company, the chief economist of a Pittsburgh-based energy company, and a partner at the Houston office of Vinson & Elkins. And in Volume 18's energy-themed issue (separate from the Energy Conference itself), articles were contributed from a University of Texas School of Law professor, an attorney at Vinson & Elkins, a project manager with the National Oceanic and Atmospheric Administration, a professor of economics from the University of Nebraska, and others. The widespread energy-induced malaise of the 1970s and 1980s was addressed front and center by the *Review's* editors, who had the foresight to understand the importance of the city's namesake legal journal bringing together expert commentators to propose solutions to the nation's many energy problems.⁶²

Taken together, Volumes 15–18 demonstrate the many capabilities of Decade 2—a focus on coal and the nation's future in Volume 15, federal regulation of the energy industry in Volume 16, legal issues within the international energy market in Volume 17, and various matters related to the economics of oil leasing and the ecological impact of mineral exploration in Volume 18. Throughout these volumes, as well as all of the other volumes of Decade 2 containing themed issues, *HLR* demonstrated its desire to serve the Texas Bar by publishing practical content alongside nationally relevant articles that would contribute to the *Review's* climb into the upper-echelon of U.S. law journals. Reliance on themed issues quickly would become one of the primary ways that *Houston Law Review* projected itself onto the national stage in the coming years.⁶³

And arguably it saved the most important of the themed issues for last.

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Newell Blakely's Evidence

The Man. In any pantheon of great law professors at the University of Houston, Newell Blakely must rank among the highest of deities. Four times—upon his retirement as Dean in 1965,⁶⁴ the publication of the *Texas Rules of Evidence Handbook* for which he is justly famed in 1983,⁶⁵ his transition to Professor of Law Emeritus in 1987,⁶⁶ and the publication of the *Evidence Handbook's* second edition in 1993⁶⁷—Blakely would be honored by a dedication in *Houston Law Review*.

Newell Blakely's arrival at the University of Houston College of Law (and indeed his deanship) preceded, of course, the decade of *HLR's* history that is the subject of the present essay.⁶⁸ Thus, Blakely's early years at the College of Law have been treated extensively in the predecessor essay, *Driven: The First Decade of Houston Law Review*.⁶⁹

Entirely germane here, however, is Blakely's changing relationship, over time, with *Houston Law Review*. As dean (and also chancellor of the exchequer), he had not supported *HLR's* founding with marked enthusiasm, instead requiring the students who sought to create the College's first student-run academic journal to find their own start-up funding.⁷⁰ Nor did he contribute any scholarship to *HLR* in Decade 1.

Yet, in time, Newell Blakely apparently mellowed, at least toward *Houston Law Review*. Famously demanding as a Socratic instructor, he could intimidate. While "stupid answers were no sin in Blakely's class" (because they were expected), his former pupil and later colleague John Mixon reports that "[u]npreparedness, on the other hand, was never acceptable."⁷¹

Consider, then, the following testimony, from the 1976–1977 academic year, by Nancy Taylor Reed (Shivers), Editor in Chief of Board 14:

I took Blakely's evidence class my last semester thinking it would be helpful for the bar exam. The law review workload by then was really tough, and I was *not* prepared as one was always supposed to be. Blakely called on me mid-semester and I rose to say I was not prepared. Much to my amazement another student rose and stated he would respond for me. Later when I summoned the nerve to speak to Blakely, he just said something to the effect that he understood what I was doing for the law review and the school.⁷²

By Board 17 in 1979–1980, Professor Blakely had decided that a contribution to *Houston Law Review*—his first—might be in order. The resulting disquisition, *Past Recollection Recorded:*

Restrictions on Use as Exhibit and Proposals for Change,⁷³ ran to 74 pages in Issue 17:3. Not a record, but certainly a good start.

Newell Blakely, however, was *only* getting started. Within three years, he would both preside over a true landmark of Decade 2's Texas-themed scholarship and, in the process, provide the local law review, founded on his watch as dean, a hugely needed financial shot in the arm.

The Book. Nothing published during Decade 2 better reflected *Houston Law Review's* dedication to lofty service to the Texas Bar than the appearance in Volume 20 of the *Texas Rules of Evidence Handbook*. The ultimate "themed issue," the *Handbook* was a turning point in the *Review's* history. Three decades later, *HLR* still benefits from the publication of its successor volumes (although now separately bound and sold by an outside publisher), as the royalty checks they produce help fill the organization's operating coffers every year.

The timing of the *Handbook's* publication was both deliberate and doubly fortuitous. In one sense, the timing was simply responsive to *HLR's* immediate financial need: future funding from the school had been drawn into question, and the *Review* had received "orders from headquarters" to develop outside revenue. As if to oblige, the Texas Supreme Court created an opening for the publication of an evidence handbook by promulgating newly revised Rules of Evidence for civil cases in late 1982.⁷⁴ On top of that, the rule changes fell squarely within Newell Blakely's academic wheelhouse. In dedicating the *Handbook* to Blakely, the *Review* noted:

It is entirely fitting that this *Texas Rules of Evidence Handbook* be dedicated to Newell H. Blakely. Not only did he play a major role in drafting the Texas Rules of Evidence, he also provided the inspiration for this Handbook and wrote two of its articles. . . .

Since 1949, Professor Blakely has dedicated himself to serving the Texas legal community. It is with the greatest respect and the deepest sense of appreciation that the *Houston Law Review* dedicates this *Texas Rules of Evidence Handbook* to Newell H. Blakely.⁷⁵

Having served as Co-Chief Reporter for the State Bar Liaison Committee for the drafting of the new Rules, Blakely knew all of the players. His presence as a contributing author to *HLR's Handbook* lent indispensable credibility and expertise to the enterprise.

The *Handbook* itself, according to its *Foreword*, was intended "to serve the legal profession" and had been "designed

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to provide a comprehensive analysis of the new Rules in a handy, ready-reference format.”⁷⁶ It proceeded by printing the full text of the newly promulgated Rules, and then reprinting each rule again at the place where it was discussed in the *Handbook*. Following, there appeared a series of articles by 13 highly qualified authors, 11 of whom (like Professor Blakely) had participated in the drafting of the Rules.

The *Handbook* proper ended with a summary of the changes caused by the promulgation of the new Rules. An appendix provided the full text of the Rules as originally drafted and proposed, so that readers could compare those versions with the Rules as promulgated. The *Foreword* cautiously alerted readers that the *Handbook* was not intended to, and indeed did not, “discuss the arguments for or against the changes.” Normative commentary was not the point; educating the Bar was.

And, oh yes: “Minor non-substantive changes have been made to correct obvious typographical errors contained in the official version of the Rules that accompanied the supreme court’s promulgation order.”⁷⁷ Board 20’s editors, apparently no strangers to unintentional humor, dutifully edited the *Handbook* as good law review editors do, with no regard for the potential hurt feelings of the Texas Supreme Court justices who had promulgated “obvious typographical errors.”

GSB: ADVISOR EXTRAORDINAIRE*“Captain Nice”*

G. Sidney Buchanan joined the College of Law faculty in 1967, a native Houstonian suitably credentialed by degrees from Princeton and Michigan before further polishing as a trusts-and-wills lawyer at the local Vinson Elkins Searls Connally & Smith law firm.

Unlike other hires favored by the A.A. White-led scholars on the faculty, Buchanan had no LL.M. With talent like his, no further credentialing seemed necessary. His colleague John Mixon reports:

Sidney wasn’t just an acceptable faculty choice. He was a superstar teacher, scholar, and colleague. From 1967 to 2009, he picked up teaching awards from law students and the University. Sidney’s first love may have been the stage, judging by his a capella classroom renditions of songs about Supreme Court cases that he set to Broadway shows’ tune and meter. [A.A. White’s disciples] need not have worried about his scholarship. Sidney started writing articles as soon as he signed his contract . . . Sidney [also] was a

moderating influence on the faculty. . . . [A]ll faculty members trusted him, and he could handle delicate administrative tasks without [offending the sensibilities of either White's or Newell Blakely's acolytes].⁷⁸

Indeed, so amiable a colleague would Buchanan prove to be over the years that his colleagues, whatever their biases or allegiances, came to call him simply "Captain Nice," whose signature sign-off on leaving any room, no matter the tumult that might have transpired theretofore, was the cheerful and reassuring injunction: "Carry on boldly!" (Or, on occasion, ". . . rejoicingly!" or ". . . sagaciously!")⁷⁹

Only three years along as a law professor by 1970, Buchanan's love of scholarship and students nonetheless made him the obvious choice when *Houston Law Review* found itself in need of a new faculty advisor. His two predecessors, between them, had served only seven years. With nary an interruption, Captain Nice would hold the *HLR* fort for the next 36 years.⁸⁰

Over the decade, in addition to advising a parade of *Houston Law Review* editors and presiding, at least figuratively,⁸¹ over the publication of hundreds of professional articles and student notes, G. Sidney Buchanan has been the subject to two *HLR* tributes. The first, published in celebration of his first 25 years of service in 1995, elegantly but concisely commended his "even temperament," "open mind," "astute counsel, practical guidance, and emotional support to nearly 1,000 law review students comprising 25 editorial boards."⁸²

On the occasion of his retirement from the faculty in 2004, Professor Buchanan was again the subject of *HLR*'s attention, this time in a remarkable display of appreciation and affection by 10 former Editors in Chief, representing each of the five decades of his service as faculty advisor. A lamentably abridged selection of those testimonials follows:

Professor Buchanan falls decidedly into that fortunate and revered group of individuals whose long service has contributed immeasurably to improving and enhancing the organization and institution in question.⁸³

[W]e should all be so grateful for the enthusiasm and sound scholarship of Sidney Buchanan, who greatly helped make that law school experience and that University of Houston law degree so valuable and so cherished by so many.⁸⁴

I cannot say that I remember all the details of the many First Amendment cases I studied in Professor Buchanan's class, but I will never forget [him] belting out several showstopper songs at the end of class. After he

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retires, I hope Professor Buchanan takes his shot on *American Idol*.⁸⁵

I am the very model of Advisor to the *Law Review*;
Whenever things have gone askew, I've helped to set the
course anew;
I'm very erudite in any matters editorial,
And should be since I've been Advisor since time
immemorial;
After more than thirty years, I've knowledge categorical,
About the *Law Review* I can provide all facts historical.
Put to rhyme today's events and all those that have gone
before,
And set them all to music from *The Music Man* or *Pinafore*.
(Chorus:
And set them all to music from *The Music Man* or *Pinafore*,
And set them all to music from *The Music Man* or *Pinafore*,
And set them all to music from *The Music Man* or *Pina-*
pinafore.⁸⁶

Professor Buchanan *was* the *Houston Law Review*⁸⁷

Last but decidedly not least, there is the matter of GSB's scholarship—highly relevant to the work of the publication of the journal to whom he was faculty advisor so long. During his career, Professor Buchanan published widely in all manner of national law reviews. But his first love always was *Hous. L. Rev.* Beginning with *The Privilege Against Self-Incrimination: To What Extent Should It Protect a State Employee or Professional Licensee Against the Loss of His State-Created Status?*⁸⁸ in 1967, Buchanan would publish an astonishing 31 times in the pages of *Houston Law Review*—surely a record of faculty productivity that will never be equaled.

What follows is a necessarily abbreviated appreciation of perhaps the most famous of those contributions.

The Quest for Freedom

“[T]he thirteenth amendment had returned to the vanguard of the civil rights movement.”⁸⁹ As in Decade 1, the civil rights movement in America continued to be of paramount importance to the United States and the world (and thus, also, to U.S. law schools and law reviews) during the early to mid-1970s. G. Sidney Buchanan stepped up to the plate, and onto the national stage, with *The Quest for Freedom: A Legal History of the Thirteenth Amendment*.

Published as eight chapters in Volume 12 and one chapter in Volume 13 of *HLR*, *The Quest for Freedom* helped to buttress the *Review's* emerging standing as a legal journal of true scope and

importance. The Supreme Court of the United States seemed to agree. In *McDonald v. Santa Fe Trail Transp. Co.*, the Court cited Professor Buchanan for the proposition that

[c]onsistent with the views of its draftsman, and the prevailing view in the Congress as to the reach of its powers under the enforcement section of the Thirteenth Amendment [citing to *Quest* here], the terms of the [Civil Rights Act of 1866] prohibited any racial discrimination in [the] . . . enforcement of contracts against whites as well as nonwhites.⁹⁰

Buchanan was in good company in *McDonald*. The Court cited distinguished Yale constitutional historian Alexander Bickel in the same note and for the same proposition. But second.

Years later, when asked to comment about the publication of *The Quest for Freedom*, Professor Buchanan provided the following commentary:

I had an awareness that by publishing those articles in the *Houston Law Review*, that it would be helpful to the *Review*. Of course, I had no idea I'd be fortunate enough to be cited by the U.S. Supreme Court, but that was just icing on the cake. Undeniably, that had to help the *Law Review's* reputation . . . [*The Quest for Freedom*] was actually a book that I wrote, but we broke it down into articles to be published serially, primarily in Volume 12, and the first issue of Volume 13. . . . The *Law Review* graciously put them all together in a binding so I would have the whole book that I treasure and keep with me to this day. So, I wanted to help and I thought it would help. Also, I wanted to be able to work closely with the student editors, and to have them right in the same building with me was a real aid in terms of getting the work done and getting it published. I knew I would always have instant communication with the editors . . . , so there were a bundle of reasons there why I thought it was appropriate and helpful to the school and helpful to me to publish that book in the *Houston Law Review* . . .⁹¹

Quite apart from its lasting relevance to American legal scholarship, *The Quest for Freedom* “nicely” illustrates the importance of G. Sidney Buchanan to the history of *Houston Law Review*. In GSB, the *Review* found a critical bridge between the “Texasness” of the early decades and its growing willingness to tackle national and international legal and social issues in later decades⁹²—if for no other reason than that Sidney Buchanan himself would continue to serve as faculty advisor to *HLR* well into the Second Millennium.

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* * *

At the founding of the American Nation—a moonshot (albeit of the geopolitical sort) if ever there was one—Benjamin Franklin was called to answer whether the Framers had established a republic or a monarchy as the fledgling country’s form of government. His reply: “A Republic, if you can keep it.”⁹³ Proud of what he had helped create, still Franklin remained conscious that much important work lay ahead.

The same sort of inquiry, put perhaps to a newbie faculty advisor surveying the prospects for survival of what *HLR*’s student editors had achieved in Decade 1 of their young publication’s existence, might have elicited much the same response as Franklin’s. In its first ten years, the early editors of *Houston Law Review* had succeeded in bequeathing to their successors a stable but modest foundation. The challenge confronting the editors who would follow in Decade 2 was to build on that foundation a journal of consistent quality. And that they did.

Carry on boldly indeed!

1. *July 20, 1969: One Giant Leap for Mankind*, NASA (July 8, 2009), http://www.nasa.gov/mission_pages/apollo/apollo11_40th.html.

2. Armstrong, the first human to utter the word “Houston” on the moon, went permanently to the heavens as this essay was in draft. *See, e.g.*, John Noble Wilford, *Neil Armstrong, 1930–2012: Made ‘Giant Leap’ as First Man to Step on Moon*, N.Y. TIMES, Aug. 25, 2012, at A1.

3. President John F. Kennedy, Moon Speech at Rice University (Sept. 12 1962), available at <http://er.jsc.nasa.gov/seh/ricetalk.htm>.

4. Craig Joyce, *Driven: The First Decade of Houston Law Review*, *supra*, at 8.

5. *See generally, e.g.*, Neil Armstrong, Michael Collins, & Edwin E. Aldrin, Jr., *FIRST ON THE MOON* (1970); Andrew Chaikin, *A MAN ON THE MOON* (1998). The authors of this essay again thank John Mixon, the John Mixon Society, and *HLR* alumnus Don R. Riddle for permission to draw on Professor Mixon’s *AUTOBIOGRAPHY OF A LAW SCHOOL*, published late in 2012.

6. *See* Justice Tom C. Clark, *Random Thoughts on the Court’s Interpretation of Individual Rights*, 1 HOUS. L. REV. 75 (1963); Justice Tom C. Clark, *Reminiscences of an Attorney General Turned Associate Justice*, 6 HOUS. L. REV. 623 (1969).

7. Archibald Cox, *The Constitutionality of the Proposed Voting Rights Act of 1965*, 3 HOUS. L. REV. 1 (1965). Cox’s article was based on his 1965 address to the Student Bar Association’s Annual Spring Banquet.

8. By the end of Decade 1, having sidestepped “Condoms and Cockroaches,” see Joyce, *Driven, supra*, at 9, the *Review* was in the business of publishing increasingly accomplished professors contributing articles on major national topics. Harvard, Stanford, Pennsylvania, George Washington, U.C. Davis—all had been represented in the later years of Decade 1.

9. *See id.* at 22 n.36 (including commentary from Board 1’s Articles Editor that his “major responsibility was to find some articles [from a relatively narrow] menu of contributors”).

10. *See id.* at 9–19.

11. Roughly translated from Latin, “*in situ*” means “in place” or “in its natural situation.” Thus, the text that follows relates *Houston Law Review* to its setting as part of the University of Houston College of Law.

12. See Joyce, *Driven, supra*, at 21 n.15.

13. As previously discussed, see *id.* at 21 n.8 (reviewing the evidence as found in *HLR*’s own pages), whether the entire building complex ever was meant to be named “Bates College of Law” remains ambiguous, at least in *HLR*’s pages.

14. See *id.* 23–24 n.53.

15. Questionnaire Response, Nancy Taylor Reed Shivers, Partner, Shivers & Shivers (Oct. 12, 2012) [hereinafter Shivers Questionnaire] (on file with Houston Law Review). For most of its first 32 years in the new buildings that first opened in 1969, *HLR* was quartered on the Ground Floor of the Bates Building, although Board 20 was forced to move temporarily to the Basement of the Law Library when, in the early years of the 1980s, the lower floors of Bates were rebuilt completely in an attempt to overcome recurrent flooding. E-mail from Edward P. Watt, Founder & President, Watt Law Firm, to Craig Joyce, Andrews Kurth Professor of Law, University of Houston Law Center (Oct. 22, 2012) (on file with Houston Law Review). In 2001, after the devastation of Tropical Storm Allison (see forthcoming Decade Four essay), *Houston Law Review* and all other student organizations took over the entirety of the former (now repurposed) Library Basement on a permanent basis.

16. E-mail from Derrick Gabriel, Director of Student Affairs, University of Houston, to Craig Joyce, Andrews Kurth Professor of Law, University of Houston Law Center (Oct. 29, 2012) (on file with Houston Law Review).

17. Even the south-facing orientation of BLB’s large picture windows, designed for the edification of the faculty who would occupy them, was adopted *in toto* for TUII—oddly so, however, given that whereas the Bates Building faculty looked onto a large lawn and back toward the main campus, the vista from the new teaching unit’s faculty windows featured as its main view not the grove on the new building’s own north side but rather the decidedly less attractive north side of Bates—a blank concrete wall.

18. John Mixon, *Orderly Law School Expansion—The Houston Satellite Plan*, 19 J. LEGAL EDUC. 82, 87 (1966).

19. Nor does it appear that Colonel Bates himself ever had done so, although clearly he played a key role in University of Houston history, having largely shepherded UH through the Legislature from private to public status. See MIXON, *supra* note 5, at 369 (citing PATRICK J. NICHOLSON, IN TIME: ANECDOTAL HISTORY OF THE FIRST FIFTY YEARS OF THE UNIVERSITY OF HOUSTON 446 (1977)).

20. In keeping with the original design for the complex, the colleges would have shared a main library and a large facility containing both general administrative offices and an auditorium. Both of those buildings, along with Bates, had been erected as part of the original construction in the ‘60s. But other than a new monumental entrance, nothing whatsoever has been built since TUII.

21. Today, the now renamed University of Houston Law Center (see Decade 3 for details of the renaming) has reversed course and reduced significantly the size of its entering class. The reasons for and specifics of that process are not relevant here, but they do suggest that the history which follows was not inevitable.

22. Apparently almost at a loss to imagine what use to make of so many warm bodies, *HLR* in 1978 found time to publish a cumulative index of its first 14 volumes.

23. MIXON, *supra* note 5, app. 8.

24. Other Decade 2 hires, like Jordan Paust, published frequently in *Houston Law Review*’s sister review, *Houston Journal of International Law*, because of their scholarly specialties. Still other hires of the period, including Richard Alderman, John Jay Douglass, Michael A. Olivas, Robert P. Schuwerk, Irene Merker Rosenberg, and Jacqueline Lang Weaver would publish extensively elsewhere during the remaining three decades of *HLR*’s first 50 years and/or contribute significantly in creating the institutes, programs, and centers, which, as explained in the next essay in this series, would impact

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the *Review* greatly through enhanced scholarly specialization during Decade 3 in the newly rechristened “Law Center.”

Of the transformation of the faculty that would mean so much to the future success of the College of Law and *Houston Law Review*, Professor Mixon has written: “George [Hardy] firmly established scholarship as a requirement for promotion and tenure. That requirement marked a significant advance on our path to national respectability.” *Id.* at 338.

25. Mastheads from the first two decades were formatted inconsistently. The first 16 boards memorialized their names in one-page mastheads. “Candidates”—i.e., the 1Ls who had met *HLR*’s threshold qualifications for consideration but who still needed to complete their 2L requirements to achieve membership—were not mentioned. The limited information available in the board reports (only sometimes preserved from this period) indicates that approximately 20% of the candidates never did so. Board of Directors Meeting Minutes (Nov. 20, 1975) (on file with *Houston Law Review*). In years 17, 18, and 19, the *Review* began employing a separate one-page list of candidates to accompany the traditional page listing editors and members. Board 20 combined the two pages into one. After Board 30, candidates were dropped from the mastheads, which then assumed the form they retain to this day.

26. The changing gender balance of board membership was little reflected, however, in the content published by the journal. Despite such developments on the national scene as approval by Congress in 1972 of the proposed Equal Rights Amendment (ultimately ratified by fewer than “three fourths of the several States,” as required by Article V of the Constitution, and therefore not adopted), the pages of *Houston Law Review* during Decade 2 contained surprisingly few articles which might fairly be characterized as reflecting feminist legal theory. Perhaps those that came closest—the reader can judge for herself how close—were Rodric B. Schoen, *The Texas Equal Rights Amendment in the Courts, 1972–1977: A Review and Proposed Principles of Interpretation*, 15 HOUS. L. REV. 537 (1978); Terry O. Tottenham et al., *Texas Abortion Law: Consent Requirements and Special Statutes*, 18 HOUS. L. REV. 819 (1981); J. Thomas Oldham, *Property Division in a Texas Divorce of a Migrant Spouse: Heads He Wins, Tails She Loses*, 19 HOUS. L. REV. 1 (1981); and Rodric B. Schoen, *The Texas Equal Rights Amendment After the First Decade*, 20 HOUS. L. REV. 1321 (1983).

27. A related story, but one too long to tell in detail here, concerns the dynamic between the building workload of the *Review* and the mechanics of actually publishing it. The experiences of two boards at mid-decade illustrate the challenges.

When Board 15 took office in 1977, according to EIC Robert Pittsford, “the *Review* was substantially behind the expected publishing schedule of five issues a year as a result of problems that had occurred several boards before us.” Questionnaire Response, Robert Pittsford (Oct. 17, 2012) [hereinafter Pittsford Questionnaire] (on file with *Houston Law Review*). Nonetheless, reports Board 15 Managing Editor King Waters, the students plugged forward. “The proudest events were: Publication of seven issues, as candidates and board members, two books, a medical malpractice supplement, and staging of the 1978 Energy Conference. We also produced a multi-volume index, sold off excess copies of past issues, and held over two months of office in order to leave with our last ‘catch-up’ issue at the printing plant on campus.” Questionnaire Response, King Waters (Oct. 4, 2012) (on file with *Houston Law Review*). At least, says Pittsford, “[w]e did not dig the hole deeper for the next Board and we produced some very fine works of value to the bar.” Pittsford Questionnaire, *supra*.

Clearly, many of the problems faced by Board 15 and its predecessors had to do not only with the volume of work being processed but with the now antiquated printing technologies of the day—still analog, with typesetting, galley editing, page proofing, and mail-out all done on campus. Moreover, although the College of Law’s administration traditionally had funded printing for *HLR*, the deans’ chosen vehicle, the University of Houston Press, was inadequate to the task. It fell to Donna Sue Burnett and Arline Worsham, EIC and ME respectively of Board 16, to address that problem:

When we took office, [printing remained] seriously behind schedule—not due to lack of hard work but simply because the *Law Review* publications were handled by the on-campus printer. To the extent football games or other events required printed material, such events took priority. As a consequence, *Law Review* articles were constantly being pushed to the back of the line. One of my first tasks was to remedy this situation. Before going to law school, I had worked in state government in Austin, Texas and, therefore, was familiar with the State Board of Control. With the help and cooperation of the law school dean, the *Law Review* (complying with all applicable state regulations) put the printing of [its] publications out for bid; the bid was awarded to the lowest “off campus” printer. With the help of the hardest working group of articles editors, we made substantial progress in getting caught up. My memory is we either completely caught up or we made such a substantial dent that the subsequent board caught up, with publications by the *Law Review* being back on schedule.

Questionnaire Response, Donna Sue Burnett, Locke Lord LLP (Oct. 15, 2012) (on file with Houston Law Review).

28. Joyce, *Driven, supra*, at 8.

29. *See id.* at 9.

30. *See infra*, “*Highest Quality Service to the Texas Bar.*”

31. The “vast American West” includes, notably, the Great State of Texas. The drive east to west, from Beaumont to El Paso, is a leisurely 828 miles.

32. As reported by Board 15 Editor in Chief Robert Pittsford, “We felt that Houston, as the preeminent energy town in the U.S., ought to be the site of learned discussions on current legal questions arising out of new energy technologies and supplies.” Pittsford Questionnaire, *supra* note 27.

33. Questionnaire Response, Bruce Levy (Oct. 10, 2012) (on file with Houston Law Review).

34. Board of Directors Meeting Minutes (Nov. 19, 1981) (on file with Houston Law Review).

35. The minutes of the fall 1981 Board meeting reveal the mandate (although it was phrased as an “offer”): “To [e]nsure the *Review’s* timeliness and overcome [publication] delays, Dean Nimmer offered as a long-term solution, the funding of the *Law Review* through private sources.” Board of Directors Meeting Minutes (Nov. 19, 1981) (on file with Houston Law Review).

36. *See Joyce, Driven, supra*, at 9.

37. The story of Decade 1’s contents is chronicled under the subheading “CONDOMS AND COCKROACHES” in *Driven: The First Decade of Houston Law Review. Id.*

38. *Baylor Law Review*, certainly more established and perhaps more secure in appropriate staidness in those years, managed to publish the offending submission without referencing condoms or cockroaches in the article’s title. *See* Arthur N. Bishop Jr., *Trouble in a Bottle*, 16 BAYLOR L. REV. 337 (1964).

39. The *Review’s* stated publishing policy during those years, as enunciated by Board 14 Editor in Chief Nancy Taylor Reed (Shivers) was “to maintain the policy followed by Board 13 of publishing a balanced *Review*; [that is,] [t]he articles, comments, and casenotes that will be published will appeal to both practitioners and scholars.” Board of Directors Meeting Minutes (Nov. 11, 1976) (on file with Houston Law Review).

40. In fact, it ultimately was published as a book in at least two editions.

41. Jim M. Perdue, *The Law of Texas Medical Malpractice*, 11 HOUS. L. REV. 1, 2 (1973).

42. Paul J. Barringer et al., *Administrative Compensation of Medical Injuries: A Hardy Perennial Blooms Again*, 33 J. HEALTH POL. POL’Y & L. 727–33 (2008).

43. Perdue, *supra* note 41, at 2.

44. James B. Sales, *The Law of Strict Tort Liability in Texas*, 14 HOUS. L. REV. 1 (1976). Both *Medical Malpractice* and *Strict Liability in Torts* were republished as books but also, like many other large projects of the period facilitated by the huge increase in

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HLR's membership owing to the new College of Law buildings, they may have strained the publication's ability to maintain a constant flow of timely work.

In a joint oral history recording the recollections of Claudia Wilson (Frost) (Editor in Chief of Board 19), Hon. Cathleen Cochran (Herasimchuk) (EIC of Board 21), Robert Sergesketter (EIC of Board 32 and the then-chair of *HLR's* Board of Directors), and Professor Emeritus Sidney Buchanan, Sergesketter explained the Board of Directors' current instruction to student editors concerning book projects: "We're not going to say never, but you have to come to us and ask 'Mother, may I?' before we will let you publish a book, because we've seen what can happen. It's still an open option, but it has to be the exact right option." Oral History of *Houston Law Review* with Professor Emeritus Sidney Buchanan; Hon. Cathleen Cochran, Texas Court of Criminal Appeals; Claudia Frost, Partner, DLA Piper; & Robert Sergesketter, Senior Counsel, Apache Corp. 11 (Oct. 11, 2012) [hereinafter Decade 2 Oral History] (on file with *Houston Law Review*).

45. See also Jerry V. Walker et al., *The Application of Res Ipsa Loquitur in Texas Medical Professional Liability Actions*, 12 HOUS. L. REV. 1026 (1975).

46. Edward W. Turley, Jr., *Changing Capital Structures and Shareholders in a Closely-Held Texas Corporation*, 11 HOUS. L. REV. 351 (1973).

47. Roy Ryden Anderson, *Coercive Collection and Exempt Property in Texas: A Debtor's Paradise or a Living Hell?*, 13 HOUS. L. REV. 84 (1975).

48. Michol O'Connor, *Appealing Jury Findings*, 12 HOUS. L. REV. 65 (1974).

49. Raymond T. Nimmer, *Consumer Payment Systems: Leverage Effects Within an Electronic Funds Transfer System*, 17 HOUS. L. REV. 487 (1980).

50. Glenn J. MacGrady, *Protection of Computer Software—An Update and Practical Synthesis*, 20 HOUS. L. REV. 1033 (1983).

51. *Id.* at 1033.

52. Newell Blakely et al., *Texas Rules of Evidence Handbook*, 20 HOUS. L. REV. 1 (1983). The *Evidence Handbook* receives fuller discussion in this essay hereafter.

53. A lesson the *Review* has adopted well, which the authors will chronicle in the Decade 3 and Decade 4 essays.

54. *Definition of Symposium*, OXFORD DICTIONARIES, <http://oxforddictionaries.com/definition/english/symposium?q=symposium> (last visited Oct. 29, 2012).

55. The term has been adopted here by the authors owing to the absence of a more popularized alternative. As used, the term does not imply necessarily that the entire *HLR* issue in question was devoted to the designated theme. Articles on other subjects, and of course student notes and comments, frequently comprised the remainder of such issues.

56. William H. Hoffman & Ira B. Shepard, *A Symposium on Tax Reform at the Crossroads*, 14 HOUS. L. REV. 1055, 1055 (1977).

57. David S. Caudill, *Three Things I Learned from Buchanan About Being a Law Professor*, 41 HOUS. L. REV. 242 (2004).

58. Joseph H. King, Jr., *The Duty and Standard of Care for Team Physicians*, 18 HOUS. L. REV. 657 (1981).

59. Andrew K. Dolan & Richard S. Ralston, *Hospital Admitting Privileges and the Sherman Act*, 18 HOUS. L. REV. 707 (1981).

60. Robert L. Schwartz & Joan M. Gibson, *Defining the Role of the Physician: Medical Education, Tradition, and the Legal Process*, 18 HOUS. L. REV. 779 (1981).

61. Jim M. Perdue, *An Analysis of the Physician's Professional Liability for Radiation of the Fetus*, 18 HOUS. L. REV. 801 (1981).

62. See *supra* note 32 and accompanying text (relating Board 15 Editor in Chief Robert Pittsford's explanation for the numerous energy-themed issues of Decade 2).

63. Much more on this topic follows in the essays on Decades 3 and 4. Suffice it to say here that the now-familiar annual IPIL Symposia and Frankel Lectures are the "gems" of the modern-day *Houston Law Review*.

64. The first of the dedications refers obliquely to the buffetings "which beset[] a dean," even one who is a beloved professor when not tending to the often unpleasant

necessities of academic administration. A hand-scrawled marginal note beside Blakely's photo in the University of Houston Law Center O'Quinn Law Library's official (and only) copy of Volume 3 illustrates the point graphically, labeling the retiring dean a "Racist Sexist Fig." The note's author declined to leave contact information and therefore was not interviewed for this essay.

Better, then, to rely on the assessment provided by the dedication accompanying the photo:

[Dean Blakely] brought [to administration] the same excellence which he possessed as a teacher. [He] participated actively in the readjustment of methods and curriculum necessary to meet the changing needs of a dynamic legal world. Now he leaves [the deanship] to return to the classroom and his primary goal of educating and refining legal scholars. The Editors of the *Review* with unbounded respect and admiration dedicate this issue to Dean Newell H. Blakely.

The editors' names, led by Editor in Chief Marvin David Nathan, are disclosed fully. 3 HOUS. L. REV. ix-x (1965).

65. *Dedication, Newell H. Blakely*, 20 HOUS. L. REV. xv, xvi (1983).

66. *Dedication, Newell H. Blakely*, 25 HOUS. L. REV. xxv (1988).

67. *Dedication, Newell H. Blakely*, 30 HOUS. L. REV. xvii-xix (1993). This last of the Blakely dedications contains the following summation of the feelings of generations of Blakely's students toward their teacher and mentor:

In 1949, one year after the University of Houston College of Law opened its doors, Newell Blakely decided to leave the practice of law for a teaching career. Thousands of attorneys who have had the privilege of studying under him are among the beneficiaries of that decision. If our alumni were asked to name the one faculty member who has had the most positive effect on their professional lives, the overwhelming response would be Newell Blakely. He was invariably the master of whatever subject he was teaching, down to the most recent slip opinion. Moreover, his extraordinary teaching skills have inspired three generations of lawyers with a commitment to discipline, professionalism, incisive thought, and logical argumentation. And he did it all with an inimitable style and wit. No student could ever forget the ubiquitous Bob Oglethorpe and his unending encounters with one legal problem after another.

Id. Mr. Oglethorpe, incidentally, now is indelibly engraved in the annals of Texas jurisprudence. *See, e.g.*, TEX. R. CIV. EVID. & TEX. R. CRIM. EVID. 801 official comment, illustration (2).

68. For a synopsis of Newell Blakely's early life and pre-deanship career as a professor, one cannot do better than John's Mixon's deft summary:

Newell was born and raised in Gurdon, Arkansas. If you didn't know where Gurdon was, he would tell you it was fifteen miles from Arkadelphia, as if that helped. He earned a B.A. from Ouachita Baptist College, a Ph.M. in speech and drama at the University of Wisconsin, and in 1947, an LL.B from UT law school. In 1949, A.A. White rescued thirty-year-old Newell from his two years of law practice in Harlingen, near the Mexican border, and put him in the classroom. . . . [W]hether from training as a Baptist preacher at Ouachita, a thespian at Wisconsin, lawyer at UT, or natural talent, Newell had a sense of timing that he used perfectly as a teacher. Clearly, teaching was his forte, and he was master of the art.

MIXON, *supra* note 5, at 49-50.

69. *Joyce, Driven, supra*, at 6-8 ("*Nothing Succeeds Like Successors*").

70. *Id.* at 8 ("*Enter Houston Law Review*").

71. MIXON, *supra* note 5, at 52 (providing terrifying examples of Blakely's technique).

72. Shivers Questionnaire, *supra* note 15.

73. Newell H. Blakely, *Past Recollection Recorded: Restrictions on Use as Exhibit*

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and *Proposals for Change*, 17 HOUS. L. REV. 411 (1980).

74. The new Rules became effective on September 1, 1983. Thus, *HLLR*'s publication of its *Evidence Handbook* in January and March 1983 (Volume 20's Issues 1 and 2) proved to be nothing if not timely.

75. *Dedication*, *supra* note 65, at xvi. "This *Handbook*," the *Foreword* to the publication noted, "began as a gleam in Professor Blakely's eyes and he has provided us with invaluable assistance at every stage of the publication process." *Foreword*, 20 HOUS. L. REV. xi, xiii (1983). Among those also thanked specifically by the Editor in Chief, Edward P. Watt, for her efforts on the project was a 2L member of the *Review* named Cathy Herasimchuk, whose contributions to successor editions of the *Handbook* would in time exceed even Newell Blakely's.

76. *Id.* at xi.

77. *Id.*

78. MIXON, *supra* note 5, at 225.

79. A personal recollection by the senior co-author of this essay.

80. The longevity was unexpected. Joining telephonically in an oral history staged in honor of the *Review*'s 50th Anniversary, Buchanan and Moderator Robert J. Sergesketter enjoyed this exchange:

Sergesketter: Did you think it would be a four-decade commitment?

Buchanan: . . . No, I really didn't. I had assumed that over the course of time, after I had done it five or six years that that baton would be passed around to others. I thought that would be fair, that I wouldn't begrudge someone else's opportunity to do it. Because, even though the job involved a lot of time, it really is a fun job and brings you into the brightest and best of our student body. So, it is a very interesting and challenging position to hold and I didn't want to hog it, so I was always ready after a certain number of years, if somebody . . . if the Dean said to me, we have another incoming person that we'd very much like to have the experience of doing this, you know, I would have been able to graciously step aside. But that never happened.

Decade 2 Oral History, *supra* note 44, at 4 (colloquy between Robert Sergesketter and Professor Emeritus Sidney Buchanan). The last two of Buchanan's years as advisor were, in fact, served after his retirement from the faculty.

81. Or *not* just figuratively. Jan Baker, EIC of Board 10, testifies:

I assumed that Professor Buchanan would look at the major articles published in the first part of the *Review* and that he would pass over the student works. I was mistaken; Professor Buchanan did, in fact, read every word that was published in Volume 10, including articles, comments, and notes.

D.J. Baker, *An Appreciation of G. Sidney Buchanan*, 41 HOUS. L. REV. 238, 239 (2004).

82. *A Tribute to Professor G. Sidney Buchanan*, 32 HOUS. L. REV. 1 (1995).

83. Carol E. Dinkins, *A Tribute to Professor G. Sidney Buchanan upon His Retirement*, 41 HOUS. L. REV. 237, 238 (2004).

84. Evelyn Keyes, *The Sidney Buchanan Rules of Logic and Equity*, 41 HOUS. L. REV. 246, 247-58 (2004).

85. Hunter White, *Fond Memories of Law School*, 41 HOUS. L. REV. 249 (2004).

86. Tim Moore, *A Model Advisor*, 41 HOUS. L. REV. 250 (2004). The lyrics reprinted here sadly are much abridged from the original.

87. Dinkins, *supra* note 83, at 237.

88. G. Sidney Buchanan, *The Privilege Against Self Incrimination: To What Extent Should It Protect a State Employee or Professional Licensee Against the Loss of His State-Created Status?*, 7 HOUS. L. REV. 297 (1967).

89. G. Sidney Buchanan, *The Quest for Freedom: A Legal History of the Thirteenth Amendment*, 12 HOUS. L. REV. 1, 2 (1974).

90. *McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 288 n.18 (1976) (citations omitted) (emphasis added to reflect the relevant sentence referencing *The Quest for Freedom*).

91. Decade 2 Oral History, *supra* note 44, at 6 (statement of Professor Emeritus Sidney Buchanan).

92. In a final series of essays published shortly before his retirement, Professor Buchanan would round out his service to *Houston Law Review* with meditations on such vexed topics of the day as abortion, gay rights, and affirmative action. For a personal account of the developing views of *HLR's* Advisor Extraordinaire over the years, see G. Sidney Buchanan, *From Conservative Republican to Liberal Democrat: A Political Journey*, 39 HOUS. L. REV. 447 (2002).

93. SUZY PLATT, RESPECTFULLY QUOTED 299 (1989) (quoting Franklin at the Constitutional Convention in 1787).

ODDMENTS

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ODDMENTS

More Ephemera. Joining “Off the Record” and “Current Materials,” which had gone to law review heaven during Decade 1, Decade 2 saw the dispatch of “Books Received,” “Books Noted,” “Books Annotated,” and “Recent Developments” to the growing graveyard of late but not lamented features from *HLR*’s early years.

More Romances. Ah, *HLR* as a labor of love! Could it be that, somewhere in the course of Decade 2, a member and a secretary at the *Review* met and married? Hint: unless the masthead lies, the following year *HLR* resumed its labors sans a secretary.

A Continuing Cover Story. The ‘60s-era designers of the new College of Law buildings had envisaged a massive complex of five teaching units, holding up to 2,500 budding lawyers at a time—symbolized by the “five-cornered copper snowflake” which first began to adorn the cover of the *Review* in Volume 6. Following the opening of TUII in 1975 and the realization that America’s appetite for ever-more attorneys was not in fact insatiable, plans for further construction were halted. After the publication of the last number of Volume 15 in 1978, the *HLR* snowflake quietly melted away.

Best Left Under Covers. Rumors persist that, during the tenure of one of the Decade 2 boards, continuing developments in obscenity law, both in the nation’s highest court and at the state legislature, required the maintenance of a stash of appropriate research materials within *HLR*’s offices. Any such reports are of course difficult to confirm from reliable sources, and all such work would of course have been strictly in the line of duty.

Clearly (En)titled. What’s in a name? The competition for best article title in Decade 2 proved to be less stiff than in Decade 1, but (in the spirit of the Oscars, where nobody is an actual “winner”) the award goes to: Roy Ryden Anderson, *Coercive Collection and Exempt Property in Texas: A Debtor’s Paradise or a Living Hell?*, 13 HOUS. L. REV. 84 (1975) (considering just what it sounds like, in 49 scintillating pages).

Mission(s) Accomplished. Dwight Olds, who had published 14 articles during Decade 1 and helped *Houston Law Review* greatly to establish itself as a going concern, retired from the faculty shortly thereafter and never returned to the journal’s pages. As Decade 2 progressed, A.A. White, too, retired from the

faculty—and also as chair of *HLR*'s Board of Directors, having served the publication so long, and contributed to it so greatly, that the excellence of one of his best-loved initiatives was by then secure.

Gender at the Top. Decade 1 at *Houston Law Review* had featured the publication's first female Editor in Chief, Marjorie Caldwell (Board 7). Decade 2 saw four more EICs added to the total: Marjorie A. Wilhelm (Board 11), Nancy Taylor Reed (Board 14), Donna Sue Burnett (Board 17), and Claudia Wilson (Board 19). Thus, by 1983 when Decade 2 ended, *HLR* had been run by a woman five times, or for one-quarter of its existence. Meanwhile, some distance to the northeast, a similarly initialed review recognized its first female President only in 1976—after a mere 90 years of existence—and would not name another woman again until its 100th Anniversary in 1986. Thus, at the end of Decade 2 in Houston, the tally read: *HLR South* (lifetime) 5, *HLR North* (lifetime) 1. But who was counting?

BY THE NUMBERS

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BY THE NUMBERS. . .¹**ISSUES AND PAGES**

Volume	Issues	Pages
11	5	1322
12	5	1202
13	5	1106
14	5	1137
15	5	1233
16	5	1301
17	5	1068
18	5	1123
19	5	830
20	5	1368

1. Compiled by *Houston Law Review* Boards 50 and 51.

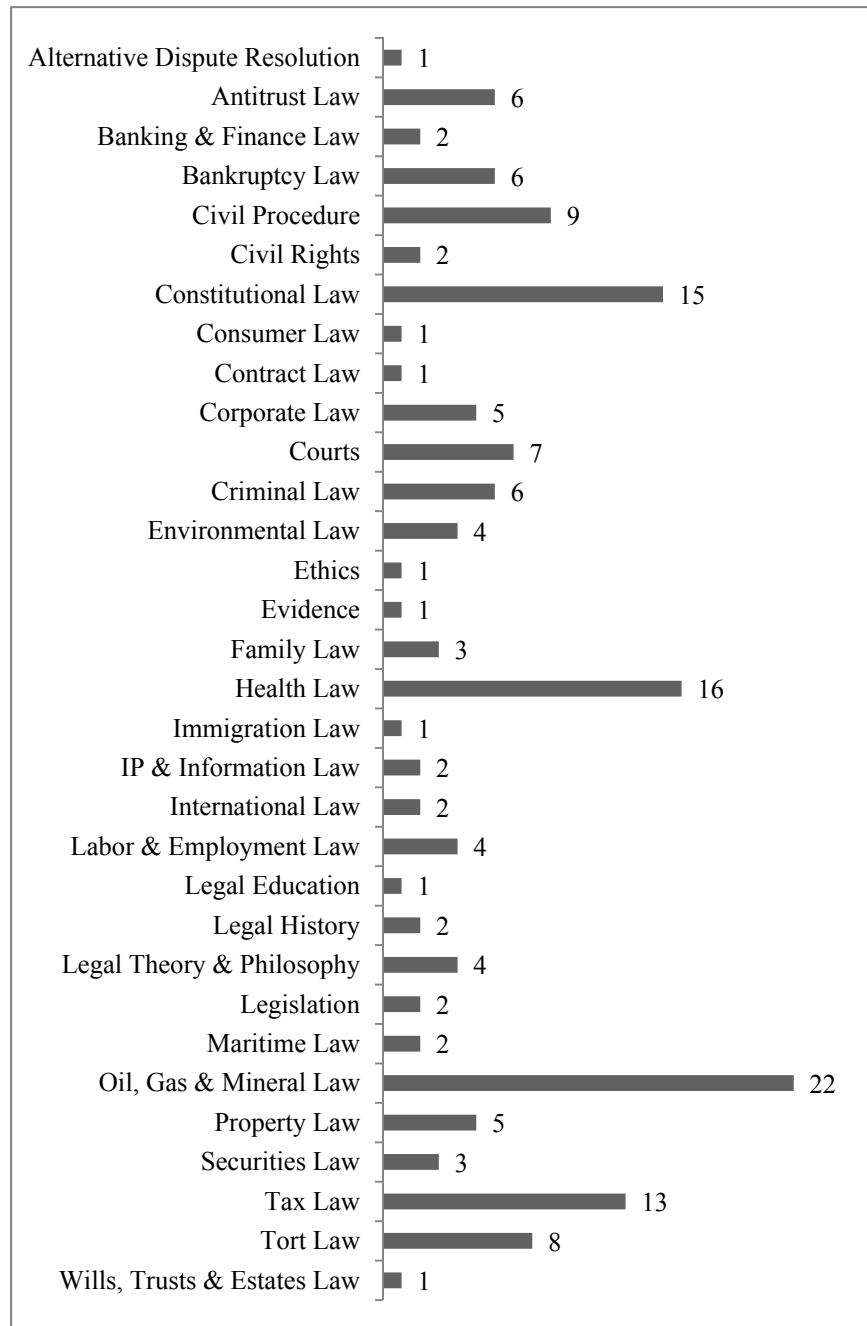
**BOARDS, MEMBERS, EDITORS IN CHIEF,
AND FACULTY ADVISORS**

Boards	Members	Editors in Chief	Faculty Advisors
11 (1973–74)	30	Marjorie A. Wilhelm	G. Sidney Buchanan
12 (1974–75)	28	Michael Paul Irvin	G. Sidney Buchanan
13 (1975–76)	40	Joe P. Martin	G. Sidney Buchanan
14 (1976–77)	46	Nancy Taylor Reed	G. Sidney Buchanan
15 (1977–78)	49	Robert Lynn Pittsford	G. Sidney Buchanan
16 (1978–79)	50	Michael R. Waller	G. Sidney Buchanan
17 (1979–80)	41	Donna Sue Burnett	G. Sidney Buchanan
18 (1980–81)	42	David S. Caudill	G. Sidney Buchanan
19 (1981–82)	36	Claudia Wilson	G. Sidney Buchanan
20 (1982–83)	39	Edward P. Watt	G. Sidney Buchanan

BY THE NUMBERS

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ARTICLE TOPICS



THEMED ISSUES AND BOOKS PUBLISHED²

Jim M. Perdue, *The Law of Texas Medical Malpractice*,
11 HOUS. L. REV. 1 (1973) (9 chapters)

G. Sidney Buchanan, *The Quest for Freedom:
A Legal History of the Thirteenth Amendment*,
12 HOUS. L. REV. 1 (1974),
12 HOUS. L. REV. 1 (1974) (9 chapters)

James B. Sales & Jim M. Perdue,
The Law of Strict Tort Liability in Texas,
14 HOUS. L. REV. 1 (1976) (11 chapters)

William H. Hoffman & Ira B. Shepard,
A Symposium on Tax Reform at the Crossroads,
14 HOUS. L. REV. 1055 (1977) (4 articles)

Coal Law Themed Issue,
15 HOUS. L. REV. 1081 (1978) (6 articles)

Natural Gas Policy Themed Issue,
16 HOUS. L. REV. 1025 (1979) (5 articles)

Bankruptcy Law Themed Issue,
17 HOUS. L. REV. 217 (1980) (5 articles)

Energy Conference,
17 HOUS. L. REV. 955 (1980) (6 articles)

Health Law Themed Issue,
18 HOUS. L. REV. 657 (1981) (5 articles)

Energy and Environmental Law Themed Issue,
18 HOUS. L. REV. 967 (1981) (4 articles)

Newell Blakely et al., *Texas Rules of Evidence Handbook*,
20 HOUS. L. REV. 1 (1983) (12 articles)

2. The present listing encapsulates in tabular form the data provided narratively in "Beyond Cockroaches" above.

BY THE NUMBERS

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MOST PUBLISHED AUTHORS³

1. Jim M. Perdue (21 works total: 20 book chapters, 1 article)
2. James B. Sales (13 works total: 11 book chapters, 2 articles)
3. G. Sidney Buchanan (12 works total: 9 book chapters, 3 articles)
4. Newell H. Blakely (3 works total: 2 book chapters, 1 article)
- T5. John R. Allison, Robert A. Carp, Stephen K. Huber, John E. Kennedy, Robert Kratovil, Raymond T. Nimmer, Yale L. Rosenberg, Gus A. Schill, Jr., Rodric B. Schoen, Philip P. Sudan, and James Boyle Williamson (2 articles each)

MOST CITED ARTICLES⁴

1. *Appealing Jury Findings*
Michol O'Connor
12 HOUS. L. REV. 65 (1974) (55 citations)
2. *An Analysis of Securities Litigation Under Section 12(2) and How It Compares with Rule 10b-5*
Martin I. Kaminsky
13 HOUS. L. REV. 231 (1976) (33 citations)
3. *The Quest for Freedom: A Legal History of the Thirteenth Amendment - Chapter 1. Great Expectations: The Issuance of the Emancipation Proclamation, Adoption of the Thirteenth Amendment, and Passage of the Civil Rights Act of 1866*
G. Sidney Buchanan
12 HOUS. L. REV. 3 (1974) (32 citations)
4. *Hospital Admitting Privileges and the Sherman Act*
Andrew K. Dolan and Richard S. Ralston
18 HOUS. L. REV. 707 (1981) (25 citations)
5. *Judicial Reinterpretation of Statutes: The Example of Baseball and the Antitrust Laws*
C. Paul Rogers III
14 HOUS. L. REV. 611 (1977) (20 citations)

3. For the counting principles involved in this tabulation, see Methodological Note in Craig Joyce, *Driven: The First Decade of Houston Law Review*, *supra*, at 32 n.3.

4. Due to the limitations of the available databases, our numbers reflect only citations to these articles that occurred from the early 1980s forward and do not include citations during the 1960s and 1970s. Better data will be available for Decades 3, 4, and 5 of this history.

LONGEST ARTICLES

1. *The Texas Equal Rights Amendment
in the Courts—1972–1977:
A Review and Proposed Principles of Interpretation*
Rodric B. Schoen
15 HOUS. L. REV. 537 (1978) (94 pages)
2. *Note from the Underground: A Substantive Analysis of
Summary Adjudication by the Burger Court: Part I*
Yale L. Rosenberg
19 HOUS. L. REV. 607 (1982) (87 pages)
3. *Past Recollection Recorded: Restrictions on Use as Exhibit
and Proposals for Change*
Newell H. Blakely
17 HOUS. L. REV. 411 (1980) (75 pages)
4. *Erosion of No-Duty Negligence Rules in England,
the United States, and Common Law Commonwealth Nations*
Joseph W. Little
20 HOUS. L. REV. 959 (1983) (74 pages)
5. *Regulating Foreign Bank Operations in Texas*
Stephen Zamora
19 HOUS. L. REV. 427 (1981) (73 pages)

**LONGEST “BOOKS” BY
SINGLE OR JOINT AUTHORS⁵**1. *The Law of Strict Tort Liability in Texas*

James B. Sales & Jim M. Perdue

Co-authored by: Edward J. Cooney, Byron Lee, Lames L. Moore,
Deborah Watson Rider, Marleen Samea Roosth, and
Alan Vomacka

14 HOUS. L. REV. 1 (1976) (285 pages)

2. *The Quest for Freedom:**A Legal History of the Thirteenth Amendment*

G. Sidney Buchanan

12 HOUS. L. REV. 1 (1974),

13 HOUS. L. REV. 63 (1975) (266 pages)

3. *The Law of Texas Medical Malpractice*

Jim M. Perdue

11 HOUS. L. REV. 1 (1973) (218 pages)

**DEDICATIONS, TRIBUTES,
IN MEMORIA, ETC.**Volume 20, Issues 1 and 2 (the first edition of the *Texas
Rules of Evidence Handbook*) contain a Dedication to
Newell H. Blakely.

5. Excluded from this category are works of similar length, such as Newell Blakely et al., *Texas Rules of Evidence Handbook*, 20 HOUS. L. REV. 1 (1983), in which, although the work may have had a coordinator or supervising editor, particular chapters or articles clearly were authored by separate individuals.

CENTERED:
The Third Decade
of
Houston Law Review

Craig Joyce & Matthew Hoffman

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ESSAY

CENTERED: THE THIRD DECADE OF *HOUSTON LAW REVIEW*

Craig Joyce & Matthew Hoffman***

As *Houston Law Review* entered the 1980s, the world around it, and *HLR*'s host institution, were changing. The College of Law, recognizing increasing specialization and diversity of the practice of law, would reinvent itself, too. A new HOUS. L. REV. for a new "Law Center"! Evening and morning of the Third Decade.¹

* * *

* Andrews Kurth Professor of Law, University of Houston Law Center. Matthew Hoffman and I again express our deep gratitude to the student members of Boards 49 and 50 of *Houston Law Review* for their continued diligence, and also their tolerant patience with our style and formatting peculiarities, in making possible this, the third installment of a five-part history celebrating the occasion of the *Review*'s 50th Anniversary. Katherine Witty of Board 50 continued to provide invaluable support during the preparation of this essay, as did Board 50's Editor in Chief Peter Danysh, Chief Articles Editor Casey Holder, Managing Editor Cade Mason, and many others. Thanks, as well, to Christopher Dykes of the O'Quinn Law Library staff, and to the Library's Director and Deputy Director, Spencer Simons and Mon Yin Lung. Mr. Hoffman and I are grateful also to Hon. Cathleen Cochran (Herasimchuk) (Board 21), Derek Lisk and Joe Tixier (Board 25), Hunter H. White (Board 26), and Robert J. Sergesketter and Hon. Jeff Brown (Board 32), all of whom contributed to the present essay and were offered the opportunity to save the authors from error, if they could. Not least among those to whom we are indebted, Mr. Hoffman and I express our profound appreciation to *all* the members of Boards 21–30, who actually *lived* the story that we have tried here to recount.

In keeping with the general practice in historical essays, all notations hereafter appear as endnotes at the conclusion of this essay, where the reader will find also a compilation of statistical trivia which the authors and the members of Board 50 hope will enlighten and amuse, if not necessarily in equal degree.

** Law Clerk to United States District Judge David Hittner; J.D. 2012, University of Houston Law Center; Editor in Chief, *Houston Law Review*, Board 49.

VOILA, A LAW CENTER!

Law, Law, and More Law

It will come as no news to those who lived through the era that, by the mid to late twentieth century, the increasing complexity and expanding horizons of American law had pushed American lawyers to narrow their practices as never before.² Perhaps it was not inevitable (to judge by faculty lounge discussions of the era) that law schools would follow suit, but they did.

Indeed, by the beginning of *Houston Law Review's* Decade 3, the “most important development in legal scholarship” was “specialization of interest.”³ The “tension between writing and teaching”⁴ that had come to a head during the *Review's* early years⁵ was such that, by the mid-1980s, “the dominant ideology of the traditional law school community [was] fraying at the edges.”⁶

In 1983, just as *HLR* was beginning its third decade, Yale law professor George L. Priest, in *Social Science Theory and Legal Education: The Law School as University*, described the dynamic between teaching and theorizing “as the scholar becom[ing] more theoretically sophisticated, [while] law teaching in the standard form becomes increasingly remote from his work.”⁷ Within the legal academy, “new breeds of professor and student [were] altering the way the law [was] taught. In response to the growing complexity of legal practice, faculties [were] also becoming increasingly specialized.”⁸

Accordingly, Priest called for a philosophical shift in the way law schools were structured and the way students were taught. Under Priest’s “Enlightenment,” law schools would be structured more like universities, with standard introductory courses followed by classes “of increasingly narrow scope.”⁹ Specialization would arrive shortly, with a vengeance, in legal academia.

Today, 30 years after Priest’s article, the changed legal landscape wrought by the recent recession (particularly, revised hiring objectives among some of the nation’s biggest law firms) has led one commentator to opine in the *New York Times* that “[t]he twilight of the generalist law degree is here.”¹⁰ As the history below demonstrates, the University of Houston Law Center had long since recognized and embraced this decades-long developing reality.

CENTERED

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A Law Center, Anyone?

By the beginning of *Houston Law Review's* third decade in 1983–1984, its host institution had ceased to grow physically,¹¹ but the scope of its ambition, reflecting increased subject matter specialization in the practice of law beyond the school's cloisters, had not. The College of Law would need to redefine—and, indeed, to rename—itsself.

The process of “centering” the College of Law—that is, of encouraging specialization among its faculty, in their scholarship and in the school's curriculum, and through changes in institutional structure—had begun during the *Review's* Decade 2.

The hiring of faculty members who would create and run the institutes, centers, and programs of Decade 3 actually dated to the 1970s, which had produced the appointments of, among others, Richard Alderman (specializing in consumer law), John Jay Douglass (criminal prosecution), Richard F. Dole, Jr. (commercial and trade secret law), Gilbert L. Finnell, Jr. (land use and environmental law), James B. Gambrell (intellectual property law), Raymond T. Nimmer (commercial, bankruptcy, and computer law), Michael A. Olivas (higher education law and governance), Jordan Paust (public international law), Ira B. Shepard (tax law), Jacqueline Lang Weaver (oil and gas law), and Stephen Zamora (private international law).

Decade 3 itself produced 25 more faculty hires. What follows is a partial list of those appointments, indicating both the specialization of each faculty member (as it would relate later to the institutes, centers, and programs which came to the fore during *HLLR's* third decade), as well as other services rendered to *Houston Law Review* by the new hires:

David R. Dow (constitutional law): 3 articles in *Hous. L. Rev.*, 11 years as *HLLR* Faculty Advisor

Craig Joyce (copyright law): 10 book chapters and 18 articles and other contributions, 5 years as Faculty Advisor

Peter Linzer (constitutional law): 2 articles

Laura E. Oren (family law): 3 articles, 6 years as Faculty Advisor

Robert Ragazzo (corporate law): 1 article, 20 years as Faculty Advisor

Laura Rothstein (health law): 1 article

Mark Rothstein (health law): 3 articles and other contributions, 3 years as Faculty Advisor

Joseph Sanders (tort law): 1 article, 7 years as Faculty Advisor

Sandra Guerra Thompson (criminal law): 1 article

Other outstanding appointments of the period who contributed significantly to the formation of specialized programs during Decade 3 included: Mary Anne Bobinski, Seth Chandler (a 4-year faculty advisor to *HLR*), and William Winslade in health law; William Streng and Richard Westin in tax law; and Gary Conine, Sanford E. Gaines, and Karl Rabago in environmental, energy, and natural resources law.¹²

As will appear shortly, the hiring of the Decade 3 faculty members, together with the carry-over of specialists from appointments during Decade 2, would lay the foundation for the official rechristening of UH's erstwhile College of Law as the new "University of Houston Law Center" in the 1980s.

A "Law Center," Officially!

On the eve of Decade 3, the College of Law changed its name, both to reflect what it already had become and to position itself for the future. The developments that the name change made "official" would have profound impacts on *Houston Law Review* going forward.

The announcement of the change was compact and efficient. The May 1982 issue of *Briefcase*, published by the Law Alumni Association, noted simply that the revision had been approved by the University of Houston Board of Regents the preceding January at the behest of Dean Robert L. Knauss, himself a 1981 hire and a former dean at Vanderbilt:

[T]he new designation more accurately describes not only the expanded physical facilities at the law school but also the growing involvement of the law school in areas of a broader nature than in years past.

The University of Houston Law Center now encompasses the basic J.D. program, the Continuing Legal Education Program, the Energy Studies Program, the National College of District Attorneys, and the College of Criminal Defense. The Law Center also supports a Mexican Legal Studies Program as well as operating a Health Law Institute with the University of Texas Health Science Center.¹³

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In short, the institution had not only recognized what it had become but also proposed to do more of the same, only better.

As a bonus, the 1982 announcement also disclosed to a waiting world the new Law Center's new seal:

The new seal of the University of Houston Law Center is composed of three martlets above an opened text emblazoned with the Latin word for law, LEX. The martlet, a gentle Lowlands bird, symbolizes peace and deliverance. Martlets appear in the University of Houston seal which has as its genesis the coat of arms of General Sam Houston who claimed descent from an eleventh century Norman knight, Sir Hugh of Padavan. Having acquired both a new name and seal, . . . the Law Center has now completed the preliminary steps toward proving itself one of the nation's foremost legal institutions.

Gentle Lowlands birds. Peace and deliverance. Knights. Sam Houston. Who knew?

The LL.M. Program

A not incidental part of the Law Center's transformation during the 1980s (although it paled in comparison with the impacts of the specialty programs on *Houston Law Review*) was an expansion of the curriculum to include a Master of Laws (LL.M.) program. The dates of creation of the various LL.M. concentrations, together with the concentrations' current titles, are: Energy, Environment & Natural Resources Law (1983); International Law (1983); Tax Law (1983); Health Law (1991); and Intellectual Property & Information Law (1994).¹⁴ While candidates for degrees in the foregoing Master of Laws concentrations are ineligible for *HLR* membership, the LL.M. Program nonetheless supports *Review* operations indirectly by expanding the Law Center curriculum in these specialized areas. Enhanced curricular offerings in the subject fields in turn attract to the Law Center professors and students focused on these areas of study, thereby feeding to *Houston Law Review* both scholarship by UHLC faculty members and their academic peers from around the world and student members with specialized aptitudes in IP, health law, etc.

Institutes, Centers, and Programs

The centerpiece of the changes wrought in the Law Center's mission and mindset during Decade 3 was a continual expansion and enhancement of its specialty program offerings, always

accompanied by the continued strength of the school's basic J.D. program. The history of UHLC's institutes and centers has, however, received scant attention.

One of the programs—what began as the Computer Law Institute in 1985¹⁵—was joined by the companion Intellectual Property Law Program in 1991, and combined with the latter to form the current Institute for Intellectual Property & Information Law (IPIL) in 1999. IPIL's history recently has received at least limited treatment elsewhere¹⁶ (and will merit further attention in the Decade 4 narrative).

By far the dominant institute of Decade 3, however, and a powerhouse well beyond those years—one might even venture to describe it as “the 800-pound gorilla of the specialized programs” if certain that the characterization would be taken admiringly, as it is meant, rather than as an unfortunate contrast with the “gentle Lowlands birds” so recently referenced—was what came to be known, after a 1986 name change, as the Health Law & Policy Institute (HLPI or Health Law). From the mid-1980s forward, the Law Center's Health Law program, thanks to dynamic leadership, dedicated faculty, staff, students, and local supporters, and enthusiastic encouragement by Law Center and University of Houston administrators and the Texas State Legislature, has produced an unequalled display of sustained excellence in its field.

The University of Houston's interest in health law stretched back to the beginning days of *Houston Law Review*. Even as a young professor, John B. Neibel (whose construction and expansion of the new College of Law buildings in 1969 and 1975 had so greatly influenced the size of *HLR*'s membership and the scope of its ambitions¹⁷) had held a special interest in teaching and studying law and medicine. Indeed Neibel's article, *Implications of Robinson v. California*,¹⁸ concerning drug addiction as a problem for law and society, had graced the first pages of the *Review*'s very first issue back in 1963.

Interest in expanding UH's law-and-medicine connections continued into the mid-1970s. The interactions included, particularly, conversations between College of Law administrators and Dr. Margery W. Shaw, a world-renowned geneticist at the University of Texas Health Science Center's School of Public Health in Houston—who also happened to hold a 1973 UH law degree. Initial organizational efforts failed, however, due to personnel issues, until in 1978 the College of Law formally created a Health Law Institute, with Shaw herself coming on-board as its first director the following year.¹⁹

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As originally designed, the Health Law Institute was housed at the UT Health Science Center and had little to do with the University of Houston. After Shaw's departure as director in 1981, the Institute had two additional short-term directors, both also from the Health Science Center. By 1985, neither UT nor UH seems to have been particularly satisfied with the Institute's arrangements or progress.

Happily, the 1985–1986 academic year at the Law Center featured a year-long visit to Houston by health law specialists Mark Rothstein and Laura Rothstein. J.D. graduates from Georgetown University, they were then teaching at West Virginia University, where Mark Rothstein directed an interdisciplinary program at the law and medical schools.

In 1986, the Rothsteins accepted offers to join the University of Houston Law Center faculty. The existing Health Law program was renamed the Health Law & Policy Institute, with Mark Rothstein as its first director. The Institute's ties with UT were severed, with what had been a rocky marriage becoming a most amicable divorce when the two institutions shortly thereafter renewed their partnership to create a new Doctor of Jurisprudence/Master in Public Health degree.

All operations moved to the University of Houston campus. The Golden Age of Health Law at the Law Center had begun.

What followed during the remainder of Decade 3 (and indeed through the year 2000,²⁰ when Health Law's direct association with *Houston Law Review* through the latter's publication of annual Health Law Symposia issues—as described below—ended) was a dazzling display of program building. Through a series of multi-year plans, the Health Law & Policy Institute created, for example, not only its J.D./M.P.H. with the University of Texas Health Science Center in Houston, but also a J.D./Ph.D. (in medical humanities and bioethics) with the UT Medical Branch at Galveston, an LL.M. in Health Law at the University of Houston, and numerous other cutting-edge academic programs, including a Health Law Clinic, an intersession course every January, and a Semester-in-Houston opportunity allowing students at other law schools to spend time in Houston focused on the study of the Law Center's greatly expanded health law curriculum. Grants from the National Institutes of Health, and special-item appropriations by the Texas State Legislature for in-depth critical-issue reports regularly published by Institute researchers, followed.

In 1994, HLPI students took first place in the National Health Law Moot Court Competition, and, in its influential

rankings of specialized programs in law, *U.S. News* recognized HLPI itself as the #1 health law program in the nation (a distinction of which the program would retain almost exclusive possession during the Rothsteins' entire remaining stay in Houston).²¹

At the core of HLPI's non-degree based activities, however, was scholarship—and, specifically, scholarship published through *Houston Law Review*. Beginning in 1987, the Institute and the *Review* collaborated almost annually on what became an extensive series of twelve symposium issues. The symposia featured their share of prominent political figures,²² but more importantly, they presented the output of the very finest health law scholars in the United States and from around the world in the pages of *Houston Law Review*. A full listing of the symposia by year appears in the notes,²³ and a summary of their contents and importance follows in the text hereafter.

In academia as in life, however, nothing is forever. In 2000, prompted by a series of mutual concerns,²⁴ but mostly by the desire of the burgeoning population of students attracted to the University of Houston by health law studies, the Institute decided to strike out on its own by launching, as a vehicle for health law scholarship and as a training experience of interested UHLC students, a new student-edited journal: *Houston Journal of Health Law and Policy*.²⁵

By then, however, the Health Law and Policy Institute, as one of the first and certainly the strongest of the early institutes, centers, and programs, already had made an enormous and irreversible contribution to the people and institutions around it. More than any other development during the “centering” of the University of Houston's former College of Law, the Health Law Symposia series brought the Law Center, and *Houston Law Review*, the dramatically enhanced national standing each had long sought.

The Center and the Review

The institutional changes impacting the law school during the *Review*'s third decade also brought about change in the way *HLR* did business. Structurally, logistically, and financially, the *Review* took steps to professionalize further what was becoming a leading national law journal. As a reflection of the sound decisionmaking of Decade 3's student editors, faculty advisors, and directors, many of the decisions made then remain in place two decades later.

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Perhaps no change was bigger in Decade 3 than the watershed decision by Board 21 to allow part-time students membership on the *Review* for the first time.²⁶ By no coincidence, membership numbers on the *Review* began to grow as the decade progressed, increasing from 39 on Board 21 to 48 by Board 25,²⁷ when *HLR* celebrated its 25th Anniversary.²⁸ By Board 30's arrival, 35 3L editors were on the masthead.²⁹

Board 21 also brought about the resurrection of the Houston Law Review Alumni Association (HLRAA). As initially reconstituted, one of the primary purposes of HLRAA was to coordinate the creation of a summer scholarship program, which debuted in 1984.³⁰ The fund's purpose was "[c]ompensation for editors with summer work restrictions": those editors who forewent summer work with law firms in favor of editing in the basement would be compensated for their service.³¹ Initial pay amounted to slightly more than a few hundred dollars per week, funded in part by familiar donors: Vinson & Elkins, Baker Botts, Fulbright & Jaworski, Mayor Day, Weil Gotshal, and more.³² To facilitate cooperation between HLRAA, local law firms, and the *Review*, the position of Alumni Developments Editor was created as a liaison by Board 22.³³

A number of important developments also were underway on the notes and comments side of the *Review*. *HLR*'s student editors implemented structural mechanisms throughout Decade 3 to increase writing efficiency and article quality among the 2L members. To stay abreast of recent and relevant developments in law, the position of Legal Developments Editor was instituted by Board 20 and remained in place throughout the next eight years to assist second-year students in the selection of their paper topics.³⁴ By Board 24, the editors had initiated revised writing procedures to include strict requirements: (1) topic proposals (taking full advantage of the Legal Developments Editor's talents); (2) an initial outline; (3) a first draft; and (4) the final draft.³⁵ And just in case any student strayed from the deadlines, additional penalties were levied to avoid tardiness in submission.³⁶ Overall, the changes proved to be effective and long-lasting, as the same basic note and comment publication procedure remains intact to this day.

Technology also began to play a more prominent role in the *Review*'s logistics throughout the decade. *HLR*'s publisher donated word-processing equipment to Board 21. This benefited operations by "eliminat[ing] costs at the page and galley stages of the publication process and cut[ting] down significantly on turnaround time."³⁷ Of concern to Board 21's Editor in Chief was

the “slow” transition to utilization of the machine: the word-processing technology of 1983 evidently required a degree of technical know-how not necessarily present in the basement.³⁸ (Later in the decade, Bracewell & Patterson offered to assist with additional word-processing services through its offices, apparently to alleviate the bottleneck created by the dearth of high-tech proficiency among the student editors.)³⁹

By the spring of 1987, HLRAA had purchased two new computers for the *Review*'s benefit, allowing for direct connectivity that cut out the Federal Express middleman during the publication cycle.⁴⁰ That fall, the students of Board 25 abandoned the “time honored system of indexing each volume by means of index cards in favor of a computer system that will be largely automatic.”⁴¹ Subsequent years brought *HLR*'s acquisition of an electronic Westlaw terminal (spring 1988),⁴² a refrigerator for the office (spring 1989),⁴³ the publication of all *HLR* articles in Westlaw's electronic database (spring 1991),⁴⁴ the utilization of modern desktop publishing software (summer 1991),⁴⁵ renovated offices (fall 1992),⁴⁶ and a modernized computer lab, complete with new computers, a fax machine, and laser printers (spring 1993).⁴⁷

Increasingly sophisticated scholarship, larger membership numbers, more efficient organizational procedures, and a higher degree of technological proficiency than previously thought possible—what perturbation could possibly have thrown a wrench in the increasingly well-oiled *HLR* machine?

Finances, of course.

Late in Decade 2, higher publishing costs and reduced school funding had taken a toll: the *Review*'s balance sheet was showing red. In response, Associate Dean Raymond T. Nimmer had given marching orders that the *Review* must develop a source of private funding for its daily operations. A temporary (but substantial) reprieve came quickly, as the first edition of the perfectly timed *Texas Rules of Evidence Handbook* almost miraculously filled the financial void. Barely a year into publication, the *Handbook* had sold 2,600 copies for total revenue of \$122,000.⁴⁸ Ultimately, thousands of additional copies would sell, generating nearly \$200,000 for the *Review*, which accounted for more than 80% of the endowment funds relied upon to fund operations.⁴⁹

In the years following the *Handbook*'s publication, however, the *Review*'s ambition, which had led to the publication of multiple large books⁵⁰ and special issues and which had brought greater recognition of *Houston Law Review* in the Texas and national legal communities, had led also to renewed financial

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hardship.⁵¹ With multiple boards publishing nearly twice the number of pages per volume as in prior years, the production of larger and larger volumes “had imposed a great financial strain on the *Review*.”⁵² Midway through Decade 3, with rising costs and funding from the school trickling away, Chairman of the Board of Directors Jan Baker was prompted to warn at the fall 1985 Board Meeting: “[T]he *Review* is on a dangerous path.”⁵³

Happily, by Decade 3’s conclusion, the skies over *HLR*’s finances would brighten yet again. Coming to the rescue once more was the *Evidence Handbook*, this time with the printing of its second edition. (See below for more information on “Cathy Cochran’s *Evidence*.”) By the end of the decade, *HLR*’s hand-to-mouth worries had been eliminated through good planning and good fortune. So financially successful was the *Handbook* that the incumbent dean, Robert L. Knauss, perhaps on the theory that no good deed should go unpunished, set as a goal for the *Law Review* that it become fully self-sufficient⁵⁴—maybe a long shot early in Decade 3, but an accomplished reality in 2013.

BAMBI MEETS GODZILLA

As *Houston Law Review* moved from the “teenagerhood” of Decade 2 into the challenges of “twenty-somethingness” in Decade 3, many young-adult crises of identity and going-forward choices loomed. With apologies⁵⁵ to a fellow member of the academy, see Stewart Macaulay, *Bambi Meets Godzilla: Reflections on Contracts Scholarship and Teaching vs. State Unfair and Deceptive Trade Practices and Consumer Protection Statutes*, 26 HOUS. L. REV. 575 (1989), it seems useful to appropriate a portion of his title here. “Bambi Meets Godzilla” describes aptly the difficulties faced by *Houston Law Review* as the happy intentions of its “Carry on Boldly” era gave way to the realities of ratcheting up the *Review*’s ambitions to accommodate the increased complexity of legal practice and scholarship and the galloping diversification of the new Law Center’s faculty and institutional structures, including its specialized institutes, centers, and programs.

Nonetheless, as *HLR* made the transition from its Bambi days to its Godzilla days, evidence abounds in the pages of the *Review* that the organization was continuing its upward trajectory. Familiar faces returned in Decade 3, as the *Review*’s dedicated faculty advisor, G. Sidney Buchanan, led off for the hometown journal in Volume 21⁵⁶ and Board 21 Editor in Chief Cathy Herasimchuk authored Volume 30’s update to the *Texas*

Rules of Evidence Handbook. The *Review* published its first-ever lecture series and a mutually beneficial relationship with the nascent Health Law Institute began to emerge. Meanwhile, *HLR* fostered its commitment to publishing relevant content for the Texas bar while simultaneously attracting the best and the brightest authors from the national academic community.

Business as Usual: A Potpourri

Before there was the Frankel Lecture Series of Decade 4, the Annual IPIL Symposium issues of Decade 5, or even the Butler & Binion Lecture Series of the mid-1980s,⁵⁷ the *Review's* prestige hinged not only on the growing number of themed issues filling its pages,⁵⁸ but just as importantly on the contributions of the authors who published with *HLR* outside of a symposium, special project, or themed issue of any kind. *HLR*, by its own merits, was attracting top-notch authors. The presence of these authors, whom the editors worked tirelessly to recruit, lent credibility to *Houston Law Review* and contributed to the creation of an academic environment that would be necessary for future symposia and lectures to take off.

The authors of Volume 24 exemplify the impact. Although the jewel of the volume appeared in Issue 1, which included some of the top legal minds in America participating in an environmental law conference (see the detailed participants in *Beyond Just "Themed Issues"* below), contributions from nonconference participants in subsequent issues included professors from Rutgers, North Carolina, and Cincinnati.

One measure of a law review's success is the company its published authors keep. By that measure, *HLR* was firmly seated at the grown-ups' table by midway through its third decade. In Volume 24, for example, Professor Earl Maltz of Rutgers published *Reconstruction Without Revolution: Republican Civil Rights Theory in the Era of the Fourteenth Amendment*.⁵⁹ He was joined by Cincinnati law professor James T. O'Reilly's *Biotechnology Meet Products Liability: Problems Beyond the State of the Art*.⁶⁰ Shortly before Maltz's publication with *HLR* he had appeared in *Texas Law Review*, and immediately after his Volume 24 article he went on to publish with the law reviews at Duke and North Carolina. Similarly, O'Reilly's immediately preceding and following scholarship took him to the law journals at Vanderbilt, Ohio State, Harvard, Yale, and Cornell. *Houston Law Review* was in good company indeed.

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Texas-Based Scholarship

As Decade 3 rolled on, however, the institutional goals of *Houston Law Review* would be reexamined continually. Much of “business as usual” would, of course, go on as before: quality law reviews always have room for quality articles, including, for example, articles by leading jurists. In Volume 22, Judge David Hittner, then of the 133rd Civil District Court of Harris County but now a prominent judge of the U.S. District Court for the Southern District of Texas, published *Summary Judgments in Texas*,⁶¹ offering a comprehensive explanation and analysis of the procedures for summarily terminating cases under Texas law.⁶² In Volume 28, Judge Caroline Dineen King, of the Fifth Circuit Court of Appeals, contributed a *federal-law* parallel to Hittner’s article in *A Matter of Conscience*, calling for an examination and resolution of the many problems facing the federal judiciary.⁶³

The contrast here is instructive. Both pieces were authored by esteemed Texas judges, but there is emphasis, as the decade progresses, not just on Texas law (meant to serve the local bar in highest-quality fashion but also, and not unimportantly, to educate the student editors of *HLR* on practical matters which many of them were likely to face as lawyers), but on law beyond Texas as well. How to get the balance right?

This was precisely the question that the *Review*’s leadership—on both the Board of Directors and the Board in the Basement—had to face front and center in 1987, when another prominent Texas-based law review apparently announced a policy decision to no longer publish articles relating solely to Texas-based jurisprudence.⁶⁴ *HLR*’s Articles Department, during the fall Board of Directors meeting, summarized the *Review*’s intended future articles selection policy as follows: “[We are] moving aggressively to develop articles of significant scholarly value . . . [while] also emphasizing development in Texas law.”⁶⁵ Particularly illustrative of how that policy would be implemented are the following instances from the period immediately following the 1987 meeting.

In 1990, UH’s Robert Schuwerk published his massive 574-page *A Guide to the Texas Disciplinary Rules of Professional Conduct*—nominally Volume 27A, but practically the fifth issue of Volume 27. An ambitious undertaking for the editors and a considerable logistical challenge due to its sheer size,⁶⁶ Schuwerk’s *Guide* nonetheless was a significantly valuable contribution to Texas lawyers, which Texas Supreme Court Justice Eugene A. Cook described as follows: “[A] fine practical

guide to our rules . . . , it assists us in our efforts to educate all our lawyers about changes in the rules, the goals we strive for in adopting them, and the practical effect they have on the daily practice of law.”⁶⁷ Yet, for all of its utility to the bar, the *Guide* would be one of the *very last* volumes devoted exclusively to Texas law published by *Houston Law Review*.⁶⁸

Bookending Schuwerk’s *Guide* chronologically were articles on a topic of perennial interest in *Houston Law Review*—tort law, but particularly medical malpractice law⁶⁹—which again illustrated the direction that the tide was moving in *HLR* scholarship.

In 1988, Texas State Senator John T. Montford and prominent Austin litigator Will G. Barber published their three-part series, *1987 Texas Tort Reform: The Quest for a Fairer and More Predictable Texas Civil Justice System*,⁷⁰ considering recent tort reform legislation enacted by the Texas Legislature during the preceding session. As their articles’ titles suggest, Montford (who had been the principal author of the 1987 tort reform package) and Barber (who had served as special tort reform counsel during the legislation’s drafting) were celebratory of prospects for the efficacy of the new legislation and focused exclusively on Texas law.

In 1990, however, *HLR* would offer a subtle corrective, this time with national reach, by two members of the University of Houston Law Center faculty. In “*Off to the Races*”: *The 1990s Tort Crisis and the Law Reform Process*,⁷¹ Joseph Sanders and Craig Joyce, springboarding off further legislation enacted by the 1989 Texas Legislature,⁷² undertook a full-bore examination of tort reform efforts throughout the United States.⁷³ Ostensibly a “Texas” piece, “*Off to the Races*” took *Houston Law Review* fully national on a subject of widespread concern among academics, practitioners, and the public at large—and became the most frequently cited article of Decade 3.

Thus, even as *HLR* reaffirmed its long-standing institutional policy of simultaneously serving Texas lawyers (and lawyers in training), it continued moving forward with individual articles of national significance. Alongside these developments, however, the aforescribed increasing specialization in American law practice and academic scholarship nationally would necessitate change not just in the mix of individual pieces accepted for publication, but also a fundamental transformation in the *Review*’s contents that would become one of the most important developments in the institution’s history: the emergence of annual lecture and symposium issues.

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Beyond Just “Themed Issues”

The beginnings of *Houston Law Review*'s gathering reliance on “themed issues” is described at length in *Carry on Boldly*, the immediately prior episode in this series of essays.⁷⁴ What happened next in Decade 3, however, might aptly be described as growth “on steroids.”

President Gerald Ford ushered in Decade 3's first of many “special” articles with his remarks, *The White House and Congress: Congressional Restraints on Presidential Authority*, which served as the inaugural address for the Butler & Binion Lecture Series.⁷⁵ A former Chief Executive publishing in *Houston Law Review* was cause enough for widespread celebration. But Ford's presence foreshadowed something larger: what followed was a decade that saw the *Review*'s first-ever lecture series (Butler & Binion), the reinvigoration of the Law Center's Health Law Institute (which would lead to numerous symposium issues published in *HLR*), a budding relationship between *HLR* and the Law Center's newly formed IP Institute, and the continued prominence of issues concerning energy and environmental law.

Justice Antonin Scalia notably contributed to Volume 24's *Conference on Rethinking Tort and Environmental Liability Laws: Needs and Objectives of the Late 20th Century and Beyond*.⁷⁶ Joining Scalia were some of the nation's leading experts in the field, including keynote speaker and former EPA Administrator William D. Ruckelshaus, former U.S. Deputy Attorney General Carol Dinkins, and Professors George L. Priest of Yale, Robert L. Rabin of Stanford, Alan Schwartz of Southern California, and John W. Wade of Vanderbilt, among others. Just four years after publishing a U.S. President, the *Review* published a Supreme Court Justice, high-ranking federal government officials, and professors from Stanford, Yale, Vanderbilt, and Southern California. Other symposia would produce similarly gratifying results.

Subsequent iterations of the Butler & Binion Lecture Series produced articles by Griffin B. Bell,⁷⁷ former Attorney General of the United States and Fifth Circuit judge, and Lawrence Walsh, former Independent Counsel for the Iran–Contra Investigation, Personal Representative to President Nixon at the Paris Meetings on Vietnam, and Deputy Attorney General of the United States.⁷⁸ But above all, perhaps the biggest development of the decade was the publication in *HLR* of issues tied to the newly revived Health Law & Policy Institute.

Mark Rothstein's introductory "commend[ation] [to the editors] for a fine inaugural Health Law Issue"⁷⁹ ushered in numerous academics and health-law practitioners—all at the top of their fields—who would go on to publish in the dozen Health Law Symposia issues printed by *HLR* over the next 12 years. The list of Health Law authors during Decade 3 is too long to recite in full, but a sample of the authors' backgrounds reveals the caliber of professionals whom the institute attracted.

Among law professors, Harvard, Yale, North Carolina, Vanderbilt, Washington University, Ohio State, Maryland, Chicago-Kent, and Indiana all were represented. In Volume 25's introductory symposium, Jay Katz of Yale authored *Reflections on Teaching Law & Medicine* and Timothy Stolfus Jost of Ohio State contributed *The Necessary and Proper Role of Regulation to Assure the Quality of Health Care*.⁸⁰ In Issue 1 of Volume 26, Kenneth R. Wing of North Carolina introduced the symposium by discussing the central problem of "trying to contain costs and maintain the quality and accessibility of health care,"⁸¹ and Karen H. Rothenberg of Maryland wrote *Who Cares?: The Evolution of the Legal Duty to Provide Emergency Care*.⁸² Later in Volume 26, Merton C. Bernstein of Washington University and Howard Eglit of Chicago-Kent respectively (and presciently, given today's own national discourse on health care) published *Viability of Social Security and Medicare in an Aging Society and Health Care Allocation for the Elderly: Age Discrimination by Another Name*.⁸³ Rounding out the decade, the early 1990s brought Eleanor D. Kinney of Indiana publishing *Legal and Ethical Issues in Mental Health Care Delivery: Does Corporate Form Make a Difference?* and Ellen Wright Clayton of Vanderbilt contributing *Screening and Treatment of Newborns*.⁸⁴

Beyond the professors, the stellar resumes of the policymakers and practitioners who published as part of the annual Health Law Symposia reveal a staggering "who's who" of some of the top health care decisionmakers in the United States: Joseph A. Califano, Jr. (President Carter's Secretary of Health, Education and Welfare and LBJ's Special Assistant for Domestic Affairs), Jane Perkins (Director of the Los Angeles-based National Health Law Program), Mayor Henry Cisneros (of San Antonio), Larry Gostin (Executive Director of the American Society of Law and Medicine and professor of law and public health at Harvard), and Dan W. Brock (professor of philosophy and biomedical ethics at Brown), among others.⁸⁵

The content of the symposia was diverse and nationally relevant. Cost allocation, resource distribution, mental health,

euthanasia, regulation, caring for an aging population, law and ethics—the Institute ensured a broad range of topics for the abundantly qualified participants. Health care was thus front and center in the latter half of Decade 3. But “themed issues” that were *not* necessarily the product of a symposium, conference, or lecture remained as well. None was more vital to the *Review’s* continuing growth and success than the revised *Rules of Evidence Handbook*.

Cathy Cochran’s Evidence

Cathleen Cochran (Herasimchuk)⁸⁶ began the decade as an *HLR* student editor and closed it out with a thorough revamping of one of the most important pieces of scholarship ever published by *Houston Law Review*. From student to scholar in only a decade, Cathy Cochran was the principal author of Volume 30’s second edition of the *Texas Rules of Evidence Handbook*, which encompassed that volume’s Issues 1 and 2.

Cochran’s presence was particularly appropriate, given her pupilage under Newell Blakely (the driving force behind, and compiler of, the *Handbook’s* first edition)⁸⁷ during her time as a student.⁸⁸ Volume 30 contained two dedications. One, not surprisingly, was in the nature of a farewell tribute to Blakely.⁸⁹ The other was to Cochran for “complet[ing] this project of some 1200 pages of writing with unfailing grace and skill.”⁹⁰

She earned the recognition the old-fashioned way: through toil and devotion. Two years earlier, Board 28’s Publications Editor had reported to the Board of Directors, during the fall 1990 Board meeting, that “Cathy Herasimchuk plunged into this project with vigor.”⁹¹ The *Review’s* dedication similarly recognized her “Herculean effort, unwavering application, and outstanding ability.”⁹²

Already known in Texas legal circles as “Ms. Evidence,” Cochran not only rewrote the original handbook’s commentary on the civil rules of evidence but added to its second edition a complete analysis of the state’s criminal rules of evidence.

The importance of Cochran’s ultimate production cannot be overstated. Most obviously, the second edition of the *Handbook* helped ensure that one of *HLR’s* important ongoing functions—service to the Texas bar—would not abate.

In addition, however, there was the ever-present bottom line to consider. Published as Issues 29:1 and 29:2 to “spread the cost over two issues,”⁹³ the *Handbook* constituted the greatest financial windfall of *Houston Law Review’s* young life. The new

edition served (as had its predecessor) to reinforce powerfully the stream of externally sourced income that the *Review* had long known (and long been told)⁹⁴ it would need to “live long and prosper.”⁹⁵

In one of the great ironies of *HLR* history, it was Newell Blakely, having as dean refused to fund the start-up of *Houston Law Review*,⁹⁶ who in time infused the proceeds of the original *Handbook* at the close of Decade 2⁹⁷ and, through the publication of the *Handbook*'s second edition under the leadership of his protégé, Cathy Cochran, ultimately assured the long-term funding of *HLR*—or, at least, of ongoing operations.⁹⁸ That, according to Cochran, always was Blakely's intent: “to make the law review eventually, over time, completely independent [financially] from the law school.”⁹⁹

And so it came to pass. In 1998, the Jones McClure publishing company (led by recently retired First Court of Appeals Judge Michol O'Connor, UHLC Class of 1973 and author of the most cited article during *HLR*'s second decade¹⁰⁰) requested that Cochran undertake yet another revision of the *Handbook*. According to the agreement worked out by Cochran, Jones McClure, and *HLR*, the *Review* would continue to reap “the lion's share of the royalties . . . but they wouldn't have to do the work.”¹⁰¹

Really, what could have been better? By the end of Decade 3, through the combined good offices of Cathy Cochran and Newell Blakely, *Houston Law Review* had found a way to shore up its finances, continue to serve the Texas bar, and free up its student editors to attend more fully to the national scholarship which would become its greatest strength in the decades to come.¹⁰²

* * *

Just as the new University of Houston Law Center was finding its way toward its current structure, which supports nationally leading institutes, continues to excel at traditional legal education, and adapts itself to new challenges in the practice marketplace, so too *Houston Law Review* in its third decade struggled to reconcile the strengths of its earlier years with the pressures of larger membership and more ambitious projects.

As *HLR* moved forward through the remaining two decades of its first 50 years, how would the tension between the old and the new be resolved as the *Review* and its host institution became increasingly more “Centered”?

1. Cf. Genesis 1:13. With apologies, again, to the Deity; *see also* Craig Joyce, *Driven: The First Decade of Houston Law Review*, *supra*, at 20 n.1. Unless otherwise attributed to the Almighty or others, the materials in this essay are based solely on the imperfect recollections of its senior co-author.

2. Philip C. Kissam, *The Decline of Law School Professionalism*, 134 U. PA. L. REV. 251, 263 (1986) (“American law has become extensive and complex in the twentieth century, making it necessary for legal practitioners to specialize.”). The authors thank Professor Michael A. Olivas, Director of the Law Center’s Institute for Higher Education Law and Governance, for his kind assistance in locating the sources in notes 3–10.

3. George L. Priest, *Social Science Theory and Legal Education: The Law School as University*, 33 J. LEGAL EDUC. 437, 437 (1983). Kissam, too, remarked at the time “the fact of significant law faculty specialization during the past few decades is well recognized.” Kissam, *supra* note 2, at 263–64 (1986) (citing Terrance Sandalow, *The Moral Responsibility of Law Schools*, 34 J. LEGAL EDUC. 163, 165 (1984)). Kissam’s normative analysis of the situation, however, was that the increasing specialization was unnecessary for a law student’s legal development: “The extreme degree of specialization that reflects the contemporary division of labor in American law practice is not essential for teaching the new languages of legal analysis and legal argument to beginners.” *Id.* at 264.

4. Priest, *supra* note 3, at 440.

5. *See* Joyce, *Driven*, *supra*, at 4–8 (discussing the contrasting pedagogical philosophies of Deans A.A. White and Newell Blakely).

6. Kissam, *supra* note 2, at 254.

7. Priest, *supra* note 3, at 440.

8. Kissam, *supra* note 2, at 262–63.

9. Priest, *supra* note 3, at 441.

10. Victor Fleischer, *The Shift Toward Law School Specialization*, N.Y. TIMES DEALBOOK (Oct. 25, 2012), <http://dealbook.nytimes.com/2012/10/25/the-shift-toward-law-school-specialization/>.

11. *See* Craig Joyce & Matthew Hoffman, *Carry On Boldly: The Second Decade of Houston Law Review*, *supra*, at 41–44.

12. Not quite needless to say, the execution of inclusion principles of the sort chosen for the faculty listing in the text above—faculty hires during Decade 3 *who were associated with* the Law Center’s new institutes, centers, and programs—results in the omission of other hires of the period who indisputably are outstanding scholars and teachers in their own right, such as Robert Palmer (legal history) and Anthony R. Chase (communications law and entrepreneurship law). Among others similarly victimized by listing principles in the Decade 2 narrative were Robert P. Schuwerk, whose magisterial treatise, *A Guide to the Texas Disciplinary Rules of Professional Conduct*, would appear in *HLR*’s pages late in Decade 3, and Irene Merker Rosenberg, the *Review*’s first woman faculty advisor (on the job for seven years), who also would publish seven times in *Houston Law Review*.

13. The source of the accompanying block quote, as well as the one that follows immediately in the text below, is *Briefcase*, Vol. 1, No. 4, at 1 (May 1982) (on file with Houston Law Review). Many of the special programs named in the announcement already had on board the faculty members who would push them to excellence in Decade 3 and beyond, including the Energy Studies Program, now Environment, Energy & Natural Resources (Jacqueline Lang Weaver); the Mexican Legal Education Program, now the Center for U.S. and Mexican Law (Stephen Zamora); the Continuing Legal Studies Program (David Crump); and the National College of District Attorneys, since disassociated from the Law Center (John Jay Douglass). Other programs would be enhanced or created by existing or new hires in the decade following the renaming of the Law Center: Health Law & Policy (Mark Rothstein as director, with Laura Rothstein, Mary Anne Bobinski, Seth Chandler, and William Winslade as associate directors); Computer Law and Intellectual Property Law (Raymond T. Nimmer and Craig Joyce,

respectively), now merged as Intellectual Property & Information Law; Children, Law & Policy (Laura E. Oren, founding co-director); Consumer Law (Richard Alderman); Criminal Justice (Sandra Guerra Thompson); Higher Education Law & Governance (Michael A. Olivas); and Law & Computation (Seth Chandler).

14. In addition to the concentrations named above, the Law Center offers a Foreign Scholars LL.M., approved in 1983, but the degree appears to have had no impact on the operations of *Houston Law Review*.

15. Also in 1985, the Computer Law Institute's founder, Raymond T. Nimmer of the Law Center faculty, won the Association of American Publishers' "Best New Book in Law" award for *The Law of Computer Technology* (currently in its fourth edition). Ironically, the Institute itself began as a vehicle for providing Continuing Legal Education in computer law through the University of Texas because Nimmer taught in Austin during the 1985–1986 academic year and the School of Law there offered support for the effort. He returned to the University of Houston the following year, continuing to run the CLE through UT from the Law Center until he became Acting Dean in 1993–1995 and moved the program formally to Houston, but otherwise expanding the Institute as an exclusively UH program.

16. See JOHN MIXON, *AUTOBIOGRAPHY OF A LAW SCHOOL*, app. VII, at 544–50 (2012).

17. See Joyce, *Driven*, *supra*, at 4–8; Joyce & Hoffman, *Boldly*, *supra*, at 41–44.

18. John B. Neibel, *Implications of Robinson v. California*, 1 HOUS. L. REV. 1, 1 (1963).

19. Unless otherwise noted, all other information concerning the Health Law program in the following paragraphs is drawn from HEALTH LAW & POLICY INSTITUTE, *REFLECTIONS OF 20 YEARS: 1978–1998* (1998) [hereinafter REFLECTIONS] (on file with *Houston Law Review*), supplemented by the personal recollections of this essay's senior co-author and his conversations with Mark Rothstein, the Institute's director from 1986 to 2000. Many thanks to Laura Rothstein as well for her assistance.

20. The Rothsteins left the Law Center in 2000 when Laura became dean at the University of Louisville's Louis D. Brandeis School of Law and Mark accepted a joint appointment at the School of Law and the School of Medicine, becoming the Herbert F. Boehl Chair of Law and Medicine as well as the Founding Director of the Institute for Bioethics, Health Policy and Law at the medical school. Their successor directors and co-directors at HLPI have carried on ably at the University of Houston, but with the discontinuation of the annual Health Law symposium issue after 2000, the Institute's association with *Houston Law Review* necessarily has become less active.

21. The review in the narrative above does incomplete justice to other accomplishments of the Health Law & Policy Institute during the period under discussion, solely because, in general, they had no direct impact of *Houston Law Review*. For a fuller review of HLPI's history and achievements, see generally REFLECTIONS, *supra* note 19.

22. Prominent examples, among many, included former U.S. Secretary of Health Education and Welfare Joseph A. Califano, Jr. (1989); San Antonio, Texas, Mayor and future U.S. Secretary of Housing and Urban Development Henry Cisneros (1989); Consumer Advocate Ralph Nader (1994); U.S. Secretary of Health and Human Services Donna Shalala (1996); and former U.S. Attorney General Dick Thornburg (2000).

23. Health Law Symposia issues published by *Houston Law Review* are listed chronologically below:

May 1988 – *Inaugural Health Law Issue*

January 1989 – *Health Care Quality in the Age of Cost Cutting*

October 1989 – *Health Care for an Aging Society*

January 1991 – *Mental Health in the 1990s*

Spring 1992 – *Legal and Ethical Issues Raised by the Human Genome Project*

Symposium 1994 – *New Challenges in Occupational Health*

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Symposium 1996 – *Nonfinancial Barriers to Health Care*
 Symposium 1997 – *International Health Law*
 Symposium 1998 – *Domestic Violence and the Health Care System*
 Spring 1999 – *Managed Care and the Physician-Patient Relationship*
 Symposium 1999 – *Emerging Issues in Public Health Law*
 Symposium 2000 – *Health Care and the Americans with Disabilities Act*

The series of Health Law Symposia issues ceased after 2000. See *infra* notes 24–25 & accompanying text.

24. Ensuring timely submissions of articles by symposia authors, for example, proved to be a recurring problem for both the Institute and the *Review*, and discussions to establish a long-term relationship between the parties seem never to have produced a resolution fully satisfactory to either.

25. The *Journal* published Volume 1, Issue 1 in 2001, with a lead article by Seth J. Chandler and Mary Anne Bobinski, two members of the HLPI faculty. It is currently in its 13th year of successful publication.

26. Board of Directors Meeting Minutes (Oct. 27, 1983) (on file with Houston Law Review).

27. Perhaps reflecting the increasing size of the journal and growing excitement about its prospects, attendance at the 1988 spring banquet—Board 25’s swan song—topped 400. Board of Directors Meeting Minutes (Apr. 11, 1988) (on file with Houston Law Review).

28. “The 25th Anniversary of the *Law Review* was kind of a big deal. I recall the People’s Lawyer, Richard Alderman, interviewing a number of us for a TV piece. I’m not sure anyone ever actually watched it, but it was fun at the time.” Questionnaire Response, Joe Tixier, Gallagher Bassett Service (Mar. 19, 2012) [hereinafter Tixier Questionnaire] (on file with Houston Law Review).

29. Somewhere along the way in Decade 3, the burdens created by publishing numerous books and special issues led to a delay in the publication process. The first publication of the *Texas Rules of Evidence Handbook* had, for example, set the *Review* six months behind its publication schedule. Board of Directors Meeting Minutes (Apr. 14, 1983) (on file with Houston Law Review). As an unfortunate side effect, these delays led to the uneven publication of volumes. Board 29, for example, could have expected to publish issues spanning both Volumes 28 and 29.

Following the publication of Issue 49:2 by the departing Board 49 (and with the pendency of these historical essays looming), the student editors of Boards 49 and 50, together with the Board of Directors and faculty advisors, recalibrated the numerical publication cycle. Board 50’s five printed issues will be numbered 50:1 through 50:5. The decision to number from 49:2 straight to 50:1 means little in terms of actual content, but undoubtedly will cause fewer headaches among students and authors throughout *Houston Law Review*’s next 50 years.

30. Board of Directors Meeting Minutes (Apr. 12, 1984) (on file with Houston Law Review).

31. Board of Directors Meeting Minutes (Oct. 27, 1983) (on file with Houston Law Review).

32. Board of Directors Meeting Minutes (Apr. 12 1984) (on file with Houston Law Review); Board of Directors Meeting Minutes (Apr. 3, 1986) (on file with Houston Law Review).

33. Board of Directors Meeting Minutes (Apr. 12, 1984) (on file with Houston Law Review).

34. *Id.*

35. Board of Directors Meeting Minutes (Apr. 21, 1987) (on file with Houston Law Review). As a reflection of the extra stresses posed by the publication of books and special issues, Board 21’s editors gave Board 22’s members an alternative to the traditional note or comment path: rather than drafting a single comment or two separate casenotes (as

was then necessary for satisfaction of the writing requirement), 2Ls were given the option of drafting one case note and contributing to the publication of one chapter in Perdue's *The Law of Texas Medical Malpractice*. Board of Directors Meeting Minutes (Oct. 27, 1983) (on file with Houston Law Review).

36. Board of Directors Meeting Minutes (Apr. 21, 1987) (on file with Houston Law Review).

37. Board of Directors Meeting Minutes (Oct. 27, 1983) (on file with Houston Law Review); *cf.* Joyce, *Driven*, *supra* note 1, at 276 n.47 (describing Decade 1 technologies and problems).

38. Board of Directors Meeting Minutes (Oct. 27, 1983) (on file with Houston Law Review).

39. Board of Directors Meeting Minutes (Oct. 2, 1985) (on file with Houston Law Review).

40. Board of Directors Meeting Minutes (Apr. 21, 1987) (on file with Houston Law Review).

41. Board of Directors Meeting Minutes (Oct. 27, 1987) (on file with Houston Law Review). Based on EIC Derek Lisk's research, which determined that the U.S. Department of Justice had selected Word Perfect for word processing, the *Review* did likewise. Questionnaire Response, Derek Lisk, Shook, Hardy & Bacon L.L.P., Houston, TX (Jan. 6, 2013) (on file with Houston Law Review); Tixier Questionnaire, *supra* note 28.

42. Board of Directors Meeting Minutes (Apr. 11, 1988) (on file with Houston Law Review).

43. Board of Directors Meeting Minutes (Apr. 20, 1989) (on file with Houston Law Review).

44. Board Report (Apr. 25, 1991) (on file with Houston Law Review). Another sign of the *Review's* growing national stature: *HLR* was one of the first 50 law reviews in the country to have this arrangement with Westlaw. *Id.*

45. *Id.*

46. Board Report (Oct. 27, 1992) (on file with Houston Law Review).

47. Board Report (Apr. 20, 1993) (on file with Houston Law Review).

48. Board of Directors Meeting Minutes (Oct. 27, 1983) (on file with Houston Law Review).

49. Board of Directors Meeting Minutes (Oct. 25, 1984) (on file with Houston Law Review).

50. By the end of Decade 3, page *i* of every issue of *Houston Law Review* would feature a list of "Exclusive Publications" for sale:

TEXAS RULES OF EVIDENCE HANDBOOK, SECOND EDITION (1993)

A GUIDE TO THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT (1990)

TEXAS MEDICAL MALPRACTICE HANDBOOK (1989)

1987 TEXAS TORT REFORM: THE QUEST FOR A FAIRER AND MORE PREDICTABLE

TEXAS CIVIL JUSTICE SYSTEM

PRODUCT LIABILITY LAW IN TEXAS (1985)

The crown jewel of the list, at least as judged by pricing, was the EVIDENCE HANDBOOK at \$75, while the bargain was TORT REFORM at \$15 (all prices, of course, exclusive of tax and postage).

51. Not to mention timeliness issues and personal hardships. Rather than blackening the good names of those well-meaning boards which nevertheless fell behind intended publication schedules, the authors merely cite the inspiring example of two boards that clearly did not. According to Hunter H. White, EIC of Board 26:

Our predecessors, on Board 25, returned the *Law Review* to its stated publishing schedule, and they cared about mentoring their successors. We, on Board 26, worked very hard to carry on this tradition. In fact, our Board not only published all four of its primary journal editions on time, but we also published the

Medical Malpractice Handbook. This required a tremendous amount of work and sacrifice by many . . . [O]ur Managing Editor (Judy Bryan) gave birth to her first child a day after graduation. Being the true professional that she is, we all assumed that she voluntarily pushed back the due date so as not to interfere with the publication of our last edition.

Questionnaire Response, Hunter H. White, Thompson & Knight LLP, Houston, TX (Apr. 4, 2012) (on file with Houston Law Review).

52. Board of Directors Meeting Minutes (Oct. 14, 1985) (on file with Houston Law Review).

53. *Id.*

54. Board of Directors Meeting Minutes (Oct. 25, 1984) (on file with Houston Law Review).

55. Apologies ‘R’ Us seems now to be a constant theme of these *HLR* essays. Fellow professors. God. Will no one be spared?

56. G. Sidney Buchanan, *State Authorization, Class Discrimination, and the Fourteenth Amendment*, 21 HOUS. L. REV. 1 (1984). “Captain Nice” had been prolific beyond precedent in the previous ten years, having published 12 works, total, in *HLR*—3 articles and 9 book chapters.

57. For an in-depth discussion of the role that the Frankel Lectures and the IPIL Symposia have played in the history of the *Review*, see Decade 4’s essay, forthcoming in Volume 50, Issue 4. The Butler & Binion Lectures are treated in the Decade 3 narrative above.

58. See Joyce & Hoffman, *Boldly*, *supra*, at 48–53 (detailing the increasing prominence in Decade 2 of the “themed issue”).

59. Earl Maltz, *Reconstruction Without Revolution: Republican Civil Rights Theory in the Era of the Fourteenth Amendment*, 24 HOUS. L. REV. 221 (1987).

60. James T. O’Reilly, *Biotechnology Meets Products Liability: Problems Beyond the State of the Art*, 24 HOUS. L. REV. 451 (1987).

61. David Hittner, *Summary Judgments in Texas*, 22 HOUS. L. REV. 1109 (1985).

62. Is there a “citation opportunity cost” associated with publishing Texas-centered scholarship in place of nationally relevant articles authored by nationally known law professors? Perhaps occasionally. But quite the opposite is true of *Summary Judgments in Texas*, the 1998 version of which had been cited 181 times at the time this essay went to print—among the most highly cited articles in the history of the *Review*.

63. Carolyn Dineen King, *A Matter of Conscience*, 28 HOUS. L. REV. 955 (1991).

64. Board of Directors Meeting Minutes (Oct. 27, 1987) (on file with Houston Law Review).

65. *Id.*

66. Indeed, by spring 1991 (when Volume 28, Issue 2, uniquely in *Houston Law Review*’s experience, went to press containing *no articles* whatsoever), the Board of Directors had become determined that *HLR* “get out of the [book] publishing business.” Board of Directors Meeting Minutes (Apr. 2, 1991).

67. Eugene A. Cook, *Foreword* to Robert P. Schuwerk & John F. Sutton, Jr., *A Guide to the Texas Disciplinary Rules of Professional Conduct*, 27A HOUS. L. REV. 1 (1990).

68. After publishing Cathy Cochran’s *Evidence*, such projects were moved out of *HLR*’s own processes into a parallel process of private publication that continued to benefit *HLR* financially. See *infra* text accompanying notes 100–01.

69. Jim M. Perdue, *The Law of Texas Medical Malpractice*, 11 HOUS. L. REV. 1 (1973); James B. Sales, *The Law of Strict Liability in Texas*, 14 HOUS. L. REV. 1 (1976).

70. John T. Montford & Will G. Barber, *1987 Texas Tort Reform: The Quest for a Fairer and More Predictable Texas Civil Justice System*, 25 HOUS. L. REV. 59 (1988) (Part One); John T. Montford & Will G. Barber, *1987 Texas Tort Reform: The Quest for a Fairer and More Predictable Texas Civil Justice System*, 25 HOUS. L. REV. 245 (1988) (Part Two);

and John T. Montford & Will G. Barber, *1987 Texas Tort Reform: The Quest for a Fairer and More Predictable Texas Civil Justice System*, 25 HOUS. L. REV. 1005 (1988) (Part Three).

71. Joseph Sanders & Craig Joyce, “Off to the Races”: *The 1980s Tort Crisis and the Law Reform Process*, 27 HOUS. L. REV. 207 (1990).

72. The Texas State Legislature meets only biennially (and only for 140 days) every odd-numbered year, which explains why the next round of tort reform following the one reported by Montford and Barber would not occur until 1989.

73. For good measure, Sanders and Joyce tossed in a paean to the limitless virtues of state law reform commissions. *Id.* at 276–95. To this day, Texas still has not created one.

74. See Joyce & Hoffman, *Boldly*, *supra* note 11, at 698–703 (detailing the increasing prominence in Decade 2 of the “themed issue”).

75. Gerald R. Ford, *The White House and Congress: Congressional Restraints on Presidential Authority*, 21 HOUS. L. REV. 447 (1984). Sidney Buchanan dutifully responded to President Ford’s remarks a year later in Volume 22’s *In Defense of the War Powers Resolution: Chadha Does Not Apply*, 22 HOUS. L. REV. 1155 (1985).

76. Conference, *Rethinking Tort and Environmental Liability Laws: Needs and Objectives of the Late 20th Century and Beyond*, 24 HOUS. L. REV. 1 (1987); Antonin Scalia, *Responsibilities of Regulatory Agencies Under Environmental Laws*, 24 HOUS. L. REV. 97 (1987).

77. Griffin B. Bell, *Reverse Synergisms: Unprecedented Results from Traditional Legal Means*, 23 HOUS. L. REV. 849 (1986).

78. Lawrence E. Walsh, *The Independent Counsel and the Separation of Powers*, 25 HOUS. L. REV. 1 (1988).

79. Mark A. Rothstein, *Foreword*, 25 HOUS. L. REV. 471, 472–73 (1988).

80. Jay Katz, *Reflections on Teaching Law & Medicine*, 25 HOUS. L. REV. 475 (1988); Timothy Stolfus Jost, *The Necessary and Proper Role of Regulation to Assure the Quality of Health Care*, 25 HOUS. L. REV. 525 (1988).

81. Kenneth R. Wing, *Introduction*, 26 HOUS. L. REV. 1, 5 (1989).

82. Karen H. Rothenberg, *Who Cares?: The Evolution of the Legal Duty to Provide Emergency Care*, 26 HOUS. L. REV. 21 (1989).

83. Merton C. Bernstein, *Viability of Social Security and Medicare in an Aging Society*, 26 HOUS. L. REV. 799 (1989); Howard Eglit, *Health Care Allocation for the Elderly: Age Discrimination by Another Name*, 26 HOUS. L. REV. 813 (1989).

84. Eleanor D. Kinney, *Legal and Ethical Issues in Mental Health Care Delivery: Does Corporate Form Make a Difference?*, 28 HOUS. L. REV. 175 (1991); Ellen Wright Clayton, *Screening and Treatment of Newborns*, 29 HOUS. L. REV. 85 (1992).

85. Joseph A. Califano, Jr., *America’s Health Care Revolution: Now Comes the Tough Part*, 26 HOUS. L. REV. 7 (1989); Jane Perkins, *Increasing Provider Participation in the Medicaid Program: Is There a Doctor in the House?*, 26 HOUS. L. REV. 77 (1989); Henry Cisneros, *Health Policy for an Aging Population*, 26 HOUS. L. REV. 787 (1989); Larry Gostin, *An Alternative Public Health Vision for a National Drug Strategy: Treatment Works*, 28 HOUS. L. REV. 285 (1991); Dan W. Brock, *The Human Genome Project and Human Identity*, 29 HOUS. L. REV. 7 (1992).

86. As EIC of Board 21, the Honorable Cathleen Cochran served using her married name: Herasimchuk. In 1994, after several years in private practice and as an assistant county prosecutor (all the while assisting as an adjunct professor at the University of Houston Law Center), she decided to try to fulfill a dream held since law school and sought election to the then all-male Texas Court of Criminal Appeals (the state’s court of last resort in criminal cases). “[U]nfortunately,” she relates, “I ran under my married name—which was Cathy Herasimchuk—and you can’t win Dog Catcher with a name like that. So, sure enough, I didn’t win . . .” *HLR Judges Oral History of Houston Law Review* with Hon. Jeff Brown, moderator, Texas 14th Court of Appeals; Hon. Cathleen Cochran,

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Texas Court of Criminal Appeals; Hon. Evelyn Keyes, Texas First Court of Appeals; and Ruby Sondock, UHLC Class of 1962 and the first woman justice of the Texas Supreme Court (Jan. 23, 2013) [hereinafter Decade 3 Oral History] (on file with Houston Law Review).

Hired next by Governor George W. Bush as his criminal justice policy advisor, Herasimchuk received appointment to the Court of Criminal Appeals when Bush was succeeded by Governor Rick Perry in 2001. Anticipating, however, the difficulties of another statewide vote to retain office the following year, the newly minted judge already had made a prudential decision. “I had changed my name back to my maiden name (and my husband had changed *his* name to my maiden name too), so that was a reasonable ballot name and that’s pretty much [all it took].” *Id.*

87. “The distribution of the Texas Rules of Evidence Handbook and the signing ceremony by Professor Blakely was the highlight of the year as we had worked so long and so hard and had so many difficulties in getting the book published that we felt that ‘our baby’ was the most beautiful book the world had ever seen. All of the frustration was forgotten when we saw the twinkle in Professor Blakely’s eyes as he held the first copy in his hands as we popped a bottle (well, maybe quite a few bottles) of champagne in celebration.” Questionnaire Response, Hon. Cathleen Cochran, Judge, Texas Court of Criminal Appeals (Mar. 21, 2012) [hereinafter Cochran Questionnaire] (on file with Houston Law Review).

As with many other *HLR* projects of the day, however, the institutional costs were high. “We started off [my EIC tenure] over a year behind schedule because of the *Handbook*. Now the *Handbook* has turned out to be wildly successful and cited by lots of courts and lots of other law reviews, but at that time we were pretty concerned. You know, number one was it ever going to get out and number two were we shooting ourselves in the foot by putting out a book like this instead of focusing in on the individual articles?” Oral History of *Houston Law Review* with Sidney Buchanan, Baker Botts Professor of Law Emeritus; Hon. Cathleen Cochran, Texas Court of Criminal Appeals; Claudia Frost, Partner, DLA Piper; and Robert Sergesketter, moderator, Senior Counsel, Apache Corp. (Oct. 11, 2012) [hereinafter Decade 2 Oral History] (on file with *Houston Law Review*).

88. “I went to law school with the hope of making some difference in the Texas criminal justice system and I have never wavered from that goal. I met Professor Blakely my first day of school as our Criminal Law professor, and I knew that I was on the right track from that day.” Decade 2 Oral History at 11.

Major events in Judge Cochran’s professional life seem to have a consistent meteorological dimension. “Serendipitously enough, the law school campus flooded on that first day of school and the Capitol in Austin flooded on the first day of my investiture as a judge of the Court of Criminal Appeals, so I take that as an omen that torrential rain measures my most momentous decisions.” *Id.*

89. *Dedication: Newell H. Blakely*, 30 HOUS. L. REV. xvii, xvii (1993). Blakely was extolled for his “major role in drafting . . . the Texas Rules of [Evidence,] . . . writ[ing] two of the original articles in the Handbook[,] and provid[ing] the inspiration for both the original and the second edition.” *See also* Joyce & Hoffman, *Boldly, supra*, at 51–53 (“*Newell Blakely’s Evidence*”).

90. *Dedication: Cathleen C. Herasimchuk*, 30 HOUS. L. REV. xxi, xxi (1993).

91. Board Report (Nov. 1) 1990 (on file with Houston Law Review).

92. *Dedication, supra* note 90, at xxi.

93. Board of Directors Meeting Minutes (Apr. 25, 1991) (on file with Houston Law Review).

94. Spock, V. (as in Vulcan), as First Officer in “Amok Time,” the second season premiere of the 1960s TV series *Star Trek* (Sept. 15, 1967). And, of course, seemingly forever thereafter.

95. *See* Joyce & Hoffman, *Boldly, supra*, at 44–46.

96. See Joyce, *Driven*, *supra*, at 8.

97. See Joyce & Hoffman, *Boldly*, *supra*, at 51–53.

98. For the next iteration of the continuing saga of *HLR*'s always interesting finances, see the Decade 4 installment of these essays, coming shortly in a law review near you!

99. Decade 3 Oral History, *supra* note 86.

100. See Joyce & Hoffman, *Boldly*, *supra*, at 71.

101. Decade 3 Oral History, *supra* note 86. In yet another fitting all-in-the-family hand-off, the latest revision of the *Handbook—Texas Rules of Evidence 2013 Edition*—was authored by Hon. Jeff Brown of the 14th Court of Appeals and Reece Rondon of Hall Maines Lugin, PC (and formerly of the 234th Civil District Court), who were second-year members of *Houston Law Review* when Cochran published her first revision in 1994.

Judge Cochran herself plans to retire upon completion of her current term on the Court of Criminal Appeals. She will be missed.

Her former law partner, Rusty Hardin, provides a telling vignette that captures a glimpse of the future judge's knowledge, skill, and determination:

Cathy is one of the most incredible self-starters I have ever known. As an example, in 1986, when we were both still prosecutors, a celebrated capital murder prosecution in Houston had to be dismissed because of a pre-trial evidentiary ruling that could not be appealed. At that time, the State had no right to appeal pre-trial or post-trial legal rulings. I thought that was tremendously unfair, and as I got ready to leave on a family vacation, I asked Cathy to research while I was gone the state's right to appeal in other states. I suggested we ought to try and get the law changed in Texas. I also mentioned in passing that we might need some type of article about the subject to serve as an intellectual underpinning for any argument we ought to make for changing the law.

When I returned two weeks later there was a fully researched memo on the subject on my desk, a proposed bill giving the State the right to appeal for presentation to the legislature, and a fully prepared law review article setting out an indisputably persuasive argument for why the state should have the right to appeal pre-trial and post-trial legal rulings. Cathy's research had revealed Texas was the only jurisdiction in the country which did not allow the prosecution to appeal pre-trial and post-trial legal rulings. We used her research and proposed a bill as a basis for lobbying the legislature to change the law in Texas. At the end of the 1987 legislative session Cathy's bill was passed and then adopted as a constitutional amendment by the voters in the next election.

E-mail from Rusty Hardin, Founder, Rusty Hardin & Assocs., LLP, to Hon. Jeff Brown, 14th Court of Appeals (Jan. 25, 2013) (on file with *Houston Law Review*).

And then there is Cochran's storied use of the language. Hardin observes:

From the moment she became a lawyer she was the most articulate and entertaining writer I have ever had the pleasure to read. Her writing has always been infused with a strong and intense drive to explain the law and its meaning in language the average person could understand. She has always wanted the public to understand why the law was the way it was and to walk away from the issue at hand with the same respect for the law that has been the hallmark of her career.

Id.

The Honorable Elsa Alcalá, Judge Cochran's colleague on the Court of Criminal Appeals, has put the matter memorably:

Cochranisms make Cathy's questions during oral argument not only insightful and effective, but also entertaining and memorable. Just this week . . . her questions referred to a court's order as including "helpful hints from Heloise," to Skype as a "modern miracle," to a person taking pictures as "Ansel Adams," and

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to the issuance of an appellate court's mandate as the "fat lady sang." Her opinions are equally entertaining. In one opinion discussing the repetition of a party's argument she states, "He added more whistles and bells on appeal, but the tune was the same."

E-mail from Judge Elsa Alcala, Court of Criminal Appeals, to Hon. Jeff Brown, 14th Court of Appeals (Jan. 18, 2013) (on file with Houston Law Review).

102. "And God saw everything that She had made, and behold, it was very good." Genesis 1:31.

ODDMENTS

(Good) Night of the Living Dead. During its third decade, the contents of *Houston Law Review* showed definite signs of maturation toward the familiar features of the present day. Several hardy perennials of prior years—"Current Materials," "Books Received," "Books Noted," "Books Annotated," and "Recent Developments"—already had gone to meet their Maker. During Decade 3, a list of "Writing Awards" received by *HLR* members appeared sporadically, but then was seen no more. "Book Reviews" survived fitfully through Volume 29 before they, too, expired. By decade's end, the old "fillers" of the *Review's* earlier decades one-by-one had breathed their last.

Romance Revealed. Attentive readers will remember from the Oddments to *Carry on Boldly* that, at the end of *HLR's* Decade 2, two there-unnamed persons—a member of the *Review* and its secretary—had met, fallen in love, and married. Now it can be told (because the authors have ascertained that the story had a happy ending which continues to today): the blissful couple were, and are, David Glenn and Vicky Patrick.

Cover Story. "Am I Blue" (or perhaps a smoky gray)? If so, this must be the end of Decade 3. Perhaps surprisingly, given the adoption by the Law Center of a new seal in 1982, the "gentle Lowland birds" featured there did *not* make their first appearance on *HLR's* cover during its third decade. Instead, stealing a march—marsh?—on its parent institution, martlets had been waddling across the cover of *Houston Law Review*, on a taupe background, since Volume 16. Midstream in Volume 29's Issue 3, however, the feathery forebears of General Sam seemingly took flight in a new blue(ish) sky on an otherwise totally unchanged *HLR* cover. Color the authors of this essay clueless regarding reasons for the change.

Advisor Ostensibly in Absentia. During his long and distinguished run as Faculty Advisor to *Houston Law Review*, G. Sidney Buchanan was forced to take one brief hiatus, to avoid the appearance of impropriety, while doing a short tour of duty as Law Center Associate Dean for Academic Affairs in 1985–1987. The advisor of record for the period, Irene Merker Rosenberg, served ably in his stead, although unofficial advising by "Captain Nice" appears to have continued unabated throughout.

Do You Know Me? The editors of Board 26 reported in the fall 1988 Board Report: "[A]s a part of an effort to streamline the

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research process, Research Editors assigned to professional articles for the March issue are supervising candidates and interested AE's in prescreening the articles for 'obscure' sources. The goal is to determine at an early stage in the editorial process what sources are unavailable to us and therefore need to be requested from the author. . . . Hopefully this type of front-end evaluation will preclude some of the last-minute [problems] we have encountered locating sources. . . ." Obscure sources in a law review article necessitating increased time, toil, and trouble? Certainly memories any *HLR* alum can relate to!

Texas Barflies. The talents of at least one of the *Review's* Decade 3 authors apparently went well beyond drafting heavily cited law review articles and influential judicial opinions. The Texas Barflies, led by U.S. District Court Judge David Hittner, along with Law Center Professor David Crump, Bracewell & Patterson partner Max Addison, and Baker Botts partner Diana Marshall performed at *HLR's* spring banquet in 1987 to a packed house at the old Houston Club's Texas Room.

Clearly (En)titled. As an ever larger proportion of nationally recognized scholarship filled the pages of *HLR* in Decade 3, so too did increasingly clever titles. But two titles stood above the rest. The award for best article title of the decade is a tie between Stewart Macaulay, *Bambi Meets Godzilla: Reflections on Contracts Scholarship and Teaching vs. State Unfair and Deceptive Trade Practices and Consumer Protection*, 26 HOUS. L. REV. 575 (1989), and Catherine E. Blackburn, *The Therapeutic Orgy and the Right to Rot Collide: The Right to Refuse Antipsychotic Drugs under State Law*, 27 HOUS. L. REV. 447 (1990). Bambi? Godzilla? Stoned? Orgies? Decade 3 Gone Wild! Ahem

Darned Right We're Counting. Continuing one of its best traditions, three out of the first four Editors in Chief during the period covered here were women. Wait for it . . . Thus, at the end of *Houston Law Review's* third decade, the score stood (with lifetime batting averages in parentheses for the benefit of Red Sox Nation): *HLR South*, 8 for 30 (.267), *HLR North*, 2 for 100 (.020)—the policy of the latter publication being, apparently, to select/appoint a woman as President at least every half century, qualifications permitting.

BY THE NUMBERS. . .¹

ISSUES AND PAGES

Volume	Issues	Pages
21	5	1042
22	5	1292
23	5	1294
24	5	1052
25	5	1203
26	5	1048
27	4	848
27A ²	1	549
28	5	1169
29	4	1109
30	5	2107

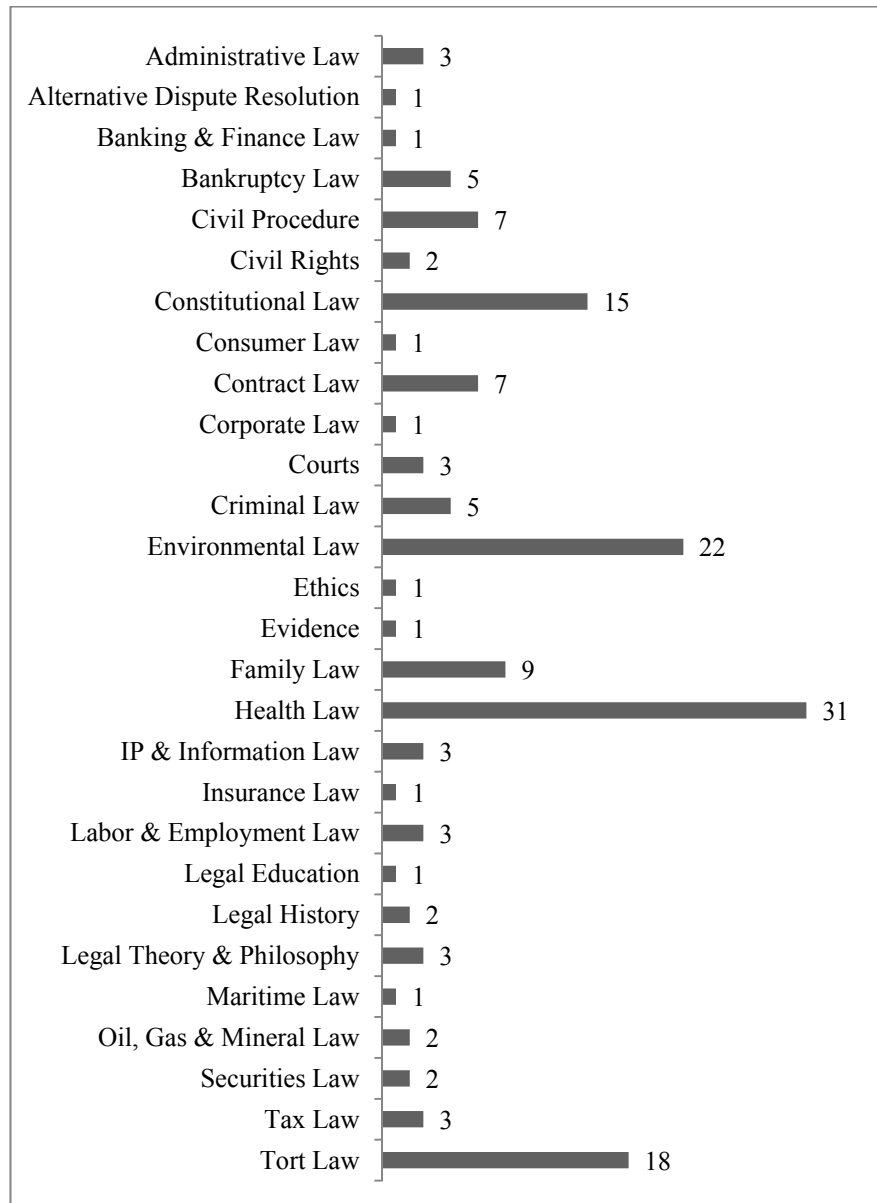
1. Compiled by *Houston Law Review* Boards 50 and 51.
2. A.k.a. Robert P. Schuwerk & John F. Sutton, Jr., *A Guide to the Texas Disciplinary Rules of Professional Conduct*, 27A HOUS. L. REV. 1 (1990).

BY THE NUMBERS

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**BOARDS, MEMBERS, EDITORS IN CHIEF,
AND FACULTY ADVISORS**

Boards	Members	Editors in Chief	Faculty Advisors
21 (1983–84)	39	Cathleen C. Herasimchuk	G. Sidney Buchanan
22 (1984–85)	41	David J. Van Susteren	G. Sidney Buchanan
23 (1985–86)	40	Phyllis G. Schrader	Irene M. Rosenberg
24 (1986–87)	49	Mary G. Henderson	Irene M. Rosenberg and Laura Oren
25 (1987–88)	48	Derek Lisk	G. Sidney Buchanan, Laura Oren, and Mark Rothstein
26 (1988–89)	48	Hunter H. White	G. Sidney Buchanan, Irene M. Rosenberg, Laura Oren, and Mark Rothstein
27 (1989–90)	47	Tim Moore	G. Sidney Buchanan, Irene M. Rosenberg, Laura Oren, and Mark Rothstein
28 (1990–91)	52	Nicolas J. Evanoff	G. Sidney Buchanan, Irene M. Rosenberg, and Laura Oren
29 (1991–92)	45	Jeffrey Thompson	G. Sidney Buchanan, Irene M. Rosenberg, and Laura Oren
30 (1992–93)	49	David R. Jones	G. Sidney Buchanan, Irene M. Rosenberg, and Laura Oren

ARTICLE TOPICS

THEMED ISSUES AND BOOKS PUBLISHED**HEALTH LAW THEMED ISSUES***Inaugural Health Law Issue*

25 HOUS. L. REV. 471 (1988) (6 articles)

Health Care Quality in the Age of Cost Cutting

26 HOUS. L. REV. 1 (1989) (7 articles)

Health Care for an Aging Society

26 HOUS. L. REV. 777 (1989) (5 articles)

Mental Health in the 1990s

28 HOUS. L. REV. 1 (1991) (6 articles)

Legal and Ethical Issues Raised by the Human Genome Project

29 HOUS. L. REV. 1 (1992) (5 articles)

OTHER THEMED ISSUES AND BOOKS PUBLISHED*Uniform Marital Property Act Symposium*

21 HOUS. L. REV. 595 (1984) (8 articles)

Jim M. Perdue, *The Law of Texas Medical Malpractice*

22 HOUS. L. REV. 1 (1985) (14 chapters)

James B. Sales, *Product Liability Law in Texas*

23 HOUS. L. REV. 1 (1986) (10 chapters)

*Rethinking Tort and Environmental Liability Laws:**Needs and Objectives of the Late 20th Century and Beyond*

24 HOUS. L. REV. 1 (1987) (19 articles)

John T. Montford and Will G. Barber, *1987 Texas Tort Reform:
The Quest for a Fairer and More Predictable Civil Justice System*

25 HOUS. L. REV. 245 (1988) (3 articles)

Special Issue: Managing Liability from Hazardous Waste

25 HOUS. L. REV. 715 (1988) (14 articles)

Robert P. Schuwerk and John F. Sutton, Jr., *A Guide to the Texas
Disciplinary Rules of Professional Conduct*

27A HOUS. L. REV. 1 (1990) (8 articles)

Cathleen C. Herasimchuk, *Texas Rules of Evidence Handbook*

30 HOUS. L. REV. 1 (1993) (11 chapters)

MOST PUBLISHED AUTHORS³

1. Jim M. Perdue (14 book chapters)
2. James B. Sales (10 book chapters)
3. G. Sidney Buchanan (6 articles)
- T4. Will G. Barber, John T. Montford, Irene M. Rosenberg, and Mark A. Rothstein (3 articles each)

MOST CITED ARTICLES

1. *“Off to the Races”: The 1980s Tort Crisis and the Law Reform Process*
Joseph Sanders and Craig Joyce
27 HOUS. L. REV. 207 (1990) (83 citations)
2. *Patenting Transgenic Human Embryos: A Nonuse Cost Perspective*
Dan L. Burk
30 HOUS. L. REV. 1597 (1993) (46 citations)
- T3. *Competency to Consent to Treatment: The Distinction Between Assent and Objection*
Bruce J. Winick
28 HOUS. L. REV. 15 (1991), and
Invasion of Privacy in the Private Employment Sector: Tortious and Ethical Aspects
Frank J. Cavico
30 HOUS. L. REV. 1263 (1993) (36 citations)
- T5. *1987 Texas Tort Reform: The Quest for a Fairer and More Predictable Texas Civil Justice System (Part 1)*
John T. Montford and Will G. Barber
25 HOUS. L. REV. 59 (1988), and
Progress on Attorney’s Fees: Expanding the “Loser Pays” Rule in Texas
Gregory E. Maggs and Michael D. Weiss
30 HOUS. L. REV. 1915 (1993) (32 citations)

3. For the counting principles involved in this tabulation, see Methodological Note in Craig Joyce, *Driven: The First Decade of Houston Law Review*, *supra*, at 32 n.3.

LONGEST ARTICLES

1. *The Surviving Significance of the Unitary Executive*
Frank B. Cross
27 HOUS. L. REV. 599 (1990) (133 pages)
2. *1987 Texas Tort Reform: The Quest for a Fairer
and More Predictable Texas Civil Justice System (Part 2)*
John T. Montford and Will G. Barber
25 HOUS. L. REV. 245 (1988) (117 pages)
3. *Texaco, Pennzoil and the Revolt of the Masses:
A Contracts Postmortem*
Michael Ansaldi
27 HOUS. L. REV. 733 (1990) (116 pages)
4. *1987 Texas Tort Reform: The Quest for a Fairer
and More Predictable Texas Civil Justice System (Part 3)*
John T. Montford and Will G. Barber
25 HOUS. L. REV. 1005 (1998) (107 pages)
5. *Race-Conscious Employment Programs in the
Post-Brennan Era: An End to Falsely
Remedial Preferences*
Marc Rosenblum
28 HOUS. L. REV. 993 (1991) (101 pages)

**LONGEST “BOOKS” BY
SINGLE OR JOINT AUTHORS⁴**

1. *Product Liability Law in Texas*
James B. Sales
23 HOUS. L. REV. 1 (1986)
(700 pages)
2. *The Law of Texas Medical Malpractice*
Jim M. Perdue
22 HOUS. L. REV. 1 (1985)⁵
(660 pages)
3. *A Guide to the Texas Disciplinary
Rules of Professional Conduct*
Robert P. Schuwerk and John F. Sutton, Jr.
27 HOUS. L. REV. 849 (1990)
(560 pages)
4. *1987 Texas Tort Reform: The Quest for a Fairer
and More Predictable Texas Civil Justice System*
John T. Montford and Will G. Barber
25 HOUS. L. REV. 59, 245, and 1005 (1988) (305 pages)

**DEDICATIONS, TRIBUTES,
IN MEMORIA, ETC.**

Volume 23, Issue 1 contains a Dedication to Jon Ty Phillips.

Volume 25, Issue 1 (the 25th Anniversary Issue)
contains a Dedication to Newell H. Blakely.

Volume 28, Issue 4 contains a Tribute to Thomas Gibbs Gee.

Volume 28, Issue 5 contains a Tribute to Alvin B. Rubin.

Volume 30, Issues 1 and 2 (the second edition of the *Texas Rules
of Evidence Handbook*) contain Dedications to Newell H. Blakely
and Cathleen C. Herasimchuk.

4. Excluded from this category are works of similar length, such as Cathleen C. Herasimchuk et al., *Texas Rules of Evidence Handbook*, 30 HOUS. L. REV. 1 (1993), in which, although the work may have had a coordinator or supervising editor, particular chapters or articles clearly were authored by separate individuals.

5. Jim M. Perdue continued to update the *Texas Medical Malpractice Handbook* even after the publication of the 1985 version, although subsequent versions were not actually published in the pages of *Houston Law Review*. See JIM MAC PERDUE, TEXAS MEDICAL MALPRACTICE HANDBOOK (1989).

THE GREAT LEAP
FORWARD:

The Fourth Decade
of
Houston Law Review

Craig Joyce & Matthew Hoffman

50 HOUS. L. REV. 1255

ESSAY

THE GREAT LEAP FORWARD: THE FOURTH DECADE OF *HOUSTON LAW REVIEW*

Craig Joyce & Matthew Hoffman***

At the dawn of *Houston Law Review's* fourth decade, the accomplishments of its predecessor ten years were much in evidence. A relationship with a burgeoning institute that resulted in publishing numerous top-tier national scholars? Check. A logistically proficient and technologically endowed publication process? Check. A copyright on a first-rate and widely purchased legal handbook to finance the organization's operations? Check. But would the advance continue? Could *HLR* grow further? Perhaps even exponentially? Leapin' lizards,¹ yes!

* Andrews Kurth Professor of Law, University of Houston Law Center. To the members of Board 50, Matthew Hoffman and I owe an enormous debt of gratitude. Were it not for the diligent research of Katherine Witty and the genial patience of Board 50's Editor in Chief Peter Danysh, Chief Articles Editor Casey Holder, Managing Editor Cade Mason, and many others, this installment in the telling of *Houston Law Review's* now four-fifths storied existence could in no way have become, itself, history. Thanks, as ever, to the O'Quinn Law Library: Director Spencer Simons, Associate Director Mon Yin Lung, and Research Librarian Christopher Dykes. Matt and I are also grateful to Justice Jeff Brown, Robert Gonzalez, George May, Alex Roberts, and D'Andra Shu, each of whom was offered the opportunity to review the manuscript but none of whom are responsible for its imperfections as published. The authors also benefitted enormously from the Decade 4 Oral History of *Houston Law Review*, moderated by Mr. Hoffman, with participants George F. May, Robert Sergesketter, and D'Andra Shu (Mar. 7, 2013) (on file with *Houston Law Review*). Finally, Matt and I thank profusely *all* the members of Boards 31–40, those who actually *lived* the story to which we have struggled to do justice here.

In keeping with the general practice in historical essays, all notations hereafter appear as endnotes at the conclusion of this essay, where the reader will find also a compilation of statistical trivia which the authors and the members of Board 50 hope will enlighten and amuse, if not necessarily in equal degree.

** Law Clerk to United States District Judge David Hittner; J.D. 2012, University of Houston Law Center; Editor in Chief, *Houston Law Review*, Board 49.

LEAPING (AS IN “FORWARD”) . . .

Centering Continued

For the first time in these essays, in *Houston Law Review's* Decade 4 there were no new buildings at the University of Houston Law Center. Deans came, but mostly went (serving an average of 2.5 years each during the decade), and no new reconceptualizations of the mission of the school as a whole emerged that would themselves change the course of *Review* history.²

But in the Law Center organizations that impacted deeply the content of *HLR's* volumes, and within *Houston Law Review* itself, big things were happening. A soldier stormed the entrenched battlements of *HLR* and took command of the *Review* at a decisive moment; content reached a level of quality never before seen, although fondly imagined; and then there was Allison.

Notwithstanding all the tumult, Decade 4 would become the loadstar of *HLR's* great leap forward.

Health Law. By far the most important (to *HLR*, at least) of the many institutes, centers, and programs that had sprung up during Decade 3's transformation of the University of Houston's College of Law into the Law Center we know today³ had been the Health Law & Policy Institute (HLPI), renamed and reinvigorated by its new director, Professor Mark Rothstein of the Law Center faculty, in 1986. A significant portion of *Centered*, the predecessor to the present essay, is devoted to the detailed history of HLPI as it relates to *Houston Law Review*.⁴

Suffice it to say by way of recap here that HLPI's consistent ranking at the top of health law programs among U.S. law schools not only burnished the ratings of *HLR's* parent organization, the Law Center, but also, through the presentation of 12 nationally visible, top-quality symposia, enabled the *Review* to publish in its pages the work of world-class scholars whose affiliation with *HLR* would have been the envy of any law review in America.

By 2000, however, the partnership between HLPI and *HLR* had run its course. Mark Rothstein and his wife, Laura Rothstein, were departing for the University of Louisville, where Laura would become Dean of the Louis D. Brandeis School of Law.⁵ For a variety of reasons,⁶ including the desires of the

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students attracted to the Law Center by health law studies, HLPI decided to strike out on its own with a new, specialized journal. Thus ended *Houston Law Review's* annual Health Law Symposia series.

Fortunately, as Health Law departed *HLLR's* pages,⁷ a new kid on the institute block stepped in to fill the annual symposium gap.

*Intellectual Property and Information Law.*⁸ From its earliest decades, *Houston Law Review* had displayed a peculiar and sustained interest in IP and information law. True, the subjects did not receive coverage with nearly the same regularity as, say, litigation matters; and both energy law, and then health law as HLPI grew, also appeared with greater frequency. All of *HLLR's* first five volumes, however, contained articles addressing intellectual property and/or entertainment law.⁹ In Decade 2, Raymond T. Nimmer, an already-distinguished scholar who would serve as Law Center dean in both Decades 4 and 5, began to write about electronic funds transfer systems,¹⁰ thereby presaging his later interest in computer and information law; and another author noted matter-of-factly: "The computer software industry is exploding."¹¹ Decade 3 continued the focus, with not only attention to traditional applications of familiar IP law¹² but also a venture into the brave new interface between IP and health law.¹³ And also in Decade 3 (indeed, the year before Mark Rothstein revived the moribund Health Law program), Nimmer founded his own Computer Law Institute to promote the study and dissemination of knowledge in his new specialty.¹⁴

In 1991, the Law Center's Dean, Robert L. Knauss, asked the school's copyright professor, Craig Joyce, to consider founding an Intellectual Property program to complement Nimmer's Computer Law Institute. The copyright law professor, while recognizing that he was the only member of the school's full-time faculty specializing in any of the traditional IP subjects (principally, copyright, trademark, and patent law), felt compelled to point out a problem. Houston, Texas, might be a powerhouse center for the petrochemical, biomedical, and astrophysical industries, all of them highly interconnected with patent (and trade secret) law, but it was far from the center of the copyright industries on the East and West Coasts.

Thus, for an IP program to be located in Houston, the copyright law professor thought that he might make an excellent mascot, just not an adequate director. The Dean accepted the change in plans. With the faculty's approval, the copyright professor became faculty director of the Law Center's newest

special program, while local superstar practitioner and egghead intellectual Paul M. Janicke was hired as staff director—later moving to tenure-track and tenured status, a named professorship, and of course faculty co-directorship.¹⁵

The University of Houston Law Center had an Intellectual Property program.

Like the Health Law & Policy Institute,¹⁶ many of the IP program's subsequent achievements are of little importance to its subsequent relationship with *Houston Law Review*.¹⁷ Other initiatives of the program, however, would in short order prove central to *HLR*'s dramatic advances during Decade 4.

Among the highlights, all to be described in detail in the Contents section below, were the following developments:

- *The Fall Lectures*. Begun initially by Professor Janicke as “The Katz-Kiley Lectures” (and known more recently as “The Katz Family Foundation Fund Lectures”), this event marked the first collaboration between the newly formed IP program and *Houston Law Review*. While designed as a “live lecture” in Houston, beginning with Board 32's tenure the series occasionally produces published product by agreement between *HLR* and the program.¹⁸
- *Miscellaneous Symposium Issues*. The new IP program also began co-marketing with Professor Nimmer's Computer Law Institute and, during the middle years of Decade 4, while the *Review* remained committed to its highly successful symposium series with Health Law, Computer Law nevertheless contributed two symposia to *HLR*'s pages.¹⁹
- *The Annual National Conference Symposium Issue*.²⁰ Shortly following the merger of the IP program and the Computer Law Institute (see below) and the discontinuance of the *HLR/HLPI* series of symposia on health law, the IP program's successor (whose history follows this listing of Decade 4 developments), at Professor Joyce's instigation entered into an agreement with *Houston Law Review* to stage, and *HLR* to publish the articles resulting from, a continuing series of National Conferences to be held annually in Santa Fe, New Mexico. The actual symposia publications of Decade 4, including articles by such notable scholars as Judge Richard Posner, are described hereafter in this essay. The story of the founding of the conference will be

THE GREAT LEAP FORWARD

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coupled with the history of the Spring Lecture (see immediately below) and told in Decade 5.

- *The Spring Lectures*.²¹ Also during Decade 4, although its first fruits would not be published until the beginning of *HLR*'s following decade, Joyce and the *Review* established a new lecture series, intended to be held each spring and with the specific purpose of furnishing for *HLR*'s publication articles by leading figures, nationally and internationally, in the fields of intellectual property and information law. The series, also known as "The Baker Botts Lectures" in honor of its long-time sponsor, commenced publication with an article by Columbia Law School professor and eminent copyright scholar Jane C. Ginsburg in Volume 41. For further details, see the Decade 5 essay.

All of the foregoing initiatives were commenced in Decade 4. But in the course of the decade, a new entity emerged as *HLR*'s partner. In 1999, under the enlightened leadership of Dean Stephen Zamora, the IP program and the Computer Law Institute, which had been co-branding programs for the better part of the decade, joined together as the Institute for Intellectual Property & Information Law (IPIL).²² By the end of Decade 4, then, *Houston Law Review* and IPIL had forged a firm, new partnership, the fruits of which by then had begun appearing prominently in the pages of the *Review*.²³

*Founding Frankel*²⁴

Of all of the challenges which down through the years have faced the board of editors of *Houston Law Review*, none have been more pressing than the needs *both* to improve continually the content of the publication and also, somehow, to keep the enterprise afloat financially. The latter concern has been a frequent topic of these essays.²⁵ Happily, the single most important event of Decade 4—the founding of the Frankel Lectures—combined both to help relieve *HLR*'s constant funding worries *and* to advance dramatically its unbending determination to publish ever more outstanding scholarship.

The story of the Frankel Lectures, according to Robert J. Sergesketter, Editor in Chief of Board 32 (the "soldier" referenced above and described in greater detail below), began in 1994 when a "young professor,"²⁶ Craig Joyce, strode into the *Review*'s adequate but not palatial offices for a seemingly impromptu chat.

Sergesketter saw in the young professor, himself something of a scholar, “the perfect person to brainstorm with in an attempt to devise a way to attract even more top-tier scholars to the *Review*.” Recognizing that *HLR*, thanks largely to the success of its *Texas Rules of Evidence Handbook (Second Edition)* a year earlier, was now in the fortunate position of having an endowment sufficient at least to cover operating expenses, the professor wondered aloud whether the journal might be willing to risk stretching its finances further to create a new and not inexpensive lecture series to be underwritten by the *Review* itself.²⁷ Sergesketter, who had begun to think along similar lines already, got the point immediately.

The concept was to offer modest stipends to three scholars—one keynote speaker and two commentators—who would speak on campus on a common topic and then publish in *Houston Law Review* the papers they had written as the basis for their oral presentations. Compiled together, these papers would form the foundation of a special symposium issue. Because the *Review* would fly the speakers to Houston for a celebratory dinner the night before the lecture and a tour of the Law Center on the day thereof, the lecture series would have the added benefit of bringing some well-deserved publicity to one of the nation’s best younger law schools.

There would, of course, be financial consequences, or so the EIC and the professor believed. Sergesketter relates:

While [we] recognized that this use of endowment funds likely would delay achieving the *Review*’s goal of financial independence, we both believed deeply that this was a worthy trade-off in the long-run. While financial independence certainly was an important goal, we saw it as secondary to the *Review*’s mission of publishing top scholarship by top scholars. This new concept for a lecture series sponsored by [*HLR*], if successful, would in one bold step allow the *Review* rapidly to enhance its reputation in academic circles. And with such an enhancement in *Houston Law Review*’s reputation also would come a further enhancement of the Law Center’s reputation.²⁸

It sounded like a plan.

After collaborating over the next few weeks to refine the idea for the new lecture series, the co-conspirators met with Acting Dean Raymond T. Nimmer, who had long sought to stabilize the *Review*’s financial footing,²⁹ to present the proposal. Nimmer immediately supported it and even offered to assist with alleviating any financing dilemmas. In short order, the Dean

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secured funding from the Frankel Family Foundation for the first lecture. In *HLR*'s Ground Floor offices,³⁰ there was surprise and relief. Because of the wholly unexpected underwriting of the first lecture by the Frankel Foundation, and with some hope that a reciprocally generous gesture up-front would not pay off as poorly as had the naming of the new College of Law building in earlier years,³¹ the *Review* immediately dubbed the proposed multi-year project "The Frankel Lecture Series."

With funding in place, *HLR* then set about identifying a keynote speaker for the first lecture. Board 32 formed a committee of law school faculty members to discuss possible speakers and, on their recommendation, selected Dean Joel Seligman of the University of Arizona College of Law, a personal friend of Professor Robert Ragazzo and arguably the nation's foremost scholar in securities law. When contacted, Dean Seligman was intrigued enough to accept at once. With Seligman's assistance, the *Review* then lined up two additional top academics and an advisor to the Securities and Exchange Commission³² to serve as commentators for the lecture.

With Board 33, headed by D'Andra Millsap (now Millsap Shu), coordinating all of the logistics,³³ the Inaugural Frankel Lecture proved to be an enormous success. The entire event—from the dinner in Dean Seligman's honor hosted the night before the lecture, to the lecture itself and the papers published in *HLR*'s first Frankel Lecture issue—exceeded the *Review*'s highest expectations.³⁴

The meticulous preparation devoted to the lecture, and the genial fondness of the first lecturer for those who had made it possible, were captured in Dean Seligman's remarks, recounting the process of selecting his entrée, at the dinner:

Week before the lecture, phone rings. I pick up.

Ms. Millsap [now Shu]: "Dean Seligman, would you like chicken or fish for dinner?"

[Seligman]: "Fish."

Next day, phone rings again. I pick up:

[Shu]: "Dean, would you like Snapper or Red Fish?"

[Seligman]: "Snapper."

Next day, phone rings a third time. I pick up:

[Shu]: "Blackened or oven-roasted?"

[Seligman]: "I'll just take a cheeseburger."³⁵

D'Andra Shu recalls today, a decade and more after the dinner and lecture: "My flush was a mixture of embarrassment

and pride, but mostly pride that my group had pulled this off!”³⁶ They had indeed.

Recognizing the success of the inaugural lecture, the Frankel Foundation immediately agreed to underwrite future such events. Including that first lecture, *Houston Law Review* as of this writing has hosted a total of 17 Frankel Lectures. Each has included speakers who are among the most highly regarded academics in the country, and each has resulted in those scholars flying back to their respective institutions to spread the word about the professionalism and caliber of *Houston Law Review*. In turn, that word of mouth has assisted the *Review* in attracting even more top scholars to publish articles in its non-lecture series, non-symposium issues.

As a fitting conclusion to the story, Sergesketter, who now chairs the Houston Law Review Board of Directors, reports that, as of 2010, the *Review* had in fact become virtually self-sufficient financially, thanks in significant measure to the generosity of the Frankel Foundation in picking up the annual tab for the Lecture and thereby freeing up *HLR* funds for other purposes. That, and an unending boost to the *Review*'s reputational bottom line. Not a half-bad outcome from an “impromptu chat.”

*Beautiful Minds*³⁷

Prelude. Organizationally, *Houston Law Review* was in good shape as it entered its fourth decade. There had, in truth, been some slippage, in some instances, in timeliness of publication since the halcyon days of Boards 25 and 26.³⁸ Yet the decision made late in Decade 3 to release resources such as the *Evidence Handbook* to publication by outside vendors,³⁹ and the determination to publish future “books” in-house only in the rarest of circumstances,⁴⁰ had gotten Decade 4 off to a good start. As reported by Board 32's Editor in Chief, the aforementioned Sergesketter:

When Board 32 took over the helm of *Houston Law Review*, things were running well. Our predecessor board was headed by a strong editor in chief and editorial team, and they ensured that we had a good transition before they “left the building.” Given the solid foundation that was in place when our board took the reins, we were freed up to institute some major initiatives.⁴¹

And did they ever.

*Salute!*⁴² Robert J. Sergesketter brought to his role as the leader of Board 32 a habit of command and a talent for

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organization. He had attended Texas A&M University, where he joined the Corps of Cadets on an ROTC scholarship. After graduation, he had served as a Military Intelligence Officer in the U.S. Army, attaining the rank of First Lieutenant. While pursuing his law degree at the University of Houston, he simultaneously earned a Master's degree in Business Administration. In short, he knew how to get things done.

Board 32 faced basically three challenges: (1) enhancing the *Review's* reputation without taking measures that would imperil its finances; (2) fixing up the publication's modest offices to make them a more attractive place to work (or, as happens at law reviews, practically live); and (3) remapping the production process in order to ensure the timeliness of publication of *HLR's* issues going forward.

For First Lieutenant Sergesketter's successful strategy to scale the ramparts of reputation while protecting the flanks of finances, see "*Founding Frankel*" above.

As to spiffing up Headquarters, Bob's Brigade attacked with gusto. The objective was to make *HLR's* offices the "preferred gathering place," with a "collegial and positive atmosphere" for members to "hang out."⁴³ To that end, the premises were entirely repainted, desks were commandeered to assure in-house seating for every third-year editor, and the library was reconfigured to promote greater utility. No detail was too small, right down to instituting a policy of cleaning out the *HLR* refrigerator (by then a candidate for designation as a Superfund site) once a week. Sadly, and although no one could have imagined it at the time, all such improvements would be swept away, within Decade 4, by an act of *vis major*.

Of greater lasting value to the *Review* than the weekly clean-out of the refrigerator, there was the matter of timely publication. Here, Robert's Regiment outdid itself.

Prior to Board 32's entry into office, apparently the common practice had been for the outgoing board either to work after graduation to publish its final issue or for the outgoing board to publish four issues and leave finalization and publication of the fifth issue to the incoming board. Board 32's goal was to publish all five of its issues, start to finish, and to do so before graduation.⁴⁴

In the summer before the academic year during which they would be *Houston Law Review's* stewards, Board 32 set out to create a formalized, extremely detailed publication schedule that would result in publishing its first two issues before winter break

and publishing the final three issues in the spring, with the last issue going to the printer two weeks before graduation.

After identifying every step that went into the process of taking raw articles to publishable articles—which, in those days, were physically packaged in a FedEx box and sent to the printer for duplication and binding⁴⁵—Board 32 created a flowchart showing the entire process graphically. From there, it calculated the total number of weeks that were available to publish five issues, excluding the summer break before work ramped up, the two weeks before the end of each semester (necessarily earmarked for exam preparation), and the entire winter break, and then divided that number by five. This resulted in the realization that, to achieve its goal of publishing all five issues before graduation, the student editors had exactly five weeks to take each of the five issues from raw articles to finished products.

With that daunting realization before them, the editors created a calendar showing the exact dates when each step of the editing process for each article within each of the five issues had to be completed. This detailed publication calendar would allow the *Review*, for the first time in its existence, to register, literally within 24 hours, every time that it fell behind schedule on a particular article, thereby facilitating a reallocation of resources to get back on schedule so that the journal hit the designated publication date for each issue. After creating the master publication calendar, the planning team gave every editor and member a personal copy of the calendar during the first week of fall classes. According to Sergesketter, the nearly universal reaction from everyone upon seeing the calendar for the first time was: “*Never gonna happen.*”

But it did happen. Indeed, Board 32 published all five issues on the exact date shown on its master publication calendar. Since its creation in 1994, that publication calendar, adjusted to reflect each particular year, has been used by every subsequent board. For graduating members of the *Review*, adhering to the publication calendar means never having to step foot in *HLR*'s offices after walking across the Commencement stage.⁴⁶ More importantly for *HLR* as a whole, adherence to the publication calendar means that *Houston Law Review* has for nearly 20 years been able to offer prospective authors guaranteed publication dates—a not-insignificant selling point when competing against other reviews throughout the country for top-tier articles.

Thus, as with the founding of the Frankel Lectures, another great leap forward for Board 32 and *Houston Law Review*. Given only diligent successor boards, on-time publication was guaranteed in perpetuity. Imagine. On that field of battle too,

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then, Sergesketter's Army had won a noble, and enduring, victory.

Beyond. Board 33 and the Decade 4 boards beyond took the opportunity presented to them to "fill the big shoes" left by Board 32, and they did so spectacularly in numerous ways. Technology, in particular, was an obvious area for continual improvement, so Boards 33–40 took advantage of the high-tech revolution of the 1990s to modernize the *Review*.

Board 33 began the process by "constructing for the *Law Review* an elaborate home page on the World Wide Web[,] . . . [g]iven [its] growing popularity."⁴⁷ The editors of Board 33 recognized that "[b]etter technology is the wave of the future" and adapted accordingly.⁴⁸ In addition to a permanent home on the Web, multiple computers were purchased throughout the decade, modern copiers replaced their dinosaur predecessors, the *Review* acquired an e-mail address, and the editors began "to discover the goldmine of research available on the Internet."⁴⁹

By Board 37, as the new millennium approached, concerns arose that the *Review's* computers were not Y2K compliant.⁵⁰ In any event, Armageddon failed to materialize. And within the year, a complete redesign of the fledgling website utilized swiftly developing technologies to make the online *HLR* experience more interactive than ever.⁵¹ As the end of the decade neared, *HLR* could safely say that at least one aspect of its operations had entered the high-tech age for good. In the spring of 2001, the *Review* reached an agreement with its printer to begin submitting issues in PDF format, rather than through the increasingly antiquated process of mailing paper copies via Federal Express.⁵²

Apart from a great leap in technological prowess, the revamped editing process—which inevitably led to smoother interactions with authors and consistently on-time publication—did not go unnoticed by *HLR's* peers. Following the publication of one of Decade 4's many top-tier authors, who had gone home to his top-14 law school with superlative praise for the *Review's* processes, Cornell Law School's dean contacted Board 34's editors for ideas on how to improve his home institution's law review.⁵³ Along with citations to numerous *HLR* articles in the *National Law Journal's* "Worth Reading" section, two of Decade 4's IP pieces were declared by the *Intellectual Property Law Review* to be, separately, "[among] the best intellectual property law review articles recently published";⁵⁴ and *HLR* itself was featured prominently on Westlaw's "Welcome to Westlaw" homepage in

February 2000, thanks to one of its recently published articles having received the most views of any article on Westlaw the previous month.⁵⁵

In the summer of 2001, eight years into its fourth decade, *Houston Law Review's* future looked brighter than ever. The skies ahead were clear as far as the eye, or at least the eyes of *HLR's* editors, could see. So much having been accomplished so recently, what could possibly go wrong? Except, perhaps, an Act of God?

Almost Undone: All About Allison

Faithful readers of these essays will recall occasional mention heretofore of the peculiar history attending *Houston Law Review's* physical location during its now half-century at the Law Center. *HLR's* first home had been a tiny office in the University of Houston main library's basement.⁵⁶ The new College of Law buildings opened in 1969 had contained a level (just *above* the basement) suspiciously denominated "Ground Floor," which meant that the floor was in fact *half-sunken into* the ground—and thus into the buried watercourse of a sometime tributary of nearby Brays Bayou.⁵⁷ Sure enough, in keeping with tradition, the *Review* had been assigned space there. The consequences could be amusing, as when the periodic "water intrusions" experienced by the new buildings allowed members of the *Review* to witness confused elevators mindlessly going up-and-down, floor-to-floor, their doors opening and closing at each stop, and occasionally, depending on the state of their short-circuited wiring, presenting pyrotechnic displays to astonished onlookers.⁵⁸

All funning aside, however, basements and "ground" floors are chancy places to locate anyone or anything where flooding is a constant threat, as it is on the Gulf Coastal plain where Houston, Texas, lies. Someday, something could go badly wrong.

On the night of June 9, 2001, something did.⁵⁹

Tropical Storm Allison had swept through Houston only days earlier, heading off toward East Texas with relatively little damage left behind. But then the storm stalled, drifted backwards, and parked itself over downtown Houston, the city's namesake university, and the University of Houston Law Center. In total, 35 inches of rain fell that night.

Utilities at the University of Houston are connected to the various colleges through large underground tunnels. Stray water occasionally invades the tunnels. But the tunnels feature submarine doors to ensure that no water leaks into the basement

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levels of buildings. The tunnels also are equipped with pumps to remove any such stray water. The pumps connect to the storm drains. The storm drains connect to Brays Bayou.

On the evening of June 9, however, Brays Bayou filled to its banks, and the storm drains filled to their walls. The pumps in the University of Houston tunnel system had no place to disgorge the water now rapidly accumulating in the tunnels. The weight and force of huge accumulations of water are almost unimaginable.

The tunnel to the basement of the Law Center had filled full. Then, the doors holding the accumulated water out of the building failed. Into the basement floors of the several Law Center buildings, courtesy of Tropical Storm Allison, swept a tidal wave, pushing aside everything in its path.

The first victim of the surging waters was the lower level of the Law Center's John M. O'Quinn Law Library.⁶⁰ The entire contents of the library's lower level, including Government Documents, State Reporters, the Judge John R. Brown Papers,⁶¹ the International and Comparative Law collections, and one of the nation's best Admiralty Law collections, instantly suffered nearly irreparable injury.

When the chair of the school's Facilities Planning and Policy Committee, Craig Joyce, observed the scene of devastation at first light the next morning,⁶² all of the books in all of the collections, and all of the tables, chairs, shelves, and other furnishings pushed aside by the tidal wave as it had swept through, were submerged in 12 feet of water. Only a model ship, formerly on display in the Admiralty Collection, seemed to have kept its wits. It floated serenely on top of the underground lake that was now the lower level of the O'Quinn Law Library.

The waters of Allison had not stopped, however, at the library's walls. They had proceeded to the basements of other buildings, destroying also the Law Center's HVAC system. The entire complex was now not only a disaster site, but also completely defenseless against the mold and mildew of a Houston summer.

On the morning of June 10, 2001, the University of Houston Law Center was closed to all but emergency workers, the director of the library, and the chair of the facilities committee. No one else could access anything. Not faculty. Not staff. Not students attending summer classes. And not the members of *Houston Law Review*.

Notwithstanding all of the advances of Decade 4, was this how the Great Leap Forward would end? With *Houston Law*

Review figuratively face-down in the enormous puddle that Allison had left in its wake? Or was there, possibly, a way back?



. . . GIZZARDS (AS IN “CONTENT”)

Not surprisingly, the events and decisions just recounted had a tremendous impact within the covers of *Houston Law Review* during Decade 4. As reflected in the contents of the publication itself, the *Review* split ways amicably with one institute but gained an equally beneficial relationship with another, began to host and publish an annual lecture series on par with any other nationwide in prestige of keynote and commentary, and included among its non-symposia, non-themed issue ranks more top-flight nationally renowned scholars than editors of prior decades could have hoped to imagine.

As Ever

All walks of scholars took up residence in the “as ever” precincts of *Houston Law Review*—those not a part of some themed issue or symposium—during the *Review*’s fourth decade. From Texas judges to British literary critics, from renowned law professors to familiar faculty advisors, *HLR*’s wide-ranging and well-established excellence was evident in these “as ever” articles. What they had in common was the kind of prestigious pedigree to which *HLR*’s readers had grown comfortably accustomed in Decade 3. The *Review* continued to publish the best. A habitual overachiever had hit its stride.

The usual professors from the nation’s top law schools frequented Decade 4’s pages, only this time in greater concentration than ever before. Bookended by UVA professor Dayna B. Matthew in Volume 31 and Stanford professor Abraham D. Sofaer in Volume 40, the non-symposia, non-themed issue authors of Decade 4 included professors from Michigan, Rutgers, Texas, Wisconsin, George Washington, U.C. Davis, Alabama, Tennessee, Florida State, LSU, Maryland, Seton Hall,

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and William & Mary. Sofaer's *Iran–Contra: Ethical Conduct and Public Policy* and Matthew's *Doing What Comes Naturally: Antitrust Law and Hospital Mergers* were joined by, among many others, *Form, Function, and Managed Care Torts: Achieving Fairness and Equity in ERISA Jurisprudence*, from Peter D. Jacobson of Michigan, and *The Legislative History of US Air Pollution Control*, from Arnold W. Reitze, Jr., of George Washington.⁶³

Prestigious professors in tow, *Houston Law Review* additionally flexed its international muscles while simultaneously maintaining its service to the bar throughout Decade 4.⁶⁴ Sir Frank Kermode, “one of the most influential literary intellectuals of our time,”⁶⁵ published *Justice and Mercy in Shakespeare*, based on his lecture of the same name delivered at the Law Center in April 1996.⁶⁶ Judge David Hittner's return to *HLR*'s pages in *Summary Judgments in Texas*, along with EEOC Commissioner Paul Steven Miller's appearance in *The Americans with Disabilities Act in Texas: The EEOC's Continuing Efforts in Enforcement*, offer further proof that, although now decidedly national, the *Review* continued publishing highest quality Texas-centered scholarship.⁶⁷

The wide national reach and well-settled academic prowess evident in *HLR*'s Decade 4 “as ever” scholarship soon would be supplemented, in the most immediate and visible way possible, by the emergence of the *Review*'s signature annual event.

The Frankel Lectures

The result of much ingenuity and ambition, with a healthy dose of flawless execution, the inaugural installment of *Houston Law Review*'s Frankel Lecture Series—*The Quiet Revolution: Securities Arbitration Confronts the Hard Questions*⁶⁸—was keynoted by securities law expert Joel Seligman of Arizona, with commentary from John C. Coffee of Columbia, Richard E. Speidel of Northwestern, and Brandon Becker, a former Director of the Division of Market Regulation at the Securities and Exchange Commission. Over the remaining six years of Decade 4, the Frankel Lectures would bring to the Law Center a parade of the nation's top scholars in their respective fields, pairing them with the relevant legal topics of the day.

The Lecture's second installment, featuring law professors Pamela S. Karlan of UVA and Richard H. Pildes of Michigan and public affairs professor Carol M. Swain of Princeton, was timed appropriately to focus on voting rights through the prism of redistricting, in anticipation of the coming battles following the

millennium census.⁶⁹ In the following years, the topics of international law and the relevance of legal scholarship to the judiciary brought commentators from Yale, NYU, Duke, the U.S. Court of Appeals for the Ninth Circuit, and the U.S. District Court for the Southern District of Texas.⁷⁰

In the fifth installment, printed in 2001, *HLLR* worked hand-in-glove with Professor Joyce of the IPIL Institute to publish David Nimmer's *Copyright in the Dead Sea Scrolls: Authorship and Originality*.⁷¹ As the author of *Nimmer on Copyright* (the most highly cited secondary source in copyright law),⁷² Nimmer ranks indisputably as one of the world's foremost experts in his subject. Joining him for the Lecture were Judge James Oakes of the U.S. Court of Appeals for the Second Circuit and Martha Woodmansee of Case Western Reserve, both of whom had made their own unique impacts on copyright law (Oakes through key judicial opinions⁷³ and Woodmansee as a professor of English and Law).⁷⁴ The Frankel Lecture—this time with an assist from one of the Law Center's leading special programs—was taking the *Review* to heights never before seen, at least not *consistently*.

The decade's final lecture timely responded to the then-recent collapse of Enron and the dot-com and telecom bubbles under the weight of corporate misgovernance, drawing professors from Vanderbilt, Illinois, and Texas (a year after professors from Stanford, Miami, and Utah had opined on the Second Amendment). Seven years in, at the end of *HLLR*'s fourth decade, the Frankel Lecture had brought to *Houston Law Review* the kind of publicity on a national scale that both reflected the *Review*'s established stature and helped escalate it.

Themed and Specialty Program Issues

Themed Issues. Ever-responsive to current (and, in this instance, tragic) events of the day, *HLLR* published in Volume 37 a symposium on *School Violence, School Safety, and the Juvenile Justice System*, with contributions from Katherine Hunt Federle of Ohio State, John Kip Cornwell of Seton Hall, Ira M. Schwartz, Dean of the University of Pennsylvania's School of Social Work, and the Law Center's own Irene Merker Rosenberg.

Other themed issues of the decade included an evidence symposium featuring evidence gurus Edward Imwinkelried of U.C. Davis and Richard D. Friedman of Michigan; a family law symposium with an international law flavor that included Supreme Court of Canada Justice Claire L'Heureux-Dube, Georgetown professor Milton C. Regan, Jr., Ohio State professor Joan M. Krauskopf, Wisconsin professor Marygold S. Melli, and

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legal experts from the United Kingdom, New Zealand, Australia, and Canada; and a panel discussion on the death penalty with, among others, *New York Times* columnist Anthony Lewis, Pennsylvania Attorney General (and *Planned Parenthood of Southeastern Pennsylvania v. Casey* litigator) Ernest D. Preate, Jr., Yale law professor Stephen B. Bright, American University Washington College of Law professor (and defense attorney for Oklahoma City bomber Terry Nichols) Michael E. Tigar, and Law Center professor and future founder of the Texas Innocence Network David Dow.

Health Law and Policy Institute. “Public Citizen”⁷⁵ and presidential hopeful Ralph Nader introduced *Houston Law Review* to his brand of public policy in the first issue of Decade 4, characteristically pulling no punches in his assessment that “we as a society do not take occupational health and safety seriously. Period!”⁷⁶ Along with Nader, the New Challenges in Occupational Health Conference of 1994 featured Mary Becker of the University of Chicago Law School and Thomas O. McGarity of the University of Texas. Such contributions from the likes of a future “Spoiler in Chief”⁷⁷ and top national scholars had been common among the Institute’s five symposia issues of Decade 3, pushing health law to the top of *HLR*’s publication agenda almost immediately.⁷⁸ Prior to the Institute’s permanent departure from the pages of *HLR* in 2000 in Decade 4,⁷⁹ such heavyweights were firmly established as the new normal.

Policymakers and professors alike joined the health law debate in Decade 4, as many of the symposia topics bordered on the joint edge of academia and public policy, including OSHA, federal government finance, domestic relations, and the ADA.⁸⁰ Besides Nader, included among the policymakers were U.S. Secretary of Health and Human Services Donna E. Shalala, former U.S. Attorney General Dick Thornburgh, Yale Medical School Dean and former Commissioner of the Food & Drug Administration David A. Kessler, and Houston Mayor Lee P. Brown. But the Academy was not to be outdone, with submissions from Henry T. Greely of Stanford, William M. Sage and Allyn L. Taylor of Columbia, Peter Edelman of Georgetown, Clark C. Havighurst of Duke, Walter Wadlington of UVA, Larry I. Palmer of Cornell, Lars Noah of Florida, Susan M. Wolf of Minnesota, and Karen H. Rothenberg of Maryland.

Following the Health Law institute’s final published symposium issue in 2000, *HLR* and HLPI would part ways on more-than-amicable terms, the Institute in search of its own specialty journal and the *Review* in pursuit of another institute.

Luckily, by that time, *HLR* had established a framework of successful collaboration with the Law Center's specialty programs. All it needed was a new partner. The logical candidate was IPIL, already a regular contributor to *HLR* volumes but now about to become much more.

Institute for Intellectual Property & Information Law. "IPIL is to *HLR* in 2001–2013 as HLPI was to *HLR* in 1988–2000"—or so the SAT analogy might go. The relationship that would culminate ultimately in IPIL's annual National Conference in Santa Fe and *HLR*'s resulting annual IPIL Symposium issue had begun years prior with 1994's inaugural Katz-Kiley Lecture,⁸¹ featuring nationally recognized patent and trademark practitioner John Pegram asking: *Should the U.S. Court of International Trade Be Given Patent Jurisdiction Concurrent with That of the District Courts?*⁸² Modest, but a start.

Volume 32's symposium on *Legal Issues in the Information Revolution*, led by Professor Raymond T. Nimmer of IPIL, was coordinated in *HLR* with a full slate of student comments concentrated solely on intellectual property and information law matters (a practice that continues to this day, to the extent that eager *Review* students in any given year are predisposed to opine on matters of IP or related law). In the following years, 1997's Katz-Kiley Lecture would feature three attorneys from the U.S. Patent and Trademark Office, Ray Nimmer would keynote a symposium on *Licensing in the Digital Age*, and nearly an entire issue of professional scholarship would be dedicated to commenting on David Nimmer's *Copyright in the Dead Sea Scrolls*, with contributions from L. Ray Patterson of Georgia, Richard A. Lanham of UCLA (another professor of English), Niva Elkin-Koren of the Haifa School of Law, and Israeli practitioner Neil Wilkof.⁸³

Upon the departure of the annual HLPI Symposium from *HLR*'s regularly scheduled rotation (to use a baseball analogy),⁸⁴ the IPIL institute, eager and able to build on *HLR*'s prior successes with IP scholarship, stepped up to the plate—and did so in major league fashion. 2001's inaugural IPIL symposium, *E-Commerce and Privacy*, featured Joel R. Reidenberg of Fordham, Anita L. Allen of Penn, Walter W. Miller, Jr. and Maureen A. O'Rourke of Boston University, Chris Reed from Queen Mary University of London, and Trotter Hardy of William & Mary.⁸⁵ The final two symposium issues of Decade 4 included contributions from law professors from Georgetown, North Carolina, Boston College, Washington, Iowa, UCLA, and the University of Kent Law School in England, along with U.S. Court

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of Appeals for the Seventh Circuit Judge Richard Posner and William Patry, University of Houston Law Center Class of 1980 and author of *Patry on Copyright*, another standout treatise in the field that he and David Nimmer share.

Initially a pinch hitter for the departing Health Law Institute, almost immediately IPIL was batting clean-up.

The Allison Board(s)

As the new millennium began and Decade 4 neared its end, success was building on success at *Houston Law Review*. Both substantively and organizationally, the decade had been one of unprecedented progress. How would the last two boards—Board 39 (2001–2002) and Board 40 (2002–2003)—finish? Spectacularly well.

In the fall of 2001, Board 39 would publish 411 pages of IPIL's inaugural symposium issue, a signal accomplishment if for no other reasons than that symposia issues always mean more authors, hence more pages, and that subject matter of an IPIL symposium is never run-of-the-mill for persons not ordinarily skilled in the IP arts,⁸⁶ like the typical *HLR* editor. Together, Boards 39 and 40 would publish a total of 1735 pages, including such classics of *Houston Law Review* literature as the Frankel Lectures of Robert W. Hamilton and David B. Wilkins,⁸⁷ Judge Posner's trenchant essay in IPIL's *Considering Copyright* symposium,⁸⁸ and the extensive collection of heartfelt tributes occasioned by the retirement from the faculty of G. Sidney Buchanan, *HLR's* own "Captain Nice."⁸⁹

All of this is well, but of course it was made much more remarkable by the circumstances in which the last two boards of Decade 4 performed. And so, again, Allison.

Tropical Storm Allison, when it came and went on June 9–10, 2001, left in its wake the single most expensive disaster ever to hit an American law school.⁹⁰ Federal Emergency Relief Assistance (FEMA) estimated the damage to the collections of the O'Quinn Law Library, alone, at \$42 million—a record claim that would topple along with the Twin Towers three months later.

How to recover, if recovery was even possible? The task fell to Boards 39 and 40 and the facilities team at the Law Center, with massive assists from FEMA, the University of Houston, and the local legal community.⁹¹

As in each prior decade of these essays,⁹² the saga of *Houston Law Review's* struggle to survive, and then surmount, the devastation caused by Allison linked inextricably to the story of the University of Houston Law Center, the larger institution that

had been home to *HLR*, both spiritually and physically, for almost 40 years.

For now, physical proximity no longer was possible. Throughout the summer of 2001, the Law Center's administrative functions, under the direction of Dean Nancy B. Rappaport, would be housed at the University's basketball arena, where they operated out of a combination of concession stands and (inaptly named) "luxury boxes." Instruction went on. Despite the chaos at UHLC's own facilities, students missed only two days of classes that summer. Courses were taught in faculty homes, in law firm conference rooms, and in spare classrooms at South Texas College of Law ("STCL"). Because the school's Legal Information Technology department had managed to move Law Center servers above water at the height of the storm, e-mail as a lifeline to the institution's many constituencies, including incoming students, was preserved.

Thanks to UH, FEMA, and one astonishingly dedicated Law Center alumnus,⁹³ in the course of the summer the water was emptied from the lower levels of the buildings, power was provided externally, and cool air arrested the spread of mold and mildew. On the morning of August 21, 2001, the two above-ground levels of the Law Center,⁹⁴ housing classrooms and faculty offices, reopened for business, and the new academic year began as scheduled.

Houston Law Review, however, was still on the lam, with no immediate hope of return. In all, Boards 39 and 40 would remain homeless, at least in terms of accommodations within the Law Center, for 13 months.

As to UHLC's two mostly subterranean levels, Allison had been an equal opportunity destroyer. The Basement Floor, which housed the lower level of the law library and the utilities for all of the levels above, had flooded *up*, thanks to its tunnels. The so-called Ground Floor, where *HLR* officed, had flooded *down*, as surging waters outside the buildings flowed into the below-ground half of that level.

Little in *HLR*'s offices remained salvageable, even when Board 39 was allowed a brief exploratory visit. Records and files? Soaked. Volumes of statutes and reports? Drowned, below the three-foot level to which the floodwaters had risen. Furniture? Ruined. Computers? All wrecked.

Led by an editor in chief and managing editor who had the preceding weekend repainted offices the *Review* would never again occupy,⁹⁵ Board 39 went to work. Kickoff meetings were held at members' homes. Coordination was accomplished online

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and via teleconferences. Editors availed themselves of the resources of the STCL library (which sits atop, not beneath, that school's downtown building).

Most importantly, a local copy shop allowed *HLR* personnel to have behind-the-counter space to conduct cite checks from copied resources, store documents, and come and go at will. At a time before laptops were required of every Law Center student, and when in-house edits were still accomplished, despite all the new technologies, the old-fashioned way (on paper and using different-colored pencils for each step in the editing cycle), such courtesies were invaluable.

Progress was labored but steady. Things improved when, in January 2002, FEMA furnished several dilapidated trailers and located them adjacent to the Law Center complex, making the commute to and from the copy shop to classes no longer necessary. Law firms and *Review* alums donated funds for computers and furnishings.

Against all odds, Board 39 published its first issue on-time, per the schedule that Board 32 had created in far less stressful times.

What about permanent housing, however? Work on the lower two levels of the Law Center had progressed. All utilities had been restored in the basement. But the books could not be put back. FEMA forbade it, lest a disaster like Allison ever again result in the loss of such expensive physical properties. Accordingly, the Ground Floor of the Law Center had been totally reconceptualized by the Facilities Policy and Planning Committee to enable FEMA to reconstitute the library without the use of half of its former footprint.

Of what use now, however, was the Basement? Clearly, the school could not afford to forego all employment of its 34,000 square feet. But who or what could be relocated there? The answer: student organizations. In the event of another Allison, books could not run; but with notice, students could. While the former library basement periodically thereafter would experience minor "water intrusions," life and limb have never been imperiled; and the \$1 million worth of first-class modular furnishings,⁹⁶ designed by architects in consultation with the organizations as to their desired configurations, have provided great flexibility as student groups and journals expand, contract, or spring to life to meet changing needs.

Thus was born the new Student Organizations Suite, drolly named by the Law Center's facilities chair for the sheer enjoyment of thereafter referring to the school's former in-house

lake as “SOS.” In truth, although the point may not have been page-one news in the long history of post-Allison recovery, the all-student suite proved to be a huge boon to the organizations. Total space accorded to student organizations within the Law Center was tripled at a single stroke. Three dozen organizations whose space formerly had consisted of one locker each in the Student Bar Association’s quarters acquired offices of their own. The largest organizations, HOUS. L. REV. included, not only retained their prior square footages but expanded on them.⁹⁷

One hard problem remained: the actual allocation of space within SOS to particular organizations. As the senior student publication at the Law Center and the principal external projection of the school’s scholarly excellence, *HLR* deserved to recover, in the new organizations suite, what had been, prior to Allison, the facility’s largest and best-located student space.

To get it done, however, the *Review*’s faculty advisor, who was also the Law Center’s facilities chair,⁹⁸ would have to make the assignment—an apparent conflict of interest that could do harm both to the Law Center and to *HLR*. Like Captain Nice before him,⁹⁹ the faculty advisor chose to solve the problem before it became a problem: by resigning. With no conflict to impede the decision necessary to be made, the facilities chair then quietly assigned *Houston Law Review* its rightful space in the Student Organizations Suite.

Done. In July of 2002, after a year and a month of wandering in the post-Allison wilderness, *HLR* moved into its new digs. Board 39 never got to see the promised land; and Board 40 would have to reinvent processes none of its members or editors had ever seen performed anywhere but in copy shops and sagging trailers. But the two volumes produced by the post-storm boards remain forever as mute tributes to the extraordinary efforts required to save *Houston Law Review* in its hour of maximum peril.

Allison had been monumentally difficult for all concerned. But in time the experience proved to have been a valuable lesson. In 2005, in an event as unprecedented as the aftermath of its own tropical storm, UHLC would volunteer to help another stricken law school and serve as “home away from home” for Loyola University’s College of Law—hosting its classes and administrative functions for an entire semester—after Hurricane Katrina struck in New Orleans. But that is another story.¹⁰⁰

By the summer of 2002, then, the University of Houston Law Center had been fully reconstituted, including the installation of all student journals and other group activities in the Student

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Organizations Suite where they reside today. *HLR* was home again.

* * *

Decade 4 had come to an end. Dramatic advances, and a devastating act of God. *Houston Law Review* had not missed a beat. The story of recovery post-Allison, and of the decade as a whole, was summed up best by one of the decade's wholly remarkable Editors in Chief: "It was a hell of a ride."¹⁰¹

The Great Leap Forward.

1. A term of astonishment, "leapin' lizards!" seems to have originated in the 1930s, when it was popularized by none other than Little Orphan Annie in the comic strip of the same name. The phrase, through the 1977 Broadway musical *Annie*, lives on . . . and on . . . and on: "Tomorrow! Tomorrow! I love ya Tomorrow! You're always a day away!"

2. See generally Craig Joyce, *Driven: The First Decade of Houston Law Review*, *supra*; Craig Joyce & Matthew Hoffman, *Carry On Boldly: The Second Decade of Houston Law Review*, *supra*.

3. See generally Craig Joyce & Matthew Hoffman, *Centered: The Third Decade of Houston Law Review*, *supra*.

4. *Id.* at 82–84, 91–93.

5. See *id.* at 116.

6. See *id.*

7. According to Nancy Kornegay, Editor in Chief of Board 38, which published the last HLPI issue, "the transition to the IP & IL issue seemed to go so smoothly, . . . [A]ll I can say is that, every day as I was studying for the bar exam in the summer of 2001, I was thanking my lucky stars that I was not dealing with the ravages of Allison at the *Law Review* and trying to publish" the first of the IPIL Symposia. Questionnaire Response, Nancy Kornegay, Brown & Kornegay LLP (Mar. 31, 2012) (on file with Houston Law Review).

8. Except as noted otherwise, all of the information contained in the following subsection is drawn either from the personal recollections of this essay's senior co-author or from JOHN MIXON, AUTOBIOGRAPHY OF A LAW SCHOOL App. VII (2012) ("Institutes at the Law Center, 2012").

9. See Joyce, *Driven*, *supra*, at 13 ("A Curious Fascination") (referencing early articles on patent litigation, fair use of copyright, prior restraint in the motion picture industry, the patentability of inventions, and international IP licensing agreements).

10. Raymond T. Nimmer, *Consumer Payment Systems: Leverage Effects Within an Electronic Funds Transfer Systems*, 17 HOUS. L. REV. 487 (1980).

11. Glenn J. MacGrady, *Protection of Computer Software—An Update and Practical Synthesis*, 20 HOUS. L. REV. 1033 (1983).

12. Joy Eskew, *The Copyright Dilemma Facing Texas Educators as They Implement Computer Literacy into Their Curriculum*, 22 HOUS. L. REV. 1011 (1985); A. Samuel Oddi, *The Functions of "Functionality" in Trademark Law*, 22 HOUS. L. REV. 925 (1985).

13. Dan L. Burk, *Patenting Transgenic Human Embryos: A Nonuse Cost Perspective*, 30 HOUS. L. REV. 1597 (1993).

14. See Joyce & Hoffman, *Centered*, *supra*, at 82.

15. The detailed story of the IP program's founding was not quite as simple as the text above the line, bowing to space constraints, makes it seem.

As indicated, the Dean and the professor saw the way forward for founding the program differently. Yet they reached a tacit *quid pro quo* agreement that allowed planning to proceed.

The professor could put together an IP program however he thought best. But he would get no support from the Dean, when it was put to the faculty for a vote, if the plan became controversial. The plan immediately became controversial, and the professor got no decanal support in the end.

Convinced that the program could not succeed without a patent professor but aware that the faculty was unlikely to hire one, the copyright professor set out to find a candidate who could avoid the perils of Scylla and Charybdis. Shortly, the ideal candidate emerged: a former managing partner of Houston's world-class "boutique" IP firm, Arnold, White & Durkee, an egghead practitioner who published constantly, and a top-level lawyer who had announced widely his intention to retire at age 50 to become either a concert pianist (an ambition for which he was amply qualified) or a law professor.

His name was Paul Janicke. He was then a year short of 50. And the copyright professor thought he deserved not to become yet another starving musician.

The plan was simple. Janicke would be hired as Staff Director of the proposed IP program. The copyright professor would be Faculty Director. The latter would assure that, beyond directing the program's otherwise non-existent staff, Janicke would have ample time to teach and write about patent law and other areas of interest to him.

Viewing the proposal as a Trojan horse that would later open to disclose a Janicke candidacy for tenure-track status, more than a few faculty members expressed serious reservations. In an example of Law Center collegiality at its best, however, the plan's principal opponent, Richard Alderman, asked to come to the copyright professor's office and offer him the opportunity to persuade the likely dissenters of the plan's merit. Alderman came and listened—but was not persuaded.

The plan then went forward for faculty decision. Specifically, Joyce proposed that the faculty:

- (1) Approve the concept of formally identifying IP as a specialty field for UHLC;
- (2) Give "go ahead" for beginning the research, etc., needed to compile information for a proposal to forward to the state's Coordinating Board regarding an LL.M. in IP; and
- (3) Approve, on a contract basis, someone to be appointed as Co-Director of the IPP [Intellectual Property Program].

Furthermore, the professor proposed that, if the program were not successful and self-sufficient within two to three years, it should terminate automatically. Faculty Meeting Minutes (Oct. 3, 1991) (on file with Houston Law Review).

At the faculty meeting itself, the advocacy on both sides was strong, and the balloting, close. The plan prevailed initially on a vote of 17–16, but it then was approved unanimously, for the record, when the most determined doubter, Richard Alderman, graciously so moved and the faculty duly concurred.

16. For a summary of HLPI's non-*HLR* related accomplishments, see Joyce & Hoffman, *Centered, supra*, at 83–84.

17. For one such development at least tangentially related to *HLR*, spearheaded for IPIL by Janicke, see *id.* at 81 ("The LL.M. Program").

18. During Decade 4, for example, the *Review* published the Inaugural Katz-Kiley Lecture. See John B. Pegram, *Should the U.S. Court of International Trade Be Given Patent Jurisdiction Concurrent with That of the District Courts?*, 32 HOUS. L. REV. 67 (1995); Nancy J. Linck, Kevin T. Kramer & David J. Ball, Jr., *A New Patent Examination System of the New Millennium*, 35 HOUS. L. REV. 305 (1998).

19. See *Legal Issues in the Information Revolution*, 32 HOUS. L. REV. 303 (1995); *Licensing in the Digital Age*, 36 HOUS. L. REV. 1 (1999).

20. For a listing of all annual IPIL symposia issues to date, see the Decade 5 essay.

21. For a listing of all Spring Lecture articles to date, see the Decade 5 essay.

22. All references during the remainder of these essays to any of the programs just named will carry the moniker "IPIL."

23. Vitally importantly to *Houston Law Review*, since 1999 the following distinguished faculty have been added to the IPIL roster: Greg Vetter (2002) (among the nation's leading

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figures on open-source software); Sapna Kumar (2009) (an administrative-law-and-patent specialist who will moderate IPIL's 2013 National Conference); and Jacqueline Lipton (2012) (indisputably the best lateral hire, by any law school in America, in 2012–2013).

24. Except as noted otherwise, all of the information contained in the following subsection is drawn either from the personal recollections of this essay's senior co-author or from communications by the Editors in Chief of Boards 32 and 33, Robert J. Sergesketter, Senior Counsel, Apache Corporation, and D'Andra Millsap Shu, Senior Attorney, Morgan Lewis & Bockius, respectively. See e-mail from Sergesketter to Craig Joyce, Andrews Kurth Professor of Law, University of Houston Law Center (Feb. 2, 2013); e-mail from Shu to Joyce (Feb. 20, 2013); e-mail from Shu to Joyce (Feb. 22, 2013) (all on file with Houston Law Review).

25. See, e.g., Joyce & Hoffman, *Centered*, *supra*, at 86–87.

26. Professors are always “young” to students when they are not older than the students' parents.

27. Unlike the by-then discontinued Butler & Binion Lectures. See Joyce & Hoffman, *Centered*, *supra*, at 88, 91.

28. “The Birth of the Frankel Lecture Series,” Memorandum from Robert J. Serkesketter to Craig Joyce (Jan. 29, 2013) (on file with Houston Law Review).

29. See Joyce & Hoffman, *Boldly*, *supra*, at 45.

30. See *id.* at 41–42.

31. See *id.* at 58 n.19.

32. They were, respectively, Professors John Coffee, Jr. of Columbia University, Richard E. Speidel of Northwestern University, and Brandon Becker, Special Advisor to the Chair of International Derivatives of the Securities and Exchange Commission.

33. Here is Shu's report:

[T]he biggest challenge our board faced was pulling off the Frankel Lecture. I had heard plenty about the Frankel Lecture as I prepared to take over as Editor in Chief. Bob Sergesketter, the EIC who trained me, told me that the “hard part” was taken care of because he and Professor Craig Joyce had already lined up a great slate of speakers, with Dean Joel Seligman being the keynote. “All” we had to do was set up the event. No one on my board had ever organized anything like this, and unlike today, we had no model to work off of or editor assigned to take care of it. So, among the many other hats I wore as EIC, that year I also wore the “Frankel Organizer” hat. I recruited anyone on my board with any time to spare, and we spent hours on end working out every detail: from big ones, like where the lecture should be held and where the guests would stay, to small ones, like whether to have written programs and/or a welcome gift for the speakers. It seems like we had some crisis or previously unthought-of issue on a daily basis. Like the day we realized we had no idea how the speakers would get from the airport to the hotel. One very helpful articles editor offered to use his Monte Carlo and be Dean Seligman's personal chauffeur!

All of our hard work paid off. The inaugural Frankel Lecture went off without a hitch. . . .

These days, Shu adds, “the model for the Frankel Lecture is well established, and they even have an editor whose job it is to organize the event. Lucky them! I look forward to the Frankel Lecture every year and am honored to have been part of establishing such a first-class event.” E-mail from Shu to Joyce (Feb. 20, 2013), *supra* note 24.

34. In discussing later the inaugural lecture and his visit to the University of Houston Law Center, Dean Seligman commented: “I thought it was great. The panelists were extraordinary and it was a pleasure to participate in this. You have some very talented professors here, and I enjoyed meeting people whose work I have read and seeing old friends.” Dominic Corva, *Potential Plaintiffs Must Be Accurately Informed About the Arbitration Process*, DAILY COUGAR (Feb. 5, 1996), available at

<http://archive.thedailycougar.com/vol61/87fubar2/4a.html>.

35. As reconstructed by Shu and Sergesketter. E-mail from Shu to Joyce (Feb. 22, 2013), *supra* note 24.

36. E-mail from Shu to Joyce (Feb. 20, 2013), *supra* note 24.

37. The authors of these essays deny any connection between the editors of *Houston Law Review* and the paranoid schizophrenics and enduring recurrent delusional episodes of fictional characters in the 2001 movie bearing a similar name.

38. See Joyce & Hoffman, *Centered*, *supra*, at 98 n.51.

39. See *id.* at 89–90 (regarding Robert P. Schuwerk’s *A Guide to the Texas Disciplinary Rules of Professional Conduct*); *id.* at 93–94 (regarding Cathleen Cochran Herasimchuk’s *Texas Rules of Evidence Handbook (Second Edition)*).

40. See Joyce & Hoffman, *Boldly*, *supra*, at 60 n.44 (regarding the current Board of Directors’ instruction to student editors concerning book projects).

41. E-mail from Sergesketter to Joyce, *supra* note 24.

42. Except as noted otherwise, as for example where Board of Directors meeting minutes are cited, all of the information contained in the following subsection is drawn from either the Sergesketter-to-Joyce e-mail cited in note 24 or the personal recollections of this essay’s senior co-author.

43. Sergesketter elaborates:

Given the stress level inherent in publishing a law review while the students also were managing a full course load, clerkship interviews, Moot Court, and part-time jobs, it was understandable that the law review office was not a favorite place to spend any more than the bare minimum number of hours required to fulfill one’s law review obligations. So we set out to make the law review office a place where students enjoyed hanging out before, between, after—and sometimes during—classes. While this may not have translated directly into a higher-quality published product, it did make life on the *Review* more enjoyable and fostered friendships that have lasted the better part of two decades. In my opinion, and I expect in the opinion of many of my fellow law review classmates, it is those lasting friendships that were the best thing to come out of being on law review.

Id.

44. Sergesketter: “Nothing would have been more depressing than popping Champagne on graduation night and then having to drag ourselves back to our basement offices to work on the *Review* when we should have been backpacking through Europe.”

Id.

45. Although the entire process had been made considerably more efficient previously by the introduction of word processing software and other more modern technology during Decade 3. See Joyce & Hoffman, *Centered*, *supra*, at 85–86.

46. Nor did the new process inflict on editors nearly the stress that the “never gonna happen” doubters had predicted. Two boards later, Board 34’s Managing Editor could report: “[W]e published on time, every time—and had a lot of fun doing so.” Questionnaire Response, Tony Buzbee, Buzbee Law Firm (Mar. 26, 2012) (on file with Houston Law Review).

47. Board Report (Oct. 17, 1995) (on file with Houston Law Review).

48. *Id.*

49. Board Report (Apr. 2, 1996) (on file with Houston Law Review).

50. Board of Directors Meeting Minutes (Oct. 12, 1999) (on file with Houston Law Review).

51. Board Report (Oct. 17, 2000) (on file with Houston Law Review).

52. Board Report (Apr. 10, 2001) (on file with Houston Law Review).

53. Board Report (Oct. 8, 1996) (on file with Houston Law Review).

54. Board Report (Apr. 11, 2000) (on file with Houston Law Review); Board Report (Apr. 10, 2001) (on file with Houston Law Review). The articles were Lisa A. Dolak,

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Patents Without Paper: Proving a Date of Invention with Electronic Evidence, 36 HOUS. L. REV. 471 (1999); and Jerre B. Swann, Sr., *Dilution Redefined for the Year 2000*, 37 HOUS. L. REV. 729 (2000).

55. Board Report (Apr. 11, 2000) (on file with Houston Law Review).

56. See Joyce, *Driven, supra*, at 18.

57. See Joyce & Hoffman, *Boldly, supra*, at 41–42.

58. See Joyce, *Driven, supra*, at 23 n.53.

59. The account that follows relies almost exclusively on the memories of Craig Joyce, long-time chair of the Law Center's Facilities Policy and Planning Committee, who thanks Robert Gonzalez, the school's Allison-era facilities manager, for reviewing the data for accuracy. E-mail from Robert Gonzalez to Craig Joyce (Mar. 15, 2013) (on file with Houston Law Review).

60. For more information on John M. O'Quinn, see *id.* at 18–20.

61. Judge Brown (1909–1993), an expert in admiralty law and a great judicial stylist, figured importantly in the desegregation of the American South, serving from 1967 to 1979 as Chief Judge of the Fifth Circuit (which stretched from Texas to Florida before the creation of the Eleventh Circuit in 1981) during a period marked by the courageous service of Brown and his fellow judges in most hostile circumstances. See generally JACK BASS, UNLIKELY HEROES (1990). The papers were acquired from the Judge's widow, Vera Brown, in 1993 by Dean Robert L. Knauss and Professor Craig Joyce and then lovingly indexed by the O'Quinn Law Library staff. Sadly, they lay in Allison's path on June 9, 2001. Of the 306 boxes of papers received, ultimately 102 were rescued and have been preserved.

62. The facilities committee chair was not alone that morning. Jon Schultz, the long-time director of the law library, arrived in hip boots—not nearly enough protection in the circumstances—and was overcome. Also present, surprisingly, was an entrepreneur named Don Hartsell, who had invented various devices that would prove to be hugely useful in the aftermath of Allison, including technology to pump chilled air throughout the now totally disabled Law Center complex, thereby in due course arresting the spread of mold and mildew, and another device that freeze-dried waterlogged documents, making it possible to salvage partially at least some of the papers and books that had drowned in the storm. The facilities chair pointed out to the entrepreneur that downtown Houston was prostrate. Institutions like Bank of America, where one person died in an elevator while trying to salvage her car in the underground garage, would be willing to pay a fortune for his services, and certainly far more than the Law Center could. Why had he decided to offer his services to us? Back came the answer. Hartsell was a graduate of the Law Center—and fondly remembered his instruction, in none other than intellectual property law, where he had made his career. He was a proud alum. He simply wanted to help the Law Center in its hour of maximum need.

63. Abraham D. Sofaer, *Iran–Contra: Ethical Conduct and Public Policy*, 40 HOUS. L. REV. 1081 (2003); Dayna B. Matthew, *Doing What Comes Naturally: Antitrust Law and Hospital Mergers*, 31 HOUS. L. REV. 813 (1994); Peter D. Jacobson & Scott D. Pomfret, *Form, Function, and Managed Care Torts: Achieving Fairness and Equity in ERISA Jurisprudence*, 35 HOUS. L. REV. 985 (1998); Arnold W. Reitze, Jr., *The Legislative History of U.S. Air Pollution Control*, 36 HOUS. L. REV. 679 (1999).

64. Among the faculty of the Law Center, Sidney Buchanan, a.k.a. Captain Nice, ensured that UHLC faculty would not be crowded out entirely by the emergence in Decade 4 of such prestigious page-turners as the Frankel Lectures and the IPIL Symposium issues, authoring *nine* articles in the course of the decade: G. Sidney Buchanan, *A Conceptual History of the State Action Doctrine: The Search for Governmental Responsibility*, 34 HOUS. L. REV. 333 (1997) (Part 1); G. Sidney Buchanan, *A Conceptual History of the State Action Doctrine: The Search for Governmental Responsibility*, 34 HOUS. L. REV. 665 (1997) (Part 2); G. Sidney Buchanan, *The Scope of State Autonomy Under the United States Constitution*, 37 HOUS. L. REV. 341 (2000); Sidney Buchanan, *A Constitutional Cross-Road for Gay Rights*, 38 HOUS. L. REV. 1269 (2001); Sidney Buchanan, *The Abortion Issue: An Agonizing Clash of Values*, 38 HOUS. L.

REV. 1481 (2002); Sidney Buchanan, *Affirmative Action: The Many Shades of Justice*, 39 HOUS. L. REV. 149 (2002); Sidney Buchanan, *From Conservative Republican to Liberal Democrat: A Political Journey*, 39 HOUS. L. REV. 447 (2002); Sidney Buchanan, *Reflections on Teaching*, 39 HOUS. L. REV. 1101 (2002); G. Sidney Buchanan, *No Connecticut Yankee in the Texas Supreme Court*, 40 HOUS. L. REV. 931 (2003).

65. At least according to the literary critics of Board 34 who ably introduced him by way of a brief introduction to his essay. Frank Kermode, *Justice and Mercy in Shakespeare*, 33 HOUS. L. REV. 1155, 1155 (1996).

66. *Id.*

67. David Hittner & Lynne Liberato, *Summary Judgments in Texas*, 34 HOUS. L. REV. 1303 (1998); Paul Steven Miller, *The Americans with Disabilities Act in Texas: The EEOC's Continuing Efforts in Enforcement*, 34 HOUS. L. REV. 777 (1997). Judge Harvey Brown of the 152nd Civil District Court of Harris County additionally published two articles related to the practice of law in Texas in Decade 4: Harvey Brown, *Eight Gates for Expert Witnesses*, 36 HOUS. L. REV. 743 (1999); Harvey Brown, *Daubert Objections to Public Records: Who Bears the Burden of Proof?*, 39 HOUS. L. REV. 413 (2002). Meanwhile, Texas Supreme Court Justice Nathan Hecht paid tribute to his retiring colleague on the court, Justice Raul Gonzalez, invoking all appropriate appellate decorum: "Mr. Chief Justice and May It Please the Court." Nathan L. Hecht, *To Justice Raul A. Gonzalez on His Retirement from the Supreme Court of Texas*, 36 HOUS. L. REV. 391, 391 (1999).

68. Joel Seligman, *The Quiet Revolution: Securities Arbitration Confronts the Hard Questions*, 33 HOUS. L. REV. 327 (1996).

69. Pamela S. Karlan, *Just Politics? Five Not So Easy Pieces of the 1995 Term*, 34 HOUS. L. REV. 289 (1997); Carol M. Swain, *Not "Wrongful" by Any Means: The Court's Decisions in the Redistricting Cases*, 34 HOUS. L. REV. 315 (1997); Richard H. Pildes, *Two Conceptions of Rights in Cases Involving Political "Rights,"* 34 HOUS. L. REV. 323 (1997).

70. Harold Hongju Koh, *Bringing International Law Home*, 35 HOUS. L. REV. 623 (1998); Thomas M. Franck, *Dr. Pangloss Meets the Grinch: A Pessimistic Comment on Harold Koh's Optimism*, 35 HOUS. L. REV. 683 (1998); Robert O. Keohane, *When Does International Law Come Home?*, 35 HOUS. L. REV. 699 (1998); Alex Kozinski, *Who Gives a Hoot About Legal Scholarship?*, 37 HOUS. L. REV. 295 (2000); Lynn N. Hughes, *Neoscholasticism: Technique, Purpose, and Law Reviews*, 37 HOUS. L. REV. 321 (2000).

71. In attendance at that year's Lecture were "lawyers, judges, biblical scholars, bibliophiles, members of the clergy, comparative religion experts, authorities on the Middle East, law faculty, . . . and of course . . . students." Craig Joyce, *Welcome and Introduction*, 38 HOUS. L. REV. xi, xiv (2001).

72. A search of Westlaw's "Federal Courts" database at the time of this essay's publication yields more than 3,000 citations to *Nimmer on Copyright*. Like *Houston Law Review*, *Nimmer on Copyright* currently is celebrating its 50th anniversary.

73. See, e.g., *Princess Fabrics, Inc. v. CHF, Inc.*, 922 F.2d 99, 104 (2d Cir. 1990) (Oakes, C.J., concurring in part and dissenting in part); *New Era Publ'ns Int'l, ApS v. Henry Holt & Co.*, 873 F.2d 576, 585 (2d Cir. 1989) (Oakes, C.J., concurring); *Brandir Int'l, Inc. v. Cascade Pac. Lumber Co.*, 834 F.2d 1142 (2d Cir. 1987); *Authors League of Am., Inc. v. Oman*, 790 F.2d 220, 224 (2d Cir. 1986) (Oakes, J., concurring); *Kieselstein-Cord v. Accessories by Pearl, Inc.*, 632 F.2d 989 (2d Cir. 1980); *L. Batlin & Son, Inc. v. Snyder*, 536 F.2d 486 (2d Cir. 1976).

74. See, e.g., *THE CONSTRUCTION OF AUTHORSHIP: TEXTUAL APPROPRIATION IN LAW AND LITERATURE* (Martha Woodmansee & Peter Jaszi eds., 1994).

75. Nader had no need for an exhaustively long curriculum vitae in his "author footnote," as so many other authors do. Rather, he was proud merely to be the founder of "Public Citizen" (with an LL.B. from Harvard also in hand). Ralph Nader, *Occupational Safety and Health Act*, 31 HOUS. L. REV. 1, 1 n.* (1994).

76. *Id.* at 2.

77. Although there is considerable scholarly debate about whether Ralph Nader truly did "spoil" the 2000 presidential election for Al Gore, compare Barry C. Burden, *Ralph Nader's Campaign Strategy in the 2000 U.S. Presidential Election*, 33 AMER.

POLITICS RES. 672, 672–73 (2005) (claiming that “Nader held the election in his hands”), with Sam Smith, *Nader Not Responsible for Gore’s Loss*, PROGRESSIVE REV. (July 2002), <http://prorev.com/green2000.htm> (finding that “Ralph Nader’s influence on the final results [of the 2000 election] was minimal to non-existent”), and CHARLES L ZELDEN, BUSH V. GORE: EXPOSING THE HIDDEN CRISIS IN AMERICAN DEMOCRACY (2008) (painstakingly and dispassionately recounting the facts of the contest), there is little debate about the importance to a law review of publishing such a recognizable public figure. Cf. Kozinski, *supra* note 70, at 296 (“That judges care [about legal scholarship] can be inferred from the fact that judges rely on academic pieces in their work: Law review articles and legal treatises are cited in opinions on a regular basis. And it’s not just any opinions, either; the opinions most likely to rely on the works of academics are those written in the gray areas of the law where precedent doesn’t provide a clear-cut answer.”).

78. Joyce & Hoffman, *Centered*, *supra*, at 91–93 (listing Harvard, Yale, North Carolina, Vanderbilt, Washington University, and Ohio State among the law schools represented by the Health Law institute’s contributions to *HLR* in Decade 3).

79. See *id.* at 84.

80. For a full list of the Health Law & Policy Institute’s Symposia issues published in *Houston Law Review*, see *id.* at 96 n.23.

81. See “*Intellectual Property and Information Law*” above for a discussion on *HLR*’s historical proclivity for IP scholarship.

82. Pegram, *supra* note 18.

83. Linck, Kramer, & Ball, *supra* note 18; Raymond T. Nimmer, *Images and Contract Law—What Law Applies to Transactions in Information*, 36 HOUS. L. REV. 1 (1999); David Nimmer, *Copyright in the Dead Sea Scrolls: Authorship and Originality*, 38 HOUS. L. REV. 1 (2001); L. Ray Patterson, *Nimmer’s Copyright in the Dead Sea Scrolls: A Comment*, 38 HOUS. L. REV. 431 (2001); Niva Elkin Koren, *Of Scientific Claims and Proprietary Rights: Lessons from the Dead Sea Scrolls Case*, 38 HOUS. L. REV. 445 (2001); Neil Wilkof, *Copyright, Moral Rights and Choice of Law: Where Did the Dead Sea Scrolls Court Go Wrong?*, 38 HOUS. L. REV. 463 (2001); Richard A. Lanham, *Barbie and the Teacher of Righteousness: Two Lessons in the Economics of Attention*, 38 HOUS. L. REV. 499 (2001).

84. See Joyce & Hoffman, *Centered*, *supra*, at 84.

85. Who urged his peers, in a mutually deprecating sort of way, to continue publishing with *Houston Law Review*: “The *Houston* article nags know something about meandering-around law faculty in far off lands: Keep soliciting.” Trotter Hardy, *The Copyrightability of New Works of Authorship: “XML Schemas” As an Example*, 38 HOUS. L. REV. 855, 855 n.*.

86. In patent law, the PHOSITA, or “Person Having Ordinary Skill In The Art,” i.e., in lay language, a scientist or engineer of reasonable competence in the relevant field of invention, is a familiar figure. Under § 103 of U.S.C. Title 35 (the Patent Act), a patent will not be issued “if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains.”

87. Robert W. Hamilton, *The Crisis in Corporate Governance: 2002 Style*, 40 HOUS. L. REV. 1 (2003); David B. Wilkins, *Doing Well by Doing Good? The Role of Public Service in the Careers of Black Corporate Lawyers*, 41 HOUS. L. REV. 1 (2004).

88. Richard A. Posner, *Misappropriation: A Dirge*, 40 HOUS. L. REV. 621 (2003).

89. *A Tribute to Professor G. Sidney Buchanan upon His Retirement*, 41 HOUS. L. REV. 237 (2004). Regarding Professor Buchanan’s nickname, see Joyce & Hoffman, *Boldly*, *supra* note 2, at 54.

90. The information in the following paragraph combines recollections by one of the co-authors of this essay with facts and figures provided by the long-time director of the O’Quinn Law Library, Jon Schultz. E-mail from Jon Schultz to Craig Joyce (Mar. 9, 2013) (on file with *Houston Law Review*).

91. The remainder of this section is based on Professor Joyce’s memories and the

following reminiscences generously provided by Boards 39 and 40. E-mail from Sidney Gibbs Ballesteros, Board 39 Editor in Chief, to Craig Joyce (Feb. 25, 2013); e-mail from George F. May, Board 39 Chief Articles Editor, to Craig Joyce (Feb. 25, 2013) (containing *HLR* questionnaire response and May's superb *Essay on Allison*); e-mail from Joan E. Beckner, Board 40 Chief Articles Editor, to Craig Joyce (Feb. 26, 2013). All documents are on file with Houston Law Review.

92. See Joyce, *Driven*, *supra*, at 4–9; Joyce & Hoffman, *Boldly*, *supra*, at 40–46; Joyce & Hoffman, *Centered*, *supra*, at 78–87.

93. See *supra* note 62 (noting the generosity of Don Hartsell).

94. See *supra* text accompanying notes 56–58 for a description of the arrangement the Law Center's four floors, half of them located above ground fully and half of them not.

95. E-mail from Sydney Gibbs Ballesteros to Craig Joyce, *supra* note 91.

96. One advantage of the design of the furnishings: all power lines run within the moveable walls at a height such that only an Allison II could ever damage them.

97. As reported by Board 39's Chief Articles Editor:

Even today, the legacy of Allison can be seen in the *Houston Law Review*. Spearheaded by Professor Joyce, the *Law Review*, *International Journal*, and other student organizations were given permanent space in the basement of the library for their offices. The basement having just suffered a catastrophic flood, some questioned the wisdom of this plan (I admit to being a vocal critic at the time). But Professor Joyce turned out to not only be right, but carried through fully on making the new space vastly better than the space the law review had lost. For Board 39. Of course, Board 38 never got to use the new space, but let's not quibble. We had our trailers and a wealth of memories that came with slogging through adversity.

See e-mail from George F. May to Craig Joyce, *supra* note 91.

98. See *supra* note 62. "The name's Joyce. Craig Joyce." After Allison, he was shaken, but not stirred from his duty. *Cf.* any "James Bond" movie.

99. During Sidney Buchanan's long run as faculty advisor to *Houston Law Review*, he took but one hiatus: in 1985–1987, when he feared that concurrent service as advisor and Associate Dean for Academic Affairs would be perceived, to *HLR*'s detriment, as a conflict of interest that might preclude him from making decisions justified by both the Law Center's and the *Review*'s best interests.

100. Brian Huddleston, *A Semester in Exile: Experiences and Lessons Learned During Loyola University New Orleans School of Law's Fall 2005 Hurricane Katrina Relocation*, 57 J. LEGAL EDUC. 319 (2007).

101. E-mail from Sydney Gibbs Ballesteros to Craig Joyce, *supra* note 91.

ODDMENTS

Discontinued Features. No more such features to report. This category itself now has been discontinued, no longer to darken these essays with the shades of deservedly forgettable features from *Houston Law Review's* distant past. (We do, however, confess a favorite, from Decade 1: "Current Materials," or citations to "items from other reviews selected by the *Houston Law Review* as being of probable interest," with the suggestion that, if interested, readers obtain a copy of the article or comment listed "by writing to the review in which it appeared.") By Decade 4, the Review had reached its mature form—at least, for as long as print may last.

Romancing Reviewers. Decade 4's most visible romance, continuing to this day, produced the 1996 wedding (planned during their bar review prep course) of Board 33 Editor in Chief D'Andra Millsap and Chief Articles Editor Glen Shu. Their two children thank them (and, we hope, *HLR*). Also from Decade 4, rumors persist of forbidden relations between *Review* denizens and alien beings from other UHLC journal planets. Call them "Illicit Inter-Species Romances." Of this, we shall say no more.

A Modest Recovery. For the first time in four decades, no dramatic change occurred in *HLR's* cover format. True to form, however, Board 32 (whose motto appears to have been "no task too great . . . or too small") did effect a subtle redesign, adopting typeset and layout conventions that gave *Houston Law Review* a more contemporary look without inflicting upon it another massive makeover. Apparently, the "gentle Lowlands birds" referenced in *Centered* had been, indeed and as advertised, bearers of "peace and deliverance."

Faculty Advisors. In his fourth decade as advisor, G. Sidney Buchanan remained in harness, but supplemented now by a motley crew of fellow and successor advisors (including one of these essays' co-authors). Their contributions will receive greater attention in Decade 5.

The Class the Robes Fell On. Among Decade 4's distinctions were the many members elected or appointed to the judiciary from Board 32. Of the Board's 38 members, at least four became judges: David Bernal and Reece Rondon, both of whom now have returned to private practice, and, still serving, 151st Civil

District Court Judge Mike Engelhart and Texas Supreme Court Justice Jeff Brown.

A Title, a Title, My Kingdom for a Title! Here, the sentimental favorite for best title of the decade is, inescapably, Professor Buchanan's *No Connecticut Yankee in the Texas Supreme Court*, 40 HOUS. L. REV. 931 (2003). (Unless deeply interested in permissible uses of extrinsic evidence in construing wills, the reader is advised to stick with just enjoying the title.) Then again, who could resist David Robinson's *From Fat Tony and Matty the Horse to the Sad Case of A.T.: Defensive and Offensive Use of Hearsay Evidence in Criminal Cases*, 32 HOUS. L. REV. 895 (1995)? (We "hear say" it's about what it sounds like.)

Fish, Meet Barrel. During *Houston Law Review's* Decade 4, and following its by-now established tradition, four of ten Editors in Chief were women. Meanwhile, a Cambridge, Mass., similarly-initialed journal had added an historic first to its own distinguished record: a first black President (one "Barack H. Obama," who would later gain the same title in another, and bigger, league). Kudos to Cambridge for a prescient choice. Ahem, but as we were saying . . . By the end of its fourth decade, in the tabulation of women EICs at *South* versus women Presidents at *North*, the contrast between the junior and senior circuits had become pronounced. *Houston Law Review*, at 40, was no rookie; and *Harvard Law Review*, at 116, had long since entered the Hall of Fame. Nonetheless, as HOUS. L. REV. stepped up to the plate for Decade 5, the shellacking continued. For those scoring (these stats don't lie): *Bayou City HLR*, 12 for 40 (batting .300); *Beantown HLR*, 4 for 116 (a measly .034). The lead? Now insurmountable. In law reviews, as in life and Little League, there is, or should be, a 10-run rule.

BY THE NUMBERS. . .¹**ISSUES AND PAGES**

Volume	Issues	Pages
31	5	1668
32	5	1515
33	5	1647
34	5	1664
35	5	1847
36	5	1893
37	5	1556
38	5	1584
39	5	1590
40	5	1482

1. Compiled by *Houston Law Review* Boards 50 and 51.

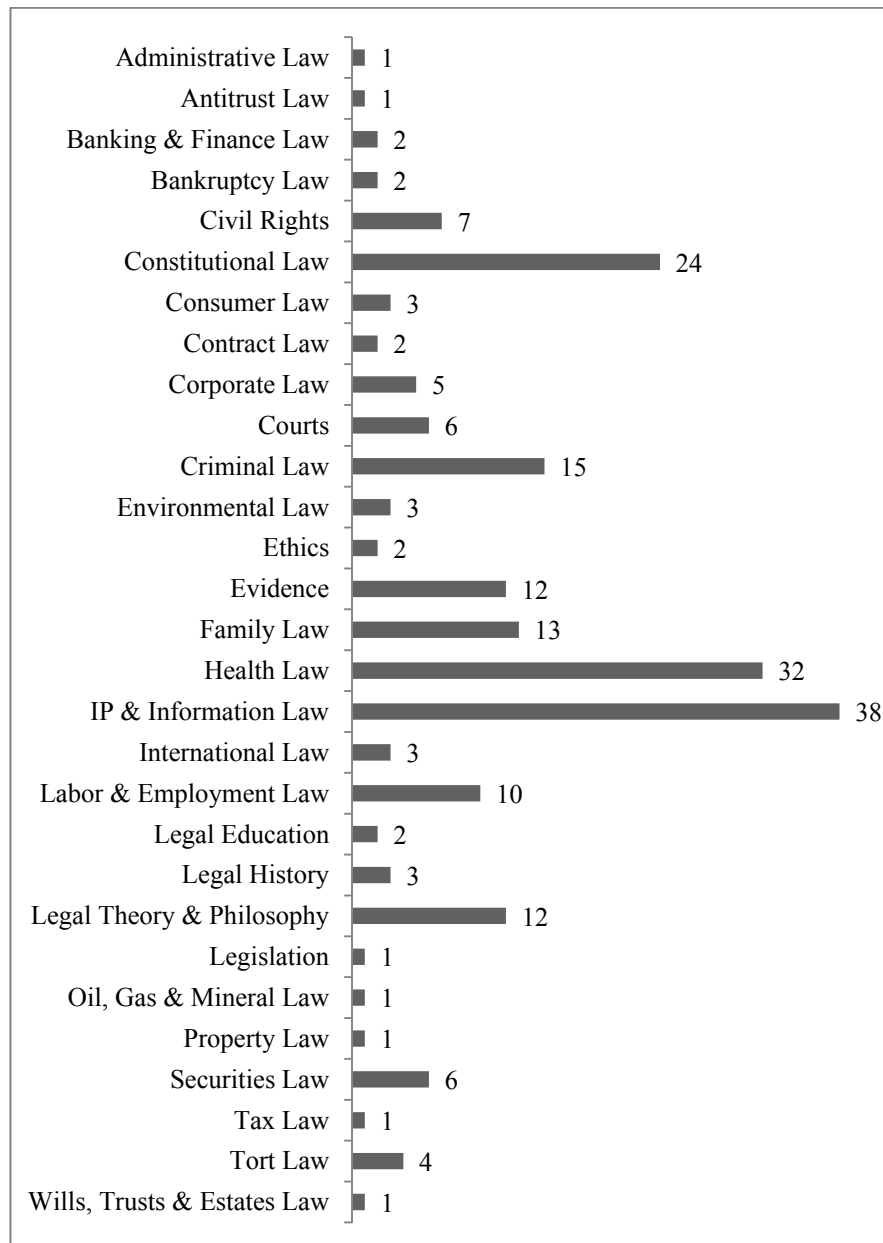
**BOARDS, MEMBERS, EDITORS IN CHIEF,
AND FACULTY ADVISORS**

Boards	Members	Editors in Chief	Faculty Advisors
31 (1993–94)	35	W. Robert Shearer	G. Sidney Buchanan, David R. Dow, Seth Chandler, and Robert A. Ragazzo
32 (1994–95)	38	Robert J. Sergesketter	G. Sidney Buchanan, David R. Dow, Seth Chandler, and Robert A. Ragazzo
33 (1995–96)	31	D'Andra Millsap	G. Sidney Buchanan, David R. Dow, Seth Chandler, and Robert A. Ragazzo
34 (1996–97)	34	J. Kevin Blodgett	G. Sidney Buchanan, David R. Dow, Seth Chandler, and Robert A. Ragazzo
35 (1997–98)	32	James L. Simmons	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce
36 (1998–99)	36	Matthew C. Rawlinson	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce
37 (1999–2000)	31	Laura A. Hanley	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce
38 (2000–01)	41	Nancy R. Kornegay	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce
39 (2001–02)	36	Sydney Gibbs Ballesteros	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce
40 (2002–03)	36	Andrew M. Miller	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Douglas Moll

BY THE NUMBERS

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ARTICLE TOPICS



THEMED ISSUES AND BOOKS PUBLISHED**THE FRANKEL LECTURE SERIES**

*The Quiet Revolution: Securities Arbitration Confronts
the Hard Questions*

Joel Seligman

33 HOUS. L. REV. 327 (1996)

Just Politics? Five Not So Easy Pieces of the 1995 Term

Pamela S. Karlan

34 HOUS. L. REV. 289 (1997)

Bringing International Law Home

Harold Hongju Koh

35 HOUS. L. REV. 623 (1998)

Who Gives a Hoot About Legal Scholarship?

Judge Alex Kozinski

37 HOUS. L. REV. 295 (2000)

Copyright in the Dead Sea Scrolls: Authorship and Originality

David Nimmer

38 HOUS. L. REV. 1 (2001)

*Values, Violence, and the Second Amendment:
American Character, Constitutionalism, and Crime*

Robert Weisberg

39 HOUS. L. REV. 1 (2002)

The Crisis in Corporate Governance: 2002 Style

Robert W. Hamilton

40 HOUS. L. REV. 1 (2003)

HEALTH LAW SYMPOSIA

Occupational Safety and Health Act

31 HOUS. L. REV. 1 (1994) (5 articles)

Nonfinancial Barriers to Health Care

32 HOUS. L. REV. 1187 (1996) (5 articles)

International Health Law

33 HOUS. L. REV. 1283 (1997) (6 articles)

Domestic Violence and the Health Care System

35 HOUS. L. REV. 1 (1998) (6 articles)

*Managed Care and the
Physician–Patient Relationship*

35 HOUS. L. REV. 1385 (1999) (5 articles)

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Emerging Issues in Public Health Law
36 HOUS. L. REV. 1597 (1999) (5 articles)

Health Care and the Americans with Disabilities Act
37 HOUS. L. REV. 979 (2000) (6 articles)

**INTELLECTUAL PROPERTY AND INFORMATION LAW
SYMPOSIA**

E-Commerce and Privacy
38 HOUS. L. REV. 717 (2001) (6 articles)

The Future of Patent Law
39 HOUS. L. REV. 567 (2002) (7 articles)

Considering Copyright
40 HOUS. L. REV. 609 (2003) (8 articles)

OTHER THEMED ISSUES AND BOOKS PUBLISHED

Family Law Themed Issue
31 HOUS. L. REV. 359 (1994) (13 articles)

*Panel Discussion: The Death of Fairness? Counsel Competency
and Due Process in Death Penalty Cases*
31 HOUS. L. REV. 1105 (1994) (11 contributions)

Legal Issues in the Information Revolution
32 HOUS. L. REV. 303 (1995) (5 articles)

Licensing in the Digital Age
36 HOUS. L. REV. 1 (1995) (5 articles)

School Violence, School Safety, and the Juvenile Justice System
37 HOUS. L. REV. 1 (2000) (6 articles)

MOST PUBLISHED AUTHORS²

1. G. Sidney Buchanan (9 articles)
- T2. David R. Dow and Irene Merker Rosenberg (4 articles each)
- T4. Harvey Brown, Rafael Gely, and Craig Joyce (3 articles each)

MOST CITED ARTICLES

1. *Bringing International Law Home*
Harold Hongju Koh
35 HOUS. L. REV. 623 (1998) (225 citations)
2. *The Legislative History of U.S. Air Pollution Control*
Arnold W. Reitze, Jr.
36 HOUS. L. REV. 679 (1999) (114 citations)
3. *Revised Article 3: “[Revise] It Again, Sam”*
Sarah Howard Jenkins
36 HOUS. L. REV. 883 (1999) (111 citations)
4. *Pre-Dispute Mandatory Arbitration in Consumer Contracts:
A Call for Reform*
Richard M. Alderman
38 HOUS. L. REV. 1237 (2001) (109 citations)
5. *Summary Judgments in Texas*
Judge David Hittner & Lynne Liberato
34 HOUS. L. REV. 1303 (1998) (98 citations)

2. For the counting principles involved in this tabulation, see Methodological Note in Craig Joyce, *Driven: The First Decade of Houston Law Review*, *supra*, at 32 n.3.

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LONGEST ARTICLES

1. *Copyright in the Dead Sea Scrolls:
Authorship and Originality*
David Nimmer
38 HOUS. L. REV. 1 (2001) (217 pages)
2. *Perpetuating Risk? Workers' Compensation
and the Persistence of Occupational Injuries*
Emily A. Spieler
31 HOUS. L. REV. 119 (1994) (145 pages)
3. *Eight Gates for Expert Witnesses [Part I]*
Judge Harvey Brown
36 HOUS. L. REV. 743 (1999) (139 pages)
4. *Summary Judgments in Texas*
Judge David Hittner & Lynn Liberato
34 HOUS. L. REV. 1303 (1998) (122 pages)
5. *Informed Consent and Patients' Rights in Japan*
Robert B. Leflar
33 HOUS. L. REV. 1 (1996) (112 pages)

**DEDICATIONS, TRIBUTES,
IN MEMORIA, ETC.**

Volume 31, Issue 5 contains an In Memoriam honoring
Gilbert Lee Finnell, Jr.

Volume 32, Issue 1 contains a Tribute to G. Sidney Buchanan.

Volume 36, Issue 2 contains a Tribute to Justice Raul A.
Gonzalez on his Retirement from the Supreme Court of Texas.

Volume 39, Issue 4 contains an In Memoriam honoring
Yale Rosenberg.

ENDURINGLY GREAT:

The Fifth Decade
of
Houston Law Review

Craig Joyce & Matthew Hoffman

50 HOUS. L. REV. 1541

ESSAY

ENDURINGLY GREAT: THE FIFTH DECADE OF *HOUSTON LAW REVIEW*

Craig Joyce & Matthew Hoffman***

The end, and the beginning, are nigh.¹ The end? The conclusion of *Houston Law Review's* first fifty years. The beginning? The next fifty. And at the midpoint? Perhaps the fulfillment of *Houston Law Review's* founders' dream.

* * *

* Andrews Kurth Professor of Law, University of Houston Law Center. To the members of Board 50, *thank you!* Thank you all, but especially Katherine Witty Medford, Peter Danysh, Casey Holder, and Cade Mason, for your diligence, patience, and good cheer throughout this extremely special project. Similarly, we express here our deep gratitude for the support provided us by the O'Quinn Law Library: Spencer Simons, Mon Yin Lung, and Chris Dykes. The same to the Chief Encouragers: Bob Sergesketter and Jeff Brown. Despite the best efforts of these and an army of others, the authors alone own all imperfections that may follow.

We have been loath to write this ending essay. First, Decade 5 is wrapping up only in real time for us. Its story, insofar as we have the ability to tell it, is for now mostly *journalism* and not yet *history*. Second, this is an ending for us, too. To this continuing-beyond saga of the entirely remarkable institution that is *Houston Law Review*, Matt and I have given our all. Lastly, I at least—Mr. Hoffman, live long and prosper!—am sad to make what amounts to a farewell address. But we must. Thus, finally, we express our profound appreciation to *all* the members of Boards 41 through 50, who actually *lived* the story we have been privileged here merely to recount.

Board 51 and beyond, *salute!*

In keeping with the general practice in historical essays, all notations hereafter appear as endnotes at the conclusion of this essay, where the reader will find also a compilation of statistical trivia, which the authors and the members of Board 50 hope will enlighten and amuse, if not necessarily in equal degree.

** Law Clerk to United States District Judge David Hittner; J.D. 2012, University of Houston Law Center; Editor in Chief, *Houston Law Review*, Board 49.

CONTENT FIRST

“The editors recognize that they yet have much to learn about publishing a law review, and that only the passage of time accompanied by much hard work will establish the fine traditions that will make the *Review* enduringly great.”² So wrote *Houston Law Review*’s first Editor in Chief, Dan G. Matthews, in Volume 1, Issue 1, in 1963. By 2012, *HLR* had arrived, ranking in the top 2.5% of all law reviews worldwide—with a year to spare as the organization approached its 50th anniversary.³

Today, the sometimes winding byway of *Houston Law Review*’s early years has become a full-speed-ahead superhighway of scholarly accomplishment as the publication’s first half-century reaches its end. The inevitable potholes of the vanguard years under *HLR*’s Founding Generation⁴ have long since been paved over thoroughly by the successes of those who came after them.

The chief concerns of Decade 1 had been, first, establishing the organization, but then, keeping it afloat by, among other things, simply finding enough articles to occupy the pages of the start-up issues.⁵ In filling the initial void, the law school’s faculty provided a huge assist. John Mixon, Dwight Olds, John Neibel, and others combined with numerous local practitioners to educate *HLR*’s readers on a variety of issues of interest to the local bar.⁶ Soon, the concern about content was allayed almost entirely by the *Review*’s good fortune in publishing contributions by such eminent figures as Supreme Court Justice Tom C. Clark (twice) and U.S. Solicitor General Archibald Cox, together with professors from the best law schools in the country—Harvard, Stanford, Penn, George Washington, and more.⁷ An increase in issues per volume from three to five accompanied the organization’s growing reach.⁸

Decade 2 brought increased financial pressures that corresponded with the organization’s rapid expansion in size and scope (caused largely by the construction of Teaching Unit II, an additional classroom building),⁹ but Newell Blakely’s *Texas Rules of Evidence Handbook* soon offered at least a semi-permanent solution.¹⁰ And while the *Review*’s early successes included contributions by professors from Columbia, NYU, Duke, Michigan, and the like, Texas-focused scholarship continued to predominate.¹¹ The emergence of themed issues set the stage for the most important and long-lasting developments over the next 30 years.¹²

By Decade 3’s “Centered” years,¹³ financial concerns had returned in the wake of the *Review*’s publication of numerous

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books and other themed issues that, while hugely valuable to *HLR*'s growing prestige, nonetheless took a considerable toll on efficiency and resources.¹⁴ The *Evidence Handbook* came to the rescue once again, this time thoroughly revised by *HLR*'s own Cathy Cochran.¹⁵

The *Review* achieved lofty heights during its fourth decade.¹⁶ Not even a flood of almost biblical proportions, in June 2001, brought on by a ferocious tropical storm, could submerge the journal's now well-established excellence. Allison did its worst, but *HLR* still published Issue 38:3 on time that fall. Decade 4's other notable challenge involved concluding the mutually beneficial relationship *HLR* had developed with the Health Law Institute's nearly annual symposia. But the organization rose to the challenge, finding more-than-suitable replacements in the Frankel Lectures and the new symposia series from the Institute for Intellectual Property & Information Law (IPIL).

At the beginning of Decade 5, having overcome all prior adversities, the *Review* was well-positioned to build on the numerous achievements of its first 40 years.

A Place Beyond

By the beginning of *Houston Law Review*'s fifth decade, the exceptional had become the norm in terms of *HLR*'s "business as usual" scholarship. The journal's notable non-themed issue scholarship had grown entirely too abundant to be recited in full in this essay, although a sample reveals the depth of success that *HLR* had achieved. Professors from Penn, Vanderbilt, Fordham, North Carolina, UC Davis, Ohio State, Minnesota, Washington, Alabama, Florida, and Indiana all published in *Houston Law Review*'s non-themed issues of Decade 5.

The success was evident immediately in the pages of Volume 41. D. Don Welch of Vanderbilt authored "What's Going On?" in *the Law School Curriculum*, Melissa B. Jacoby of North Carolina wrote *Negotiating Bankruptcy Legislation Through the News Media*, and Sheila R. Foster of Fordham published *Causation in Antidiscrimination Law: Beyond Intent Versus Impact*.¹⁷ Joining them were authors from Seton Hall, Connecticut, SMU, Arkansas, and LSU. In a single volume, the scholarship of *Houston Law Review* included non-Texas based contributions that would have compared favorably with all of Decade 1's content combined.

As always, the *Review* continued to publish legal scholarship relevant to the times, diverse in category, and unrelenting in quality of author. Given the Law Center's own rise in national

stature, *HLR*, itself having grown to be recognized as a leading national journal, could afford to be exceedingly selective in the sorts of articles and backgrounds of authors it chose to publish.

Examples of the *Review's* timely publication of scholarship include Albert Lin of UC Davis opining on the Supreme Court's 2003–2004 jurisprudence in *Erosive Interpretation of Environmental Law in the Supreme Court's 2003–04 Term*, Lackland Bloom, Jr., of SMU commenting on the Court's affirmative action jurisprudence in *Grutter and Gratz: A Critical Analysis*, Gregory Bowman of Mississippi analyzing the legal ramifications of ever-expanding U.S. inbound cargo screening in the wake of the September 11 attacks in *Thinking Outside the Border: Homeland Security and the Forward Deployment of the U.S. Border*, and Sarah Rudolph Cole of Ohio State addressing the issue of class action arbitration in light of the 2011 iteration of the Arbitration Fairness Act and recent Supreme Court jurisprudence in *On Babies and Bathwater: The Arbitration Fairness Act and the Supreme Court's Recent Arbitration Jurisprudence*.¹⁸

Yet the *Review's* not-so-newfound national stature did not cause it to yield entirely its dual commitment to continual education of the local bar on important matters of practice. Judge David Hittner of the United States District Court for the Southern District of Texas returned to *HLR* with *Summary Judgments in Texas* in Volume 46, and prominent Houston appellate practitioner Lynne Liberato published *Reasons for Reversal in the Texas Courts of Appeals* in Volume 48.¹⁹

Other bar-centered scholarship of Decade 5 included U.S. District Judge Gray Miller's *Reviewing Arbitration Awards in Texas* and Edward J. Imwinkelried's *The Application of the Attorney–Client Privilege to Interactions Among Clients, Attorneys, and Experts in the Age of Consultants: The Need for a More Precise, Fundamental Analysis*.²⁰ But perhaps the most visible demonstration of *HLR's* continued commitment to serving the Texas bar was the introduction of *HLRe*, an online-only descendent of *Off the Record*—the *Review's* early attempt at publishing practice-oriented materials separate from *Houston Law Review's* main content.²¹

While Decade 5's spotlight shined brightly and deservedly on the many prominent scholars of the various lectures and symposia, the cumulative non-themed issue content of Volumes 41 through 50 leaps off the pages as comparable to the content to be found among almost any peer journal nationwide. But there was more.

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The Fall Frankel Lectures

The brainchild of an ambitious young editor in chief and a dedicated “young” faculty advisor,²² the Frankel Lecture Series started as an idea in the *Law Review*’s Ground Floor offices and culminated in one of the nation’s top annual legal symposia. Immediate evidence during Decade 5 appeared in Volume 41, which featured a keynote lecture by David B. Wilkins of Harvard on *Doing Well by Doing Good? The Role of Public Service in the Careers of Black Corporate Lawyers*,²³ with commentary by Robert W. Gordon of Yale and American Bar Foundation Director Bryant Garth.

In Volume 43, Michigan professor Evan Caminker (opining on a critically important Supreme Court opinion involving his home institution) provided commentary, along with Carla D. Pratt of Penn State, on the keynote address, *Taking Grutter Seriously: Getting Beyond the Numbers*, by Washington & Lee’s Dorothy A. Brown.²⁴ Later in the decade, such topics as cost-benefit analysis in environmental regulation, presidential succession, and amending the Voting Rights Act drew scholarship from Michael A. Livermore (NYU), Richard L. Revesz (NYU), Douglas A. Kysar (Yale), Alexander Volokh (Emory), Akhil Reed Amar (Yale), John D. Feerick (Fordham), Pamela S. Karlan (Stanford), and Ellen D. Katz (Michigan).

Timeliness and relevance proved to be continuing features of the Frankel Lectures throughout the decade. Witness, for example, Volume 49’s publication of *Codes of Conduct for a Twilight War*, in which *HLR* alumnus and former 9/11 Commission Executive Director Dr. Philip Zelikow keyed a discussion on the use of “enhanced interrogation” in the wake of the 10-year anniversary of the September 11, 2001 terrorist attacks, with commentary from David Cole of Georgetown and Mark Danner of UC Berkeley. Other examples throughout the decade included Volume 42’s discussion of France’s ban on conspicuous religious symbols in public schools (keynote by Steven G. Gey of Florida State; commentary by T. Jeremy Gunn of Emory and Dina Alsowayel of Houston; with a position paper from French Consul General Denis Simonneau), Volume 50’s examination of municipal bankruptcies in the years following the 2008 financial crisis (keynote by David Skeel of Penn; commentary by Clayton Gillette of NYU and Anna Gelpern of American University), and Volume 45’s lecture on immigrant rights in the wake of Hurricane Katrina (keynote by Kevin R. Johnson of UC Davis; commentary by Raquel E. Aldana of Harvard and Anna Williams Shavers of Nebraska).

Harvard, Yale, Penn, Stanford, NYU, Georgetown, Michigan. A French diplomat. The critical issues of the day. The Frankel Lectures, themselves in their second decade, embodied the *Review's* settled stature in its own fifth decade.

Symposia Issues

IPIL. Like the Frankel Lecture Series, *IPIL's* annual National Conference Symposium issues entered *HLR's* Decade 5 fresh from their own infancy in Decade 4. The continuing contributions of the *IPIL* Symposia to *HLR's* Decade 5 must of necessity be measured against the astronomical heights already achieved. "Improvement," given a baseline of Georgetown, Penn, Posner, and the like (a small sampling of Decade 4's *IPIL C.V.*), may not have been possible, but maintaining that high standard of scholarly contributions certainly was.

Only a complete list of Decade 5's contributors to the Symposia issues could do justice to the quality of the content consistently provided (and such a list is indeed available in the endnotes).²⁵ Yet even a small sampling of the articles published during the past 10 years reveals the broad reach of *IPIL's* ambition as the Law Center's youngest institute—and its corresponding impact on *HLR*.

In various issues throughout Decade 5, J. Thomas McCarthy (author of *McCarthy on Trademarks and Unfair Competition*) published *Proving a Trademark Has Been Diluted: Theories or Facts?*; Seventh Circuit Judge Frank Easterbrook authored *Contract and Copyright*; Graeme B. Dinwoodie of Oxford contributed not one but two articles; and copyright king David Nimmer of UCLA returned to help commemorate copyright law's tri-centennial with *Queen Anne in the Emperor's Shadow*.²⁶

In Issue 45:4 alone, Arti K. Rai of Duke published *Building a Better Innovation System: Combining Facially Neutral Patent Standards with Therapeutics Regulation*; Rebecca S. Eisenberg of Michigan contributed *Noncompliance, Nonenforcement, Nonproblem? Rethinking the Anticommons in Biomedical Research*; Janice M. Mueller of Pittsburgh and Donald S. Chisum (of *Chisum on Patents*) co-authored *Enabling Patent Law's Inherent Anticipation Doctrine*; Paul J. Heald of Georgia produced *Optimal Remedies for Patent Infringement: A Transactional Model*; and Michael J. Meurer of Boston University added *Inventors, Entrepreneurs, and Intellectual Property Law*.²⁷

Joined by contributions from the likes of Mark A. Lemley (Stanford), William M. Landes (Chicago), Peter S. Menell

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(UC Berkeley), Rebecca Tushnet (Georgetown), Ronan Deazley (Glasgow), and Catherine Seville (Cambridge), the participation of such notable academics in the annual IPIL Symposium issue firmly cemented the *Review* as a major center of IP scholarship on an international scale.

Other Symposia. Although articles from the IPIL Symposia and the Frankel Lectures together accounted for two of five issues published in each volume during Decade 5, the *Review* continued to receive valuable contributions to other, noninstitute symposium issues. Although fewer in number, these other symposia nonetheless accounted for some of the top professors to appear in print during *Houston Law Review's* fifth decade.

Volume 43's *The Booker Project: The Future of Federal Sentencing*, published one year after the Supreme Court ruled that the federal sentencing guidelines were advisory rather than mandatory,²⁸ elicited contributions from Nancy J. King of Vanderbilt, Douglas A. Berman of Ohio State, Ronald F. Wright of Wake Forest, and Frank O. Bowman of Missouri. Volume 45's *Thirty Years of Airline Deregulation: A Structure, Conduct and Performance Review* brought equally renowned scholars, with contributions from Michael E. Levine of NYU, Shubha Ghosh and Peter S. Carstensen of Wisconsin, and UH's own Darren Bush.

Subsequent Decade 5 symposia included topics related to health law, child-centered jurisprudence, and civil rights. Authors came from NYU, Washington University, Emory, LSU, Nebraska, and Arkansas. Although lacking Frankel's name recognition or IPIL's organizational clout, the non-institute symposia of Decade 5 nonetheless offered important and diverse contributions to *Houston Law Review*.

The IPIL Spring Lectures

Not to be outdone by its annual National Symposium counterpart, IPIL's Spring Lecture—the Baker Botts Lecture—brought numerous top-flight IP academics to *HLR* from across the nation in Decade 5. The scholarship was outstanding from the outset, when the series led off in 2004 with Jane C. Ginsburg of Columbia delivering the first lecture, published in Volume 41 as *The Right to Claim Authorship in U.S. Copyright and Trademarks Law*.²⁹

Of equal stature, subsequent Spring Lecturers have included Federal Circuit Judge Arthur J. Gajarsa and Professors Paul Goldstein of Stanford, William O. Hennessey of Franklin Pierce, F. Scott Kieff of Washington University, Douglas Lichtman of

UCLA, Robert P. Merges of UC Berkeley, R. Anthony Reese of UC Irvine, and Joel R. Reidenberg of Fordham.³⁰

Although contributing to the *Law Review* just a single article annually, the IPIL Spring Lecture is, indisputably, one of the *Review's* crown jewels, publishing authors of a level of prestige rivaling any journal in the country.

CONTEXT TOO

The Place and the Times

One recurring theme of these essays has been that “context matters”³¹ and that the histories of *HLR* and its host institution are bound together inextricably. That relationship, standing alongside the saga of the publication’s progressively more outstanding content as just described, provides “the rest of the story”³² of *Houston Law Review's* first half century.

The University of Houston College of Law had preceded *HLR* into being by 17 years, beginning in 1947 as a start-up operation with attitude.³³ Indeed, Founding Dean A.A. White had made clear to University President E.E. Oberholtzer, at a point in time when UH could best have been characterized as a place aiming to give strivers among the working people of Houston a chance of moving up in the world, that White’s ambition would be “to make the law school better than the University.”³⁴

In this, the new dean succeeded in the school’s first decade; and happily, as of this writing, the University of Houston itself has achieved Carnegie Tier One standing, with its law school continuing to lead the way in national rankings among its academic peers. As noted by the University of Houston’s current president and chancellor, Renu Khator, “The Law Center is the engine that drives the University of Houston’s excellence.”³⁵

Decade 1 of *Houston Law Review's* history was notable for the publication’s (more than) humble beginnings,³⁶ including the difficulty even of securing adequate funding for its earliest issues,³⁷ but also for the sheer drivenness of the men and women who brought the journal into being.³⁸ Decade 2 brought a consolidation of the gains of the prior 10 years, accompanied by a recognizably Texas-style determination to make things even better by carrying on boldly.³⁹ Also, during *HLR's* first two decades, the College of Law moved from the basement of the University’s main library into its own set of multiple buildings, more than doubling the size of the student body and enlarging the *Review's* membership from barely a baker’s dozen to more than two score.⁴⁰ Lamentably, the new buildings, while commodious, constituted an open and obvious

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hazard to any organization, including the school's law review, located on its lower two, mostly underground, floors: when it rained outdoors, it often poured inside.⁴¹

Decades 3 and 4 had been transformational. The College of Law, now the Law Center,⁴² increasingly devoted itself to creating or strengthening institutes, centers, and programs—a development which accurately reflected growing specialization in the practice of law.⁴³ Likewise, the content of *Houston Law Review* evolved notably. During the publication's second decade, *HLR* had begun to focus on themed issues built around topical specialties.⁴⁴ In Decade 3, content increasingly became centered on the scholarly output of such Law Center programs as the reinvigorated Health Law & Policy Institute.⁴⁵ That process took a great leap forward in Decade 4. Not only the Health Law program, but also the new Institute for Intellectual Property & Information Law, contributed annual symposia issues to the *Review*,⁴⁶ while the Frankel Lectures became a Law Center institution and the premier publishing event of the HOUS. L. REV. season.⁴⁷ Within *HLR*, membership numbers remained stable,⁴⁸ new procedures and better technologies revolutionized the publication process,⁴⁹ and finances took a dramatic turn for the better.⁵⁰

Oh. And that “water intrusion” in Decade 4, a.k.a. Tropical Storm Allison? If *Houston Law Review* could survive 35 inches of rain and dislocation from the Law Center for 13 months, surely it could survive any cloud on the Decade 5 horizon.⁵¹

Logistics

Just as the content published in *Houston Law Review* throughout Decade 5 demonstrated the rarefied status the journal had achieved, so too were *HLR*'s internal operations now comfortably fine-tuned to afford the student editors every opportunity to maximize their educational, career, and social experiences while on the *Review*.

Chiefly, timeliness of publication and financial security, historically two issues that had nagged the *Review* throughout its existence, had been turned squarely from disadvantages to decided organizational strengths.⁵² Publishing the *Review* on time, every time, had been made a realistic proposition in large part by the work of Bob's Brigade (a.k.a. Board 32)⁵³ and subsequent boards of Decade 4. In Decade 5, no EIC would report a drop-off in timeliness of publication, in spite of the numerous and somewhat routine challenges each board inevitably faced.⁵⁴

HLR's published authors have been grateful for the *Review*'s promptness, one notable professor "scolding" the student editors for being "so efficient, prompt, precise, and conscientious it makes all of the rest of us in the world look bad by comparison."⁵⁵ Another professor commented to Board 43's Editor in Chief: "I must tell you—your staff is the most professional I have ever worked with. Including the grand poohbas at Harvard!"⁵⁶ David Nimmer was so pleased with his experience that he provided the responsible board a supply of liquid courage to celebrate the publication of an IPIL Symposium issue.⁵⁷ Deserved recognition, no doubt, for tireless efforts culminating in a job well done.

As with publication promptness, the *Review*'s growing financial clout likewise had begun years prior with the publication of the *Texas Rules of Evidence Handbook*.⁵⁸ Decade 5's boards built upon prior successes, negotiating favorable contracts with vendors and publishers, funneling excess funds into a robust endowment, and promulgating a comprehensive set of financial guidelines to ensure that each new board is sufficiently educated concerning *HLR*'s monetary responsibilities and appropriately assisted by the faculty advisors and Board of Directors to be good stewards of the organization's purse. Thanks to such actions, the *Review* was able to weather two serious national financial downturns and emerge profitable at the end of its first half-century.

Internally, addressing a long-overdue oddity, Board 49 and Board 50's editors, on advice from the Board of Directors and the organization's faculty advisors, recalibrated the numerical publication cycle. At some point in Decade 3, the numerous books and special issues published by *HLR* had created a publication logjam that put the *Review*'s issue numbering perpetually "off." Following Board 49's publication of Issue 49:2 (the last of the 1380 pages of its five scheduled issues), Board 50 officially remedied the discrepancy, printing issues 50:1 through 50:5. Future volumes now will correspond directly to the number of the board printing them.⁵⁹

The *Review* was similarly responsive to ever-developing technologies, constantly updating its website to conform to those of peer journals, replacing old copiers with newer high-tech models, and buying new state-of-the-art computers.⁶⁰ On the editing front, an entirely electronic system was implemented, and two internal electronic databases were created to store master source files for each individual cite check and give each student greater access to various resources, including a dedicated *HLR* e-mail account and detailed electronic editing instructions.⁶¹

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No technological advancement, however, was more visible than the reintroduction of *HLRe: Off the Record*. This online-only companion to *Houston Law Review*, introduced by Board 48 and focusing exclusively on matters of practical concern to the profession, gives a voice to local practitioners without sacrificing valuable pages in the print journal.⁶² Its introduction created the need for a new editorial position—Chief *HLRe* Editor—which, when combined with an increase throughout the decade in the number of Senior Articles Editors from one to four, led to a growth in the Editorial Board’s “final” group of editors from the “final four” to the “final eight.”

Increased national prestige and its burdensome corollary responsibilities did not interfere with the student editors’ penchant for turning the lemon of law review servitude into something resembling lemonade. Numerous teambuilding activities were implemented throughout the decade, with each board recognizing the importance of morale to work product. Board 43 introduced an annual community service day event, Board 48 began a fall alumni tailgate to correspond with a University of Houston Cougars football game, Board 49 started a spring field day and resurrected a mixer with the Law Center’s faculty, and Board 50 proudly constituted the first annual “Battle of the Paddle” ping pong tournament among the student editors.

On the horizon, a deliberate reduction in student enrollment by the Law Center (designed to enhance the quality of a UHLC legal education even in the face of drastically fewer law school applications nationwide) doubtless will cause change, even if modest, for future boards.⁶³ Fortunately, the efficiencies developed by a half-century of precedent, and documented thoroughly throughout these essays, should moderate the impact significantly.

Advisors and Judges

These essays have been concerned, first and foremost, with the enormous contributions to *Houston Law Review*, made through the decades, by its student editors. Others, however, also served. Herewith, a few observations regarding faculty advisors and judges associated with *HLR* over the past 50 years.⁶⁴

Advisors. Contrary to popular memory (among, at least, the members of Boards 8 through 44), G. Sidney Buchanan was *not* the first, or only, faculty advisor ever to grace the halls of *Houston Law Review*. He did, however, come darned close, serving in all five decades of *HLR*’s initial 50 years. Preceding

him in office were A.A. White, fittingly so given White's support for the journal's founding, and Alan D. Cullison, who authored for the *Review* the most interestingly titled article of its first decade.⁶⁵

Buchanan, better known to his faculty colleagues as "Captain Nice" (in recognition of his legendary good cheer),⁶⁶ arrived on the *HLR* advisor scene in 1970, after only three years in the academy. The new advisor brought to his task a distinctive commitment and work ethic. "I assumed that Professor Buchanan would look at the major articles published in the first part of the *Review* and that he would pass over the student works," says Board 10 Editor in Chief Jan Baker. "I was mistaken; Professor Buchanan did, in fact, read every word that was published in Volume 10, including articles, comments, and notes."⁶⁷

"Always available but never intrusive," in the words of Board 27 EIC Tim Moore, "[Captain Nice] offered sage advice whenever asked." In short, he was the very model of a Modern Faculty Advisor to the *Law Review*, as Moore noted playfully (to the tune of "Modern Major General" from Gilbert and Sullivan's *The Pirates of Penzance*) upon the occasion of Buchanan's retirement from the faculty in 2004:

I'm brimming full of wisdom that's as ancient as a
pyramid,
But I'm not prone to giving my opinion unsolicited;
Although I have a point of view,
I only speak when spoken to;
I am the very model of Advisor to the *Law Review*.
(Chorus):
Although he has a point of view,
He only speaks when spoken to;
He is the very model of Advisor to the *Law Review*.⁶⁸

Buchanan's advisorship was interrupted in 1985–1987 when, in order to avoid the appearance of a conflict of interest between his duties at *HLR* and his responsibilities as Associate Dean for Academic Affairs for the Law Center, he stepped aside briefly (and apparently only officially) in favor of the *Review*'s first woman advisor, Irene Rosenberg. Rosenberg, who, together with her husband Yale, proved to be among the true powerhouse scholars of the Law Center's middle period, left office as an advisor upon Buchanan's return to harness after two years.⁶⁹

What followed was an important change in staffing, reflecting the student editors' increased ambitions and workload.

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From 1987 to date, *Houston Law Review* has been advised not by a single advisor, but by a team. Joining Buchanan on the masthead on his return from deaning were Laura Oren, the first UHLC graduate and HOUS. L. REV. alumna to serve as an advisor, and Mark Rothstein, whose Health Law & Policy Institute had become central to both the school and the journal when the former College of Law changed its name to reflect greater specialization in the practice of law and the rise of centers, institutes, and programs in the new Law Center.⁷⁰

Beyond those already named, eight other faculty members, typically among the Law Center's most distinguished and prolific scholars, have served as advisors over the last 20 years. A complete record of *HLR's* faculty advisors, including their dates of service and a listing of their scholarly contributions to the *Review*, appears in the attached endnote.⁷¹ The longest serving current advisor, Robert A. Ragazzo, has begun sneaking up on the record for extended service presently held by Captain Nice.

In the oral history which is the foundation of the present segment, Advisors Oren, Dow, and Ragazzo were (more or less) forthcoming on a number of topics.

Regarding the *surge of new advisors* in 1993 (when the count reached *HLR's* now-standard four), the advisors think they know the reason why. Until that time, the publication of books had been a major part of the *Review's* identity, but also a major management headache.⁷² By the early 1990s, one issue appeared containing no professional articles whatsoever; and the book projects had produced sporadic timing issues within the volumes of the period.⁷³ All three advisors added in 1993 had served on top-drawer law reviews (none of which published books) during their student days, Ragazzo and Seth Chandler at Harvard and Dow at Yale. Dow's experiences at *Yale Law Journal* had prepared him for the challenges now facing *Houston Law Review*. All of Yale's Volume 93, he recalls, "came out before Volume 92. That's just how far behind Volume 92 was." *HLR's* editors "maybe . . . just figured that I had some experience with massive delays . . . [and] with how much ill will that can create with authors."⁷⁴ Within a year, timeliness issues would become ancient history at the *Review*.⁷⁵

The new discipline paid off during the *Great Storm of 2001*.⁷⁶ Amazingly, Ragazzo remembers, after Allison flooded their offices the student editors "had literally nothing . . . but they raised about \$40,000" to keep *HLR* up and running and put out every issue that year on time. "I'm pretty sure the public couldn't tell that we had a major disaster. . . . That

shows how far the organization ha[d] come within [just a] decade.”⁷⁷

Like law professors everywhere, the faculty advisors have mixed views about the *editing process*—at *HLR* and every other law review. “[O]ur student editors,” says Dow, “ha[ve] gotten better [over the years at not] using too heavy a pen in trying to alter author style and author voice.” Alas, the prevailing culture at law reviews “is that there tends to be this dominant idea among . . . editors that every sentence needs a footnote, that if you say ‘I woke up and the sun rose in the east’ you need a footnote to some astronomical text.”⁷⁸ Ragazzo agrees: “You probably should let people say the sky is blue without footnoting it.”⁷⁹

Finally, the advisors agree also in their *overall assessment* of *Houston Law Review*. Ragazzo: “[T]his is an organization of which I am extremely proud. . . . [T]hey’ve made enormous strides in the last 20 years. . . . I hope they continue on this trajectory and I hope the school does as well. . . .” Oren: “[T]o some degree they are coattails for us, for this school.” Ragazzo: “That is amazing if you think about it. We will create a law school [of] which the law review can be proud. We will work on that!”⁸⁰

Judges. In all, the project that generated these essays has produced seven oral histories to date, counting for good measure an upcoming history—the first instance of what will henceforth become an annual event—of the outgoing board (in this instance, 50) conducted by the incoming Editor in Chief (this year, 51). Next up for exploration is the oral history convened to discuss the intersections of law schools, law reviews, and judges. The participants: three sitting and one retired jurist with University of Houston Law Center ties, all to be identified in due course.

In discussing their *paths to the bench*, each necessarily has a different story, beginning with the retired member of the panel, Ruby Kless Sondock.

Ruby Sondock was a double “first” for the Law Center: the first woman to be appointed to the Harris County Court of Domestic Relations (now the Family Court, which amazingly, until Sondock’s appointment in 1973, had managed to get along without a single female member since inception) *and* the first regularly appointed woman justice of the Supreme Court of Texas (taking office in 1982).⁸¹ Sondock had enrolled in the University of Houston College of Law “with no intention of practicing law. I was going to be the best legal secretary in

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Houston, only to find out that lawyers don't want to hire . . . a secretary who has been to law school."⁸² Graduating, however, as valedictorian of the Class of 1962, she decided to step up and meet her fate.

Here is the story, condensed for present purposes but available in the full transcript of the oral history, of Ruby Sondock's appointment to the Texas Supreme Court:

JUSTICE BROWN [Justice Jeff Brown of the Texas Supreme Court, UHLC 1995, *HLR* Board 32, moderator of the Judges Oral History, and formerly a member of the 14th Court of Appeals in Houston]: Governor Clements is who put you on the Supreme Court. . . .

JUDGE SONDOCK: It was 3 o'clock in the afternoon, and I took my afternoon break . . . from the [family court] jury.

Someone called [from Austin] and said one of the jurists, Justice Denton, has died. . . . They said, "The Governor wants to appoint a replacement." . . .

I said, "Okay, who is it?" And they said, "You."

I said, "Come on." She said, "No. I'm serious."

And I said, "Well, I'll call you back. . . . I have to talk it over [with my husband] tonight."

She says, "No. I've got to give him an answer."

I said, "Well let me call my husband and I'll call you back."

So I called my husband and I said, "It appears that there's a vacancy on the Supreme Court, and it appears that they're considering me. What should I"—

And he says, "We'll talk about it tonight."

I said, "No. I've already [tried] that deal and they said no; that I've got to give them a yes or no now."

He says, "I tell you what, tell them yes and we'll talk about it tonight." . . .

So, I called her back and said, "Yes. We'll talk about it tonight."

She says, "Well I'm telling [the governor] yes."

So when we [got home] at the end of our work day, . . . [t]he phone was literally ringing when we walked in the door. And it was this young [aide to the Governor, who] wanted me to come up the next morning. . . .

So . . . the next morning we went up [to Austin]. And I was pressured pretty hard to say that I would [accept the

appointment], but I just was not willing to

What I didn't know was that the press was already there [T]hen they said, "The Governor wants to see you."

So I went in, I met him for just a minute, and he said, "We've got to go now. The press is here."

And that was it. I mean that was the fastest thing I've even seen.⁸³

Subsequently, upon the retirement of the Court's Chief Justice, Sondock was offered the opportunity to fill out the remaining two years of his term as Chief herself. Preferring her work as a trial judge, however, she returned home to Houston and ran unopposed for election to the district court.

The irony is that, had Sondock served on *Houston Law Review* (and clearly, as valedictorian of her class, she would have qualified), *HLR* could have joined the Law Center in claiming the distinction of having placed the first woman on the Texas Supreme Court (as well as its first Hispanic Justice).⁸⁴ But she did not, and the journal could not. *Houston Law Review* was founded the year after Ruby Sondock's graduation.

The remaining three members of the judges panel all *did* serve on HOUS. L. REV. and of course have interesting stories of their own. Judge Cathleen Cochran, the second woman (and UHLC's first) to serve on the Court of Criminal Appeals, the court of last resort for all criminal matters in Texas, has appeared earlier in these essays⁸⁵ and will take a final bow in the concluding section of the present narrative.

Justice Evelyn Keyes followed a somewhat circuitous route to the bench, earning Ph.D.s in English and Philosophy from the University of Texas and Rice University respectively, before receiving her J.D. from the University of Houston, then practicing privately and serving as a special assistant attorney general before appointment to the Texas Court of Appeals, First District (Houston) in 2002.

Justice Jeff Brown's ascent to the bench followed perhaps the most traditional path to judicial service, beginning with practice at a prominent local law firm founded in 1840 and continuing with trial court service before appointment to the Court of Appeals' 14th District (also in Houston) in 2007. He was appointed to the Supreme Court of Texas in September 2013 to fill the vacancy created when Justice Nathan L. Hecht was appointed Chief Justice. Judges Cochran, Keyes, and Brown all have published in *Houston Law Review*.⁸⁶

Regarding *approaches to judging*, the panel participants had

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numerous observations. Justice Keyes, for example, despite her doctorate in philosophy, found that the subject “didn’t affect real life enough. Law is not abstract. Real people are affected by what we do all the time [as lawyers],”⁸⁷ including as judges. Picking up on Keyes’s observation about “our appellate law being scholarly, but scholarly common sense,” Judge Cochran related writing her opinions for a perhaps unusual audience. “When I first started,” she said, “I always had . . . my 12-year-old grandson read[] them. . . . [N]ow I have . . . somebody else, always a non-lawyer, read[] them. Because if they don’t make sense to non-lawyers, then you just haven’t gotten your job done.”⁸⁸

None of the female jurists on the panel believed they had been *discriminated against as women* during law school. Judge Cochran: “No, not at all.”⁸⁹ Justice Sondock: “[I]f there was any discrimination about any woman at this university, I’ve never heard of it. And goodness knows, I didn’t know any.”⁹⁰ Justice Keyes: “I did not experience any discrimination here. I do think that women in litigation have a hard time being recognized even to this day They have to go out and make their opportunities. . . . [T]here is discrimination still lingering, not consciously, but it is there. I don’t think that was true [at the Law Center].”⁹¹

All of the judges have *memories of Newell Blakely*. Dean Newell H. Blakely’s discipline in the classroom was the stuff of legend.⁹² Students, however, experienced him in different ways. Judge Keyes, remembering Blakely’s absolute insistence on full preparation for every class: “I was scared of him the whole time.”⁹³ Justice Sondock, recalling an office meeting in which she stood up forcefully, on behalf of a male classmate with a 250-mile daily round-trip commute, when she believed Blakely was applying his attendance rules too strictly: “Well, it was an experience. . . . [But] from that point on, he and I had a very respectful relationship.”⁹⁴ Judge Cochran, who inherited responsibility for Blakely’s *Texas Rules of Evidence Handbook* (now passed along to Justice Brown):⁹⁵ “I just loved Professor Blakely. Anything he taught, I took. And I loved every minute of Evidence and have ever since. . . . I think he is just sort of one of those very few people that you’re lucky to meet in a generation.”⁹⁶ Justice Brown to Judge Cochran, summarizing: “[Y]ou learned under the best.”⁹⁷

Finally, there is the matter of *judicial style and humor*. Judge Cochran, currently the senior serving judge among the four panel participants, is renowned in this respect (as, of course, in many others). A colleague on the Court of Criminal Appeals provides this glimpse of Cochran on the bench and in chambers:

Cochranisms make Cathy's questions during oral argument not only insightful and effective, but also entertaining and memorable. Just this week . . . her questions referred to a court's order as including "helpful hints from Heloise," to Skype as a "modern miracle," to a person taking pictures as "Ansel Adams," and to the issuance of an appellate court's mandate as "the fat lady sang."

Her opinions are equally entertaining. In one opinion discussing the repetition of a party's argument she states, "He added more whistles and bells on appeal, but the tune was the same."⁹⁸

Justice Brown is at least competitive on these matters. From a recent opinion: "We conclude that a rational jury could have believed the officers' undisputed testimonies and found beyond a reasonable doubt that [appellant] exercised actual care, custody, control, or management over the cocaine by having it in his buttocks."⁹⁹ Priceless.

Exemplars of Excellence

The University of Houston's first dean of the College of Law famously told his appointing president that he aimed to make UH's newest unit better than the institution that had spawned it—and then proceeded to implement admissions requirements for students that were stronger than those at the state's flagship law school.¹⁰⁰ Excellence above all. With apologies to so many who contributed also, what follows is a brief roll call of a few of those who helped make it happen.

A.A. White and Newell Blakely. The two titans among the early deans at the University of Houston College of Law were its Founding Dean, A.A. White, and his successor, Newell H. Blakely. White's determination to achieve excellence at the College took many forms, including high standards for faculty hiring.¹⁰¹ Most importantly to *Houston Law Review*, however, White was determined to project the institution through its scholarly excellence, and for that reason he proved a moving force behind the journal's founding.¹⁰² In all, White served 11 years as dean,¹⁰³ himself contributing three articles to the publication.¹⁰⁴ The scholars he hired contributed even more.¹⁰⁵

Blakely, whom White rescued from two years of practice in Harlingen, Texas, and who would himself serve nine years as dean,¹⁰⁶ seems initially to have been skeptical of the need for, and practicability of, a law review at the College of Law. As compared

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with White, Blakely was a gifted teacher but a less dedicated scholar.¹⁰⁷ As dean, when students approached him (with White's support) about starting up a law review, Blakely demurred, telling the students they could have a review only if they could somehow find the funding. They did, and he agreed.¹⁰⁸ Seventeen years into *HLR's* young life, Blakely wrote it an article.¹⁰⁹ But then, apparently impressed by the contributions the publication was making to the school¹¹⁰ and possibly inspired by the wave of new scholars hired onto the faculty from the mid-1970s forward,¹¹¹ he did something even more wonderful. In 1983, following hard upon the promulgation of new evidence rules by the Texas Supreme Court, Blakely helmed the *Review's* publication of the *Texas Rules of Evidence Handbook*¹¹²—a monument of scholarship and, in years to come, a monumental contributor to *HLR's* bottom line.¹¹³

G. Sidney Buchanan. The contributions of the *Review's* own Captain Nice as a faculty advisor have been celebrated above. What is worth noting separately here, because it speaks not only to Buchanan's cheerful support for the editors of *Houston Law Review* personally over so many decades but also to his unstinting efforts to provide grist for the mill of the *Review's* central mission, is the sheer mountain of *HLR* scholarship produced by this one individual. During his long career, Professor Buchanan published widely in all manner of national law reviews. But his first love was always HOUS. L. REV. Beginning with his initial article, *The Privilege Against Self-Incrimination: To What Extent Should It Protect a State Employee or Professional Licensee Against the Loss of His State-Created Status?*,¹¹⁴ in 1967, extending through his magnum opus, *The Quest for Freedom: A Legal History of the Thirteenth Amendment*,¹¹⁵ in 1974, and concluding with *A Tribute to John Nixon*,¹¹⁶ upon the occasion of his long-time faculty friend's 50th year in teaching, in 2006,¹¹⁷ Captain Nice would publish *more than two dozen times* in the pages of *Houston Law Review*. No slacker, he; an astonishing record of productivity.

Faces Forward. The contributions of White, Blakely, and Buchanan to *Houston Law Review* are obvious and unparalleled. While not as directly important to the *Review's* particular story, four other figures who arrived at the College of Law after the Terrific Trio deserve brief mention here. John Neibel, as dean, achieved one thing that his two predecessors had not: he got the new buildings built.¹¹⁸ Without them, the huge expansion of student enrollments, and *HLR's* greatly

enlarged boards from the 1970s forward, would never have occurred. (Nor, for that matter, the near drowning of the school and the *Review* in 2001.) Similarly, the interregnum of White and his associate dean, Michael T. Johnson, after Neibel's resignation, the deanship of George Hardy, and Johnson's brief stint as acting dean after Hardy's departure, are easily overlooked. But it was during precisely those years that the College of Law hired the stellar array of young scholars who would lead the school, and enrich the pages of *Houston Law Review*, in the decades to come.¹¹⁹

Cathleen Cochran (Herasimchuk). Just as the era above was ending, one "Cathy Herasimchuk" arrived on the *HLR* scene. Like so many of the outstanding young women who traversed the shores of the Law School Too Near the Bayou during its first five decades (see the concluding chapter in the story of the *Review's* women editors in chief in Oddments below), she left big footprints.¹²⁰ As a student, Herasimchuk came to law school "with the hope of making some difference in the Texas criminal justice system,"¹²¹ met Newell Blakely on her first day of classes, assisted him in the preparation of the *Evidence Handbook's* first edition as a 2L on Board 20, served as EIC of Board 21, singlehandedly revised the *Handbook's* second edition for publication by Board 30, and in the process became known in Texas legal circles as "Ms. Evidence." She also became known as "Cathleen Cochran," and then "Judge Cochran," when, after a failed run at election to the Texas Court of Criminal Appeals, she concluded that "you can't win Dog Catcher with a name like [Herasimchuk]"—and along with her husband adopted her maiden name.¹²² Following gubernatorial appointment to the Court and repeated reaffirmations by the voters of the state, Judge Cochran plans to retire from a distinguished career on the bench at the conclusion of her present term.

Benign Builders. Empire builders build mostly for their own satisfaction; benign builders, mostly for the sake of their institutions. The latter decades of *Houston Law Review's* first 50 years were an era of benign builders. Dean Robert L. Knauss turned the "College of Law" into the "Law Center."¹²³ Raymond T. Nimmer founded the Computer Law Institute.¹²⁴ Mark Rothstein rejuvenated and renamed the Health Law & Policy Institute.¹²⁵ A copyright law professor and a patent law professor created the Intellectual Property Program.¹²⁶ A "young professor" and two EICs, with the help of an acting dean, conceived and financed the Frankel Lectures.¹²⁷ Dean

Stephen Zamora brought together the computer and IP programs as the Institute for Intellectual Property & Information Law.¹²⁸ IPIL's leaders imagined into reality the institute's annual national conference and spring lecture.¹²⁹ Each of these events, together with the efforts of all the boards of the period, produced the lecture series and symposium issues that provided the springboard for the *Review's* ascent to national prominence.

The "Leap" Boards. Few, if any, boards faced greater challenges, or accomplished more, than those of *HLR's* founding decade. But certainly the "Leap" boards, i.e., those editors who served during Decade 4 when the *Review* achieved its great leap forward, came close. In addition to conceiving and conducting the first Frankel Lectures,¹³⁰ the early boards of the decade engineered broad changes in the journal's operations and finances, which endure to the present day. For example, whereas Cathy Herasimchuk's Board 20 had come into office with the publication a year behind schedule (because of the *Evidence Handbook's* first edition),¹³¹ the Leap boards put in place rigorous procedures to monitor and maintain on-time performance by their successors.¹³² Likewise, while Nancy Taylor Reed's Board 14 had scurried to lift page proofs above a rising water line during one of the new buildings' early precipitation events,¹³³ nothing in the history of American legal education compares with the *après le deluge* pluck and courage of the late Leap boards which encountered and overcame Tropical Storm Allison's soaking fury on June 9, 2001.¹³⁴

Raymond T. Nimmer. Hired in 1975 during A.A. White's second term as dean,¹³⁵ Raymond T. Nimmer embodied White's first-term determination that the College of Law should be a place dedicated to excellence. Nimmer's own scholarship, including his six contributions to HOUS. L. REV., more than amply fulfilled White's founding vision. But White's vision was Nimmer's also. Concerned as Associate Dean in 1981 that the *Review's* mission was unsustainable without stable financing, he mandated that the students somehow conjure up private financing¹³⁶ and thus helped push *HLR* toward long-term stability in funding. Presented as Acting Dean in 1994 with the question of whether to green-light the *Review's* initiative to launch a potentially prestigious but dauntingly costly new lecture series, Nimmer volunteered to go to the Frankel Foundation and ultimately secured long-term underwriting.¹³⁷ Again and again, he supported institutional advances, creating

the Computer Law Institute in 1985 and merging it into IPIL in 1999.¹³⁸ And in 2012, during the final year of his second deanship, Nimmer decided to throw *Houston Law Review* a party for 550 to celebrate the publication's 50th Anniversary. It was—how to say?—a very excellent party.

The Greatest Generation. Back to where it all began: with the long-ago students, now distinguished practitioners with estimable resumes, who made it all happen in the first place. We saw them last at the conclusion of *Driven*,¹³⁹ the story of their decade.

John O'Quinn,¹⁴⁰ the personification of Decade 1's drivenness, lived a life full of triumph and tragedy and died too early. But not without, at his very last meeting as a member of *HLR's* Board of Directors (and as he had so many times over the years), scaring the living daylights out of young *Review* editors with a typically fierce cross-examination of their report concerning his publication's current operations and finances.¹⁴¹ He left the institution of *Houston Law Review* immeasurably better by his contributions.

Concluding observations by other living members of the *Driven* generation follow.¹⁴²

Marvin Nathan, UHLC Class of 1966:¹⁴³ “Over the last almost 20 years, I have had the good fortune to be involved with the Frankel Family Foundation and the Frankel Lecture Series. During that time, I've seen the *Law Review* editors and I'm so impressed with them, with the leadership that these young people have displayed to me. It's hard to see how you can get any better or how you can achieve more than what they've done, but they have absolutely continued to get better and better and better. I only look for more of that to come.”

Lawrence (Larry) Pirtle, UHLC Class of 1966:¹⁴⁴ “The publication history, timeliness and quality of this *Review*, I think, stand with any. There's a deep legacy here. I was the incoming President of the Law Foundation in 2001, and I remember seeing the devastation to our law school and the *Law Review* after Allison. But the *Law Review*, those editors, just marched forward, and how they did it, I don't know. That type of drive and that type of excellence and commitment to what you're doing is something I don't think is going to be lost. What the *Review* 25 years from now will have had to deal with or

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what form it'll have taken, I don't know, but I'm just confident in our future."

Alvin Zimmerman, UHLC Class of 1967:¹⁴⁵ "The quality of the current editorial boards, from what I see, could be the law review board at any major law school in the country. The young people I see on that board today, they are spirited, they are high quality, they are inspirational, they are brilliant and they put out a journal that's second to none. So my belief is that the foundation left by all of us who have gone before has proven to be a good solid rock that each and every new level of this now very high rise building can continue to grow on."

Carol Dinkins, UHLC Class of 1971:¹⁴⁶ "Had it not been for *Houston Law Review*, my career would have been vastly different. *Houston Law Review* today enjoys great prestige, earned by the hard work of its 50 boards. My fervent commendation goes to those who have worked so hard to achieve so much in this half century of excellence, and my deep appreciation goes to the members of Board 50 who while fostering the skills and scholarship of today's students—our future—have also made the time to capture this inspiring history."

* * *

In the span of its first fifty years, *Houston Law Review* had gone from barely birthed to internationally renowned, from cash-strapped to profitable, from uncomfortable adolescence to indisputable maturity.

At the end of the day, at the end of these essays, one thing can be said with certainty. By the conclusion of its fifth decade, *HLR* had reached "a place beyond." As its founders had predicted, *Houston Law Review* was now . . .

Enduringly great.

1. The history that follows, except as otherwise noted, is based solely on the recollections of the senior co-author of this essay.

2. Dan G. Matthews, *Editor's Page*, 1 HOUS. L. REV. viii, viii (1963).

3. *Law Journals: Submissions and Ranking*, WASH. & LEE U. SCH. LAW, <http://lawlib.wlu.edu/LJ/> (last visited Apr. 22, 2013) (follow "access prior surveys" link, then select "combined score" for 2011; *Houston Law Review* is ranked 41st out of 1,686 journals).

4. Marvin Nathan, Larry Pirtle, John O'Quinn, Alvin Zimmerman, Carol Dinkins—these student editors, and countless others, worked tirelessly to create the policies, procedures, and even institutional pride that would be necessary for the *Review* first to achieve existence, then one day to achieve greatness. See Craig Joyce, *Driven: The First Decade of Houston Law Review*, *supra*, at 17–20 (recounting the many efforts of "The Boys of

Pointe du HLR). Appropriately, Nathan and Zimmerman continue to this day to be actively concerned with the *Review's* operations, both serving on the Board of Directors, as did John O'Quinn until his death in 2009.

5. See *id.* at 22 n.36 (relating the job description of Board 1's sole articles editor as "find[ing] some articles"). In contrast, the *HLR* of today receives more than 1,200 submissions each year from authors from all over the nation and the world.

6. *Houston Law Review's* early pages were populated also by such "ephemeral fillers" as "Books Reviewed," "Books Received," and "Current Materials." *Id.* at 26.

7. *Id.* at 11–12.

8. *Id.* at 13.

9. Just when the Law Center first occupied TUII is a matter of some confusion as the memories of that era's faculty leaders fade. But the authors of these essays now believe that date to have been the fall of 1975, based on the recollections of Board 15's Managing Editor, King Waters:

TUII opened with our class. This was the fall of 1975. So the class of 1978 was the class that occupied TUII. The number of students doubled at the school. This was why we had so many new faculty members. There may have been some students who took classes that summer in TUII, but a friend of mine was in the class of 1975, May graduates, and when I told him my classes were in TUII, he said, "What do you mean, TUII?"

E-mail from Waters to Craig Joyce (Dec. 15, 2012).

10. Craig Joyce & Matthew Hoffman, *Carry On Boldly: The Second Decade of Houston Law Review*, *supra*, 41–44, 51–53.

11. *Id.* at 46–50.

12. *Id.* at 48–50.

13. See generally Craig Joyce & Matthew Hoffman, *Centered: The Third Decade of Houston Law Review*, *supra*.

14. *Id.* at 86–87, 97 n.29.

15. *Id.* at 86–87, 93–94.

16. See generally Craig Joyce & Matthew Hoffman, *The Great Leap Forward: The Fourth Decade of Houston Law Review*, *supra*.

17. D. Don Welch, "What's Going On?" in *the Law School Curriculum*, 41 HOUS. L. REV. 1607 (2005); Melissa B. Jacoby, *Negotiating Bankruptcy Legislation Through the News Media*, 41 HOUS. L. REV. 1091 (2004); Sheila R. Foster, *Causation in Antidiscrimination Law: Beyond Intent Versus Impact*, 41 HOUS. L. REV. 1469 (2005).

18. Albert C. Lin, *Erosive Interpretation of Environmental Law in the Supreme Court's 2003–04 Term*, 42 HOUS. L. REV. 565 (2005); Lackland H. Bloom, Jr., Grutter and Gratz: *A Critical Analysis*, 41 HOUS. L. REV. 459 (2004); Gregory W. Bowman, *Thinking Outside the Border: Homeland Security and the Forward Deployment of the U.S. Border*, 44 HOUS. L. REV. 189 (2007); Sarah Rudolph Cole, *On Babies and Bathwater: The Arbitration Fairness Act and the Supreme Court's Recent Arbitration Jurisprudence*, 48 HOUS. L. REV. 457 (2011). Judge Grant Dorfman of the 129th Judicial District Court of Harris County ensured that similar consideration was given to our nation's legal underpinnings, on the opposite end of the roughly 230-year timeline, by examining the legal validity of the Founding Fathers' "no taxation without representation" call to arms. Grant Dorfman, *The Founders' Legal Case: "No Taxation Without Representation" Versus Taxation No Tyranny*, 44 HOUS. L. REV. 1377 (2008).

19. David Hittner & Lynne Liberato, *Summary Judgments in Texas: State and Federal Practice*, 46 HOUS. L. REV. 1379 (2010); Lynne Liberato & Kent Rutter, *Reasons for Reversal in the Texas Courts of Appeals*, 48 HOUS. L. REV. 993 (2012).

20. Gray H. Miller & Emily Buchanan Buckles, *Reviewing Arbitration Awards in Texas*, 45 HOUS. L. REV. 939 (2008); Edward J. Imwinkelried & Andrew Amoroso, *The Application of the Attorney–Client Privilege to Interactions Among Clients, Attorneys, and Experts in the Age of Consultants: The Need for a More Precise, Fundamental Analysis*, 48 HOUS. L. REV. 265 (2011).

21. Joyce, *Driven, supra*, at 14. Examples of HLRé's content since its inception include an article instructing young lawyers on the keys to professional success, a local appellate expert opining on Texas arbitration law, and a spotlight on Judge Gray Miller. Patricia Hunt Holmes, Susan M. Sorensen & Donald L. Kyle, *Even Employees Are Self-Employed—Success as a Professional Takes More Than Professional Ability*, 3 HLRé 20 (2012); Cameron Pope, *Texas Arbitration Law: More Choices—and More Risk—Than Ever*, 2 HLRé 1 (2012); Emily Buchanan, *Spotlight on Judge Gray H. Miller*, 1 HLRé 1 (2010).

22. See Joyce & Hoffman, *Leap, supra*, at 119–22.

23. David B. Wilkins, *Doing Well by Doing Good? The Role of Public Service in the Careers of Black Corporate Lawyers*, 41 HOUS. L. REV. 1 (2004).

24. Dorothy A. Brown, *Taking Grutter Seriously: Getting Beyond the Numbers*, 43 HOUS. L. REV. 1 (2006); Evan Caminker, *Post-Admissions, Educational Programming in a Post-Grutter World: A Response to Professor Brown*, 43 HOUS. L. REV. 37 (2006); Carla D. Pratt, *Taking Diversity Seriously: Affirmative Action and the Democratic Role of Law Schools: A Response to Professor Brown*, 43 HOUS. L. REV. 55 (2006).

25. IPIL contributing authors (introductory and prologue material excluded) throughout Decade 5 are listed chronologically below:

41:3 – Graeme B. Dinwoodie (Chicago-Kent); Stacey L. Dogan (Northeastern); A. Michael Froomkin (Miami); William M. Landes (Chicago); Mark A. Lemley (Stanford); J. Thomas McCarthy (San Francisco)

42:4 – Judge Frank H. Easterbrook (7th Circuit); Clayton P. Gillette (NYU); Robert W. Gomulkiewicz (Washington); Robert L. Oakley (Georgetown); R. Polk Wagner (Penn)

44:4 – Keith Aoki (UC Davis); Thomas F. Cotter (Minnesota); Robert Rosenthal Kwall (DePaul); Peter S. Menell (UC Berkeley); Neil Weinstock Netanel (UCLA)

45:4 – Donald S. Chisum (*Chisum on Patents*); Rebecca S. Eisenberg (Michigan); Paul J. Heald (Georgia); Janice M. Mueller (Pittsburgh); Michael J. Meurer (Boston University); Arti K. Rai (Duke)

46:4 – Graeme B. Dinwoodie (Oxford); Rochelle C. Dreyfuss (NYU); Cynthia M. Ho (Chicago); Charles R. McManis (Washington University); Jerome H. Reichman (Duke); Peter K. Yu (Drake)

47:4 – Oren Bracha (Texas); Ronan Deazley (Glasgow); David Nimmer (UCLA); Catherine Seville (Cambridge); Diane Leenheer Zimmerman (NYU)

48:4 – Ann Bartow (Pace); Barton Beebe (NYU); Greg Lastowka (Rutgers); Mark McKenna (Notre Dame); Rebecca Tushnet (Georgetown)

50:2 – Colleen V. Chien (Santa Clara); Kevin Emerson Collins (Washington University); Paul M. Janicke (Houston); Mark R. Patterson (Fordham); Lee Petherbridge (Loyola L.A.); David L. Schwartz (Chicago-Kent); Katherine J. Strandburg (NYU)

26. J. Thomas McCarthy, *Proving a Trademark Has Been Diluted: Theories or Facts?*, 41 HOUS. L. REV. 713 (2004); Frank Easterbrook, *Contract and Copyright*, 42 HOUS. L. REV. 953 (2005); Graeme B. Dinwoodie, *Trademarks and Territory: Detaching Trademark Law from the Nation-State*, 41 HOUS. L. REV. 885 (2004); Graeme B. Dinwoodie & Rochelle C. Dreyfuss, *Designing a Global Intellectual Property System Responsive to Change: The WTO, WIPO, and Beyond*, 46 HOUS. L. REV. 1187 (2009); David Nimmer, *Queen Anne in the Emperor's Shadow*, 47 HOUS. L. REV. 919 (2010).

27. Arti K. Rai, *Building a Better Innovation System: Combining Facially Neutral Patent Standards with Therapeutics Regulation*, 45 HOUS. L. REV. 1037 (2008); Rebecca S. Eisenberg, *Noncompliance, Nonenforcement, Nonproblem? Rethinking the Anticommons in Biomedical Research*, 45 HOUS. L. REV. 1059 (2008); Janice M. Mueller & Donald S. Chisum, *Enabling Patent Law's Inherent Anticipation Doctrine*, 45 HOUS. L. REV. 1101 (2008); Paul J. Heald, *Optimal Remedies for Patent Infringement: A Transactional Model*, 45 HOUS. L. REV. 1165 (2008); Michael J. Meurer, *Inventors, Entrepreneurs, and Intellectual Property Law*, 45 HOUS. L. REV. 1201 (2008).

28. United States v. Booker, 543 U.S. 220, 245 (1995).

29. Jane C. Ginsburg, *The Right to Claim Authorship in U.S. Copyright and Trademarks Law*, 41 HOUS. L. REV. 263 (2004).

30. Paul Goldstein, *Copyright on a Clean Slate*, 48 HOUS. L. REV. 691 (2011); William O. Hennessey, *Protection of Intellectual Property in China (30 Years and More): A Personal Reflection*, 46 HOUS. L. REV. 1257 (2009); F. Scott Kieff, *IP Transactions: On the Theory & Practice of Commercializing Innovation*, 42 HOUS. L. REV. 727 (2005); Doug Lichtman, *Understanding the Rand Commitment*, 47 HOUS. L. REV. 1023 (2010); Robert P. Merges, *The Concept of Property in the Digital Era*, 45 HOUS. L. REV. 1239 (2008); R. Anthony Reese, *What Copyright Owes the Future*, 50 HOUS. L. REV. 287 (2012); Joel R. Reidenberg, *E-Commerce and Trans-Atlantic Privacy*, 38 HOUS. L. REV. 717 (2007).

31. *Grutter v. Bollinger*, 539 U.S. 306, 327 (2003).

32. The phrase was popularized by Paul Harvey, who used it as the title of a segment of his long-time radio broadcasts.

33. See generally Joyce, *Driven*, *supra*.

34. *Id.* at 4.

35. Remarks at University of Houston Law Center Gala (Mar. 23, 2013).

36. See Joyce, *Driven*, *supra*, at 4–9.

37. *Id.* at 8.

38. *Id.* at 17–20.

39. See generally Joyce & Hoffman, *Boldly*, *supra*.

40. See Joyce, *Driven*, *supra*, at 15–17; Joyce & Hoffman, *Boldly*, *supra*, at 41–44.

41. See Joyce, *Driven*, *supra*, at 23 n.53; Joyce & Hoffman, *Boldly*, *supra*, at 41–42.

42. See Joyce & Hoffman, *Centered*, *supra*, at 80–81.

43. *Id.* at 78–81.

44. See Joyce & Hoffman, *Boldly*, *supra*, at 48–50.

45. See Joyce & Hoffman, *Centered*, *supra*, at 81–84.

46. See Joyce & Hoffman, *Leap*, *supra*, at 116–19.

47. *Id.* at 119–22.

48. The Law Center had discontinued its ambitious building program after the opening of its second teaching unit during Decade 2. See Joyce & Hoffman, *Boldly*, *supra*, at 42–43. Now occupying what *HLR* members confidently (but, as Allison would prove, erroneously) expected was the *Review*'s permanent home, nothing much remained to do but spiff up the offices from time to time. See, e.g., Joyce & Hoffman, *Leap*, *supra*, at 123.

49. See Joyce & Hoffman, *Leap*, *supra*, at 122–26.

50. *Id.* at 122.

51. The editors of Board 43 and 44 nearly had a repeat of the *force majeure* events caused by Tropical Storm Allison when Hurricane Rita threatened the Houston area in September 2005. As the fourth most intense Atlantic hurricane ever recorded approached from the Gulf of Mexico, the students “had to evacuate the basement as the rest of Houston was packing up and jamming the freeways.” Decade 5 Oral History of Houston Law Review (Mar. 8, 2013) (on file with Houston Law Review), moderated by Michelle Gray (Editor in Chief of Board 48), with Alex Roberts (Editor in Chief of Board 43), Christine McMillan (Editor in Chief of Board 44), Matthew Hoffman (Editor in Chief of Board 49), and Peter Danysh (Editor in Chief of Board 50) (quoting Roberts). Luckily for the city of Houston and *Houston Law Review*, the Houston area largely escaped major damage.

52. According to Christine McMillan of Board 44, on one of her first days on the job she was cautioned by one of the dedicated faculty advisors that “the *Law Review* does not publish late and we are in fact a well-oiled machine.” *Id.* (quoting McMillan).

53. Joyce & Hoffman, *Leap*, *supra*, at 123–25.

54. And this, notwithstanding challenges such as multiple authors withdrawing from a symposium for reasons completely unrelated to *HLR*, see Board Report (Oct. 13, 2009) (on file with Houston Law Review), Hurricane Ike causing a multi-day closure of

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the University, see Board Report (Oct. 14, 2008) (on file with Houston Law Review), Hurricane Sandy causing mayhem in the travel plans of several Frankel participants, see Board Report (Apr. 9, 2013) (on file with Houston Law Review), and one committed author packing up and moving to Israel for a semester, see Board Report (Oct. 11, 2011) (on file with Houston Law Review).

55. Board Report (Oct. 11, 2005) (on file with Houston Law Review).

56. *Id.*

57. Board of Directors Meeting Minutes (Apr. 12, 2011) (on file with Houston Law Review). The authors aver, on information and belief, that all of the student editors were of legal age and that the gift was greatly appreciated.

58. See Joyce & Hoffman, *Centered*, *supra*, at 86–87, 93–94; Joyce & Hoffman, *Boldly*, *supra*, at 52.

59. Joyce & Hoffman, *Centered*, *supra*, at 97 n.29.

60. See, e.g., Board Report (Apr. 9, 2013) (on file with Houston Law Review).

61. Board Report (Oct. 11, 2005) (on file with Houston Law Review).

62. With all manner of law review scholarship becoming increasingly available electronically as the decade progressed, see, e.g., Questionnaire Response, Patrick Byrd, Boardwalk Pipeline (Mar. 29, 2012) (on file with Houston Law Review), Boards 47 and 48 recognized the need to be responsive to the rapidly changing technology of the day. According to Board 48 Editor in Chief Michelle Gray, “I think that during my tenure an underlying current was, what does the future look like? How are we going to change to be a journal of the future? And [HLRe] was our step to test the waters.” Decade 5 Oral History, *supra* note 51 (quoting Michelle Gray, Editor in Chief of Board 48).

63. By the end of Decade 5, the reduction in class sizes, attributable in some measure to continued uncertainty surrounding the legal job market nationwide, resulted in the removal of two editorial positions from the masthead to “ensure a smooth transition” between Boards 50 and 51. Decade 5 Oral History, *supra* note 51 (quoting Peter Danysh, Editor in Chief of Board 50).

64. Among the more enjoyable aspects of these essays, when the archive containing the research materials supporting them is opened in due course, will be the series of oral histories on which much of the narratives are based. Unless otherwise noted, all of the materials in this section are drawn from the *HLR* Advisors Oral History of *Houston Law Review*, with Professor Laura Oren, moderator, and Professors David Dow and Robert Ragazzo, all members of the University of Houston Law Center faculty, in Houston, TX (Mar 1, 2013) [hereinafter Faculty Advisors Oral History] (on file with Houston Law Review), from the *HLR* Judges Oral History of *Houston Law Review* with Hon. Jeff Brown, Texas 14th Court of Appeals, moderator; Hon. Cathleen Cochran, Texas Court of Criminal Appeals; Hon. Evelyn Keyes, Texas First Court of Appeals; and Ruby Sondock, UHLC Class of 1962 and the first woman justice of the Texas Supreme Court, in Houston, TX (Jan. 23, 2013) [hereinafter Decade 3 Oral History] (acknowledging the original purpose of this history as gathering data regarding the *Evidence Handbooks* edited by Professor Newell Blakely and Judge Cathy Cochran) (on file with Houston Law Review), or from Professor Joyce’s personal experiences.

65. Alan D. Cullison, *Interpretations of the Eleventh Amendment (A Case of the White Knight’s Green Whiskers)*, 5 HOUS. L. REV. 1 (1967).

66. See Joyce & Hoffman, *Boldly*, *supra*, at 53–54.

67. D.J. Baker, *An Appreciation of G. Sidney Buchanan*, 41 HOUS. L. REV. 238, 239 (2004).

68. Tim Moore, *A Model Advisor*, 41 HOUS. L. REV. 250 (2004). The lyrics reprinted here sadly are much abridged from the original. Moore’s extended text deserves, at minimum, a full reading. A sing-along, anyone?

69. She would return thereafter to serve another five years from 1988–93. For tributes to Irene Rosenberg upon her retirement from the faculty, see 46 HOUS. L. REV. 649 (2009).

70. Regarding specialization in the practice, the rise of centers, etc., in the academy,

most particularly at the University of Houston, see generally Joyce & Hoffman, *Centered, supra*. With respect to the Health Law & Policy Institute specifically, see *id.* at 82–84, 91–93.

71.

Advisor	Tenure	Contributions
A.A. White	1963–1966	4
Alan D. Cullison	1965–1970	2
Sidney Buchanan	1970–1985, 1987–2006	31
Irene Rosenberg	1985–1993	7
Laura Oren	1986–1993	5
Mark Rothstein	1987–1990	3
Seth J. Chandler	1993–1997	0
David R. Dow	1993–2004	8
Robert A. Ragazzo	1993–2013	1
Craig Joyce	1997–2002	28
Douglas Moll	2002–2013	0
Meredith J. Duncan	2004–2006	1
Joseph Sanders	2006–2013	1
Ronald Turner	2006–2013	1

For the counting principles involved in this tabulation, see Methodological Note in Craig Joyce, *Driven: The First Decade of Houston Law Review, supra*, at 32 n.3.

72. See Joyce & Hoffman, *Centered, supra*, at 86–87, 97 n.29.

73. See Faculty Advisors Oral History, *supra* note 64, at 2.

74. *Id.* at 2. Ragazzo gives full credit to Board 32 Editor in Chief Robert J. Sergesketter and his fellow editors, adding: “Unlike 1993, today we are one of the most timely law reviews in the United States.” *Id.* at 4.

75. See Joyce & Hoffman, *Leap, supra*, at 123–25.

76. For detailed information concerning Tropical Storm Allison and its impact on *Houston Law Review*, see *id.* at 126–28, 133–37.

77. Faculty Advisors Oral History, *supra* note 64, at 10–11.

78. *Id.* at 5, 7.

79. *Id.* at 7.

80. *Id.* at 19.

81. The judiciary of Texas is popularly elected, but as in Sondock’s instance many judges come to the bench initially by appointment upon the resignation or death of their predecessors. The text above refers to Justice Sondock as having been “regularly appointed” to the Supreme Court. Three women had preceded her, but to hear only one case. In 1925, an all-female Court was seated for the sole purpose of deciding a controversy involving the Woodmen of the World, a fraternal organization whose membership included nearly all male members of the Texas bar. When sitting justices, all men, recused themselves, the governor selected three women lawyers to constitute a special tribunal to decide the case. They did, ruling in favor of the Woodmen, and then promptly disbanded. Mary G. Ramos, *Texas’ All-Woman Supreme Court*, TEX. ST. HIST. ASS’N, TEX. ALMANAC, <http://www.texasalmanac.com/topics/history/texas-all-woman-supreme-court> (last visited Apr. 25, 2013). Justice Sondock was followed in appointment by Eugene A. Cook III, UHLC 1966, in 1988.

82. Decade 3 Oral History, *supra* note 64, at 3.

83. *Id.* at 8–12.

84. A similar story involves Raul A. Gonzalez, Jr., of the Law Center Class of 1966. Gonzalez would become the first Hispanic Justice of the Supreme Court. But like Sondock, his resume contained no *HLR* gold star. The son of migrant farm workers from the Rio Grande Valley and a first-generation college graduate, Gonzalez was simply too busy, having already started a family, shelving books in the law library, waiting tables, and delivering phone books door-to-door. His take? “No job is too demeaning when you need the money.” Interview by Harper Estes with Justice Gonzalez for *Texas Legal*

Legends. <http://txbar.inreachce.net/1015/>.

85. See Joyce & Hoffman, *Centered*, *supra*, at 93–94 (“Cathy Cochran’s Evidence”).

86. Cathleen C. Herasimchuk, *Texas Rules of Evidence Handbook, Second Edition*, 30 HOUS. L. REV. Issues 1 & 2 (1993); Evelyn Keyes, *The Literary Judge: The Judge as Novelist and Critic*, 44 HOUS. L. REV. 679 (2007); Jeff Brown, *The Platonic Guardian and the Lawyer’s Judge: Contrasting the Judicial Philosophies of Earl Warren and John M. Harlan*, 44 HOUS. L. REV. 253 (2007).

87. Decade 3 Oral History, *supra* note 64, at 35–37.

88. *Id.* at 41–42.

89. *Id.* at 52.

90. *Id.* at 17.

91. *Id.* at 32–33.

92. See JOHN MIXON, AUTOBIOGRAPHY OF A LAW SCHOOL 49–52 (2012) [hereinafter MIXON HISTORY] (on file with Houston Law Review) regarding Blakely’s sternness. But see also Joyce & Hoffman, *Boldly*, *supra*, at 51, concerning his apparent mellowing, at least toward one HLR EIC, in later years.

93. Decade 3 Oral History, *supra* note 64, at 48.

94. *Id.* at 44–46.

95. See Joyce & Hoffman, *Centered*, *supra*, at 102 n.101.

96. Decade 3 Oral History, *supra* note 64, at 48. For a fuller account of the relationship between Professor Blakely and Judge Cochran, see Joyce & Hoffman, *Centered*, *supra*, at 93–94 (“Cathy Cochran’s Evidence”).

97. Decade 3 Oral History, *supra* note 64, at 23.

98. E-mail from Judge Elsa Alcala, Court of Criminal Appeals, to Hon. Jeff Brown, 14th Court of Appeals (Jan. 18, 2013) (on file with Houston Law Review). Attentive readers of prior essays in this series will be aware that the quote in the text has appeared before. See Joyce & Hoffman, *Centered*, *supra*, at 102 n.101. The material just seems too good, however, to leave buried BTL, i.e., in an endnote.

99. *Chambers v. State*, No. 14–11–01117–CR, 2013 WL 830578, at *5 (Tex. App.—Houston [14th Dist.], Mar. 7, 2013, no pet. h.) (not designated for publication).

100. See Joyce, *Driven*, *supra*, at 4–5.

101. See *id.* at 5.

102. *Id.* at 8–9.

103. See MIXON HISTORY, *supra* note 92, at 186–87, at Chs. 2 (“Founding Dean A.A. White and His Law Faculty, 1947–1956”) and 16 (“Mike Johnson, Unsung Hero, and Interim Dean A.A. White, 1974–1976”).

104. A. A. White, *The Reasonably Just Man*, 5 HOUS. L. REV. 575 (1968); A.A. White, *The Intentional Exploitation of Man’s Known Weaknesses*, 9 HOUS. L. REV. 889 (1972); A. A. White, *The Wrongful Death Statutes: A Constitutional Problem*, 12 HOUS. L. REV. 35 (1974).

105. Of the many possible examples, two must suffice. Dwight Olds, one of White’s many proud hires, published only during *Houston Law Review*’s first decade but turned out 15 articles in the process. John Mixon, another of White’s hires and himself a graduate of the College of Law, contributed five articles over a career at the University of Houston that would span 55 years until his retirement in 2013.

106. See MIXON HISTORY, *supra* note 92, at Ch. 6 (“Newell Blakely’s Law School, 1956–1965”).

107. See Joyce, *Driven*, *supra*, at 5–8.

108. *Id.* at 8. The version in the text above is based on MIXON HISTORY, *supra* note 103, at 186–87. This unique resource entertainingly preserves its author’s recollections of an era now otherwise almost entirely lost to history. But the facts of the present matter are difficult to ascertain with certainty. Pre-HLR alumna Sybil Balasco, UHLC Class of 1956, recalls introducing Blakely to local businessman and oil industry icon Maurice (“Daddy”) Frankel, who took a shine to the Dean, asked him

if he needed support for any initiative at the College of Law, and in response to Blakely's reply made a sizeable donation to help fund the start-up of the *Review*. Belasco reports, however, that the benefactor insisted that the donation be anonymous, and thus Frankel's name does not appear (although those of Belasco and Charles I. Francis, see Joyce, *Driven*, *supra*, at 22 n.30, do) in the initial listing of the members of The Houston Law Review, Inc., *HLR*'s early equivalent to its current funding support organization, the Houston Law Review Alumni Association. Telephone Interview by Craig Joyce with Sybil Balasco (Apr. 3, 2013). The recollections cited above are not inconsistent and probably both contain major strands of the truth concerning one of the enduring mysteries of the *Review*'s first decade. The Frankel Family went on to assist generously with funding for the Law Center's Rare Books Room and *HLR*'s annual Frankel Lectures. All's well that ends well.

109. Newell H. Blakely, *Past Recollection Recorded: Restrictions on Use as Exhibit and Proposals for Change*, 17 HOUS. L. REV. 441 (1980).

110. See Joyce & Hoffman, *Boldly*, *supra*, at 51.

111. *Id.* at 43–44.

112. Newell Blakely et al., *Texas Rules of Evidence Handbook*, 20 HOUS. L. REV. 1 (1983).

113. See Joyce & Hoffman, *Boldly*, *supra*, at 52–53; Joyce & Hoffman, *Centered*, *supra*, at 93–94.

114. G. Sidney Buchanan, *The Privilege Against Self-Incrimination; To What Extent Should It Protect a State Employee or Professional Licensee Against the Loss of His State-Created Status?*, 7 HOUS. L. REV. 297 (1970).

115. G. Sidney Buchanan, *The Quest for Freedom: A Legal History of the Thirteenth Amendment*, 12 HOUS. L. REV. 1 (1974). This quasi-book by Professor Buchanan was published in nine installments and cited in *McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 288 n.18 (1976).

116. G. Sidney Buchanan, *No Connecticut Yankee in the Texas Supreme Court*, 40 HOUS. L. REV. 931 (2003).

117. Sidney Buchanan, *A Tribute to John Mixon*, 42 HOUS. L. REV. 1206 (2006).

118. See Joyce, *Driven*, *supra*, at 7–8.

119. See Joyce & Hoffman, *Boldly*, *supra*, at 43–44.

120. For the information in the remainder of this paragraph, see generally Joyce & Hoffman, *Centered*, *supra*, at 93–94.

121. *Id.* at 101 n.88.

122. *Id.* at 100 n.86.

123. *Id.* at 80–81.

124. *Id.* at 82.

125. *Id.* at 82–84; Joyce & Hoffman, *Leap*, *supra*, at 116–17.

126. That would be Craig Joyce and Paul M. Janicke. See Joyce & Hoffman, *Leap*, *supra*, at 117–19.

127. Craig Joyce, Robert J. Sergesketter, D'Andra Millsap (Shu), and Raymond T. Nimmer. See *id.* at 119–22.

128. See *id.* at 119.

129. Craig Joyce, Paul M. Janicke, and Raymond T. Nimmer. See *id.* at 118–19.

130. See *id.* at 119–22.

131. See Joyce & Hoffman, *Centered*, *supra*, at 101 n.87.

132. See Joyce & Hoffman, *Leap*, *supra*, at 123–25.

133. See Joyce & Hoffman, *Boldly*, *supra*, at 41–42.

134. See Joyce & Hoffman, *Leap*, *supra*, at 126–28, 133–37.

135. See Joyce & Hoffman, *Boldly*, *supra*, at 43–44.

136. *Id.* at 45.

137. See Joyce & Hoffman, *Leap*, *supra*, at 120–22.

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138. See Joyce & Hoffman, *Centered*, *supra*, at 82; Joyce & Hoffman, *Leap*, *supra*, at 119.

139. See Joyce, *Driven*, *supra*, at 17–20.

140. John Maurice O'Quinn (b. Houston, Texas, Sept. 4, 1941; d. Houston, Texas, Oct. 29, 2009) was the founding partner of The O'Quinn Law Firm and a famed Texas plaintiff's personal injury lawyer. See *id.* at 18–20.

141. O'Quinn inquired of the newly elected Executive Editor about more than a dozen separate financial matters, including a moderate increase in copying expenses, a recent uptick in the stock market, and the trustworthiness of those responsible for investing *HLR's* endowment funds. Board Report (Apr. 20, 2010) (on file with Houston Law Review) (quoting the meeting minutes from the fall 2010 board meeting). As reported by Board 47's Editor in Chief, Matt Salo:

[O'Quinn] grilled the Executive Editor (Scott Rubinsky) and me over the state of the *Law Review's* finances, but Scott was superb in his responses. Instead of taking a seat in the horseshoe, Mr. O'Quinn pulled up a chair right across from Scott and me. He had a reputation of cross examining board members. I wasn't as ready with respect to the business aspects of the *Review* as I should have been, but Scott was on top of everything and saved me from embarrassment.

Questionnaire Response, Matt Salo, King & Spalding (Mar. 18, 2012) (on file with Houston Law Review). Rumor has it that, responding to the young editor's impressive performance, O'Quinn offered him a job.

142. The observations below of Marvin Nathan, Larry Pirtle, and Alvin Zimmerman are drawn from the Decade 1 Oral History of Houston Law Review, moderated by Nathan (Dec. 14, 2012) (on file with Houston Law Review). Carol Dinkins, who had been slated to participate in the history, was called out of town on business at the last moment and has furnished her observations separately. E-mail from Dinkins to Craig Joyce (Apr. 5, 2013) (on file with Houston Law Review). All quotations are condensed from the originals.

143. Nathan is Senior Partner at Nathan Sommers Jacobs in Houston, specializing in real estate law, business organizations, and finance. See Joyce, *Driven*, *supra*, at 18.

144. Today, Pirtle is Of Counsel, focusing on tax law at Houston's Gardere Law Firm. See *id.*

145. Zimmerman currently is Chair of Zimmerman, Axelrad, Meyer, Stern & Wise, P.C., in Houston, and is board certified in family law. See *id.*

146. Dinkins currently is a partner at Vinson & Elkins LLP, with offices in Houston and Washington, D.C., and serves as the firm's Group Leader for Environmental Practice. See *id.* at 17–18.

ODDMENTS

“Mistakes Have Been Made” (U.S. Grant, 1876). Abraham Lincoln’s greatest appointment, himself a far better president than high schools currently acknowledge (when they teach American history at all), apparently coined that phrase in a message to Congress admitting to scandals during his administration. Likewise, in these essays, surely mistakes *were* made, owing to the seemingly infinitesimally small span of time available to gather, assess, and relate 50 years of *HLR* history that might otherwise have been lost entirely. As to any and all such errors, message cjoyce@uh.edu. This address, at some time, necessarily, will go dark. Please hurry with corrections!

Romance at the Review. Perhaps a series best discontinued for now. Future liaisons? Cokes in the Commons? Smooches in SOS? Only time, and happily not these authors, will tell.

What 40-Something Doesn’t Need a Facelift? Or so the editors of Board 44 must have thought. From 1:1 to 15:5, *Houston Law Review’s* covers had featured cream colors with golden accents. In the middle decades of its first 50 years, the *Review* had become the blue-gray haired lady of grandmotherly remembrance, complete with font big enough for failing eyesight. In the final decade (the subject of this concluding essay), however, *HLR’s* cover magically regained its creamy complexion, sporting UH-appropriate red accents and a trim new font. So contemporary (a relative term, if there ever was one). Thus tightened and lightened, now with attractive Cougarish highlights, 44:4 was the new 15:5.

Clever Is as Clever Says. And now for the very last of the prize-winning titles to appear, decade-by-decade, in the first 50 volumes: James W. Christian, Robert Shapiro & John-Paul Whalen, *Naked Short Selling: How Exposed Are Investors?*, 43 HOUS. L. REV. 1033 (2006). No doubt, here as elsewhere, a picture would be worth a thousand (law review) words. In this instance, however, the reader simply will have to imagine.

Final Score and Final Judgment, In re: Dueling HLRs. Throughout these essays, the authors have apologized so often, with such justification, to so many. Now we offer a final *nostra culpa* to *Harvard Law Review*. We meant no harm. It was just too easy. Houston always has been a striving place, where only merit mostly ever matters. The women of *Houston Law Review*,

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along with the men of course, have benefited the publication hugely during its first 50 years. During *HLLR South*'s fifth decade, fully five of its ten Editors in Chief were women; at *HLLR North*, two of ten Presidents. Lifetime, then: *Cowtown*, 17 of 50 (batting a more than respectable .340); *Cambridge*, 6 of 126 (umm, a pitiful .047). Over and done. *North*, see you in 50. *Judgment for Houston Law Review*. *It is so ordered*.

Not an Oddment at All. After 25 weeks, five issues, and 195 pages, these essays come to a close. But not before the authors rise on a point of personal privilege. Having never before had the opportunity to do so ATL (above-the-line), we wish to state for the record that this effort has been one of the greatest privileges of our professional lives. We here express our profound appreciation to *all* the members of *all* the boards, 1 through 50—in short, to those who actually *lived* the story that we have been privileged here merely to recount. *You* are the true authors of this history.

Finally. As said in the first line of these essays, “In the beginning was . . .” But wait. In the beginning, what *Houston Law Review*'s founders had dreamed for their infant journal was just that: what they dreamed for it. An absurd dream, obviously. In the 50 years of maturation that followed, however, their successors struggled mightily to make the dream a reality. By the end of *HLLR*'s fifth decade, it was. That story now has been told. And so a series of essays that began with a quote lifted from the Almighty ends with a fair-use nod to Porky Pig (from Warner Brothers not Disney, the Deity's latter-day equivalent): “That's all, folks!”

BY THE NUMBERS. . .¹

ISSUES AND PAGES

Volume	Issues	Pages
41	5	1736
42	5	1522
43	5	1634
44	5	1534
45	5	1910
46	5	1738
47	5	1455
48	5	1275
49	2 ²	562
50	5	1598

1. Compiled by *Houston Law Review* Boards 50 and 51.

2. Addressing a long-standing oddity, Board 49 and Board 50's editors, on advice from the Board of Directors and the organization's faculty advisors, recalibrated the numerical publication cycle. At some point in Decade 3, the numerous books and special issues published by *HLR* had created a publication logjam that put the *Review's* issue numbering perpetually "off." Following Board 49's publication of Issue 49:2 (the last of the 1379 pages of its five scheduled issues), Board 50 officially remedied the discrepancy, printing issues 50:1 through 50:5. Future volumes now will correspond directly to the number of the board printing them.

BY THE NUMBERS

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**BOARDS, MEMBERS, EDITORS IN CHIEF,
AND FACULTY ADVISORS**

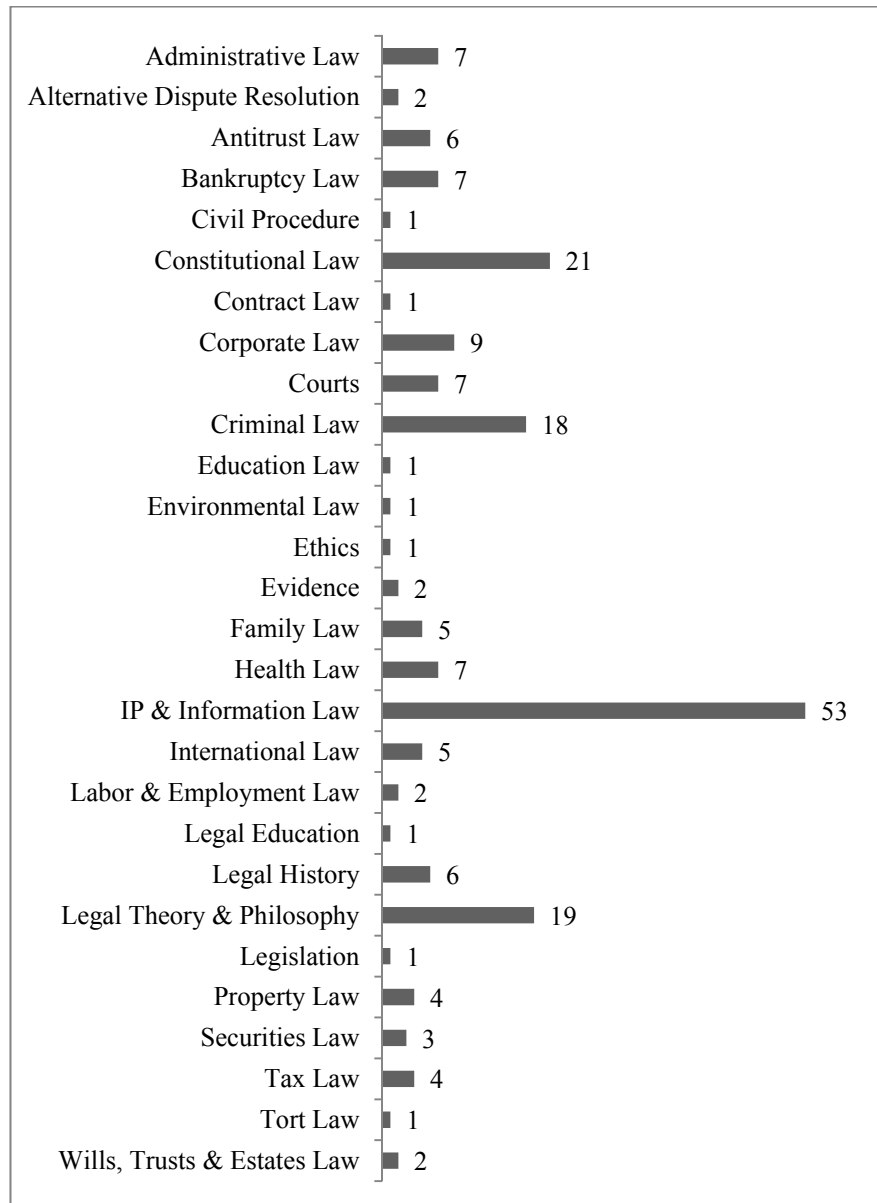
Boards	Members	Editors in Chief	Faculty Advisors
41 (2003–04)	38	Susan Turcotte	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Douglas Moll
42 (2004–05)	37	Laura J. Rees	G. Sidney Buchanan, Robert A. Ragazzo, Douglas Moll, and Meredith J. Duncan
43 (2005–06)	41	Alex B. Roberts	G. Sidney Buchanan, Robert A. Ragazzo, Douglas Moll, and Meredith J. Duncan
44 (2006–07)	43	Christine M. McMillan	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
45 (2007–08)	42	Bryon A. Rice	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner

Boards	Members	Editors in Chief	Faculty Advisors
46 (2008–09)	40	Stephanie Cecere	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
47 (2009–10)	39	Matthew Salo	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
48 (2010–11)	40	Michelle Gray	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
49 (2011–12)	41	Matthew Hoffman	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
50 (2012–13)	48	Peter Danysh	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner

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ARTICLE TOPICS



THEMED ISSUES AND BOOKS PUBLISHED**THE FRANKEL LECTURE SERIES**

*Doing Well by Doing Good? The Role of Public Service
in the Careers of Black Corporate Lawyers*

David B. Wilkins

41 HOUS. L. REV. 1 (2004)

*Free Will, Religious Liberty, and a Partial Defense
of the French Approach to Religious Expression in Public Schools*

Steven G. Gey

42 HOUS. L. REV. 1 (2005)

Taking Grutter Seriously: Getting Beyond the Numbers

Dorothy A. Brown

43 HOUS. L. REV. 1 (2006)

*Section 5 Squared: Congressional Power
to Extend and Amend the Voting Rights Act*

Pamela S. Karlan

44 HOUS. L. REV. 1 (2007)

*Hurricane Katrina: Lessons About Immigrants
in the Administrative State*

Kevin R. Johnson

45 HOUS. L. REV. 11 (2008)

Legal and Managerial "Cultures" in Corporate Representation

Geoffrey C. Hazard, Jr.

46 HOUS. L. REV. 1 (2009)

Applications and Implications of the Twenty-Fifth Amendment

Akhil Reed Amar

47 HOUS. L. REV. 1 (2010)

Retaking Rationality Two Years Later

Michael A. Livermore and Richard L. Revesz

48 HOUS. L. REV. 1 (2011)

Codes of Conduct for a Twilight War

Philip Zelikow

49 HOUS. L. REV. 1 (2012)

Is Bankruptcy the Answer for Troubled Cities and States?

David A. Skeel, Jr.

50 HOUS. L. REV. 1063 (2013)

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INTELLECTUAL PROPERTY AND INFORMATION LAW
SYMPOSIA*Trademark in Transition*

41 HOUS. L. REV. 707 (2004) (6 articles)

Transactions, Information and Emerging Law

42 HOUS. L. REV. 941 (2005) (6 articles)

Copyright in Context

44 HOUS. L. REV. 815 (2007) (6 articles)

Patent Law in Perspective

45 HOUS. L. REV. 1031 (2008) (6 articles)

Intellectual Property in International Perspective

46 HOUS. L. REV. 975 (2009) (6 articles)

The ©©© Conference: Celebrating Copyright's Tri-Centennial

47 HOUS. L. REV. 779 (2010) (7 articles)

Trademark: Today and Tomorrow

48 HOUS. L. REV. 701 (2011) (6 articles)

Pondering Patents: First Principles and Fresh Possibilities

50 HOUS. L. REV. 319 (2012) (7 articles)

THE IPIL SPRING LECTURE SERIES

*The Right to Claim Authorship in U.S. Copyright
and Trademarks Law*

Jane C. Ginsburg

41 HOUS. L. REV. 263 (2004)

*IP Transactions: On the Theory & Practice
of Commercializing Innovation*

F. Scott Kieff

42 HOUS. L. REV. 727 (2005)

Hon. Arthur J. Gajarsa (2006)

*(lecture delivered but without resulting article)**The Rule of Intellectual Property Law in the Internet Economy*

Joel Reidenberg

44 HOUS. L. REV. 1073 (2007)

The Concept of Property in the Digital Era

Robert P. Merges

45 HOUS. L. REV. 1239 (2008)

*Protection of Intellectual Property in China (30 Years and More):
A Personal Reflection*

William O. Hennessey

46 HOUS. L. REV. 1257 (2009)

Understanding the RAND Commitment

Doug Lichtman

47 HOUS. L. REV. 1023 (2010)

Copyright on a Clean Slate

Paul Goldstein

48 HOUS. L. REV. 691 (2011)

What Copyright Owes the Future

R. Anthony Reese

50 HOUS. L. REV. 287 (2013)³**OTHER THEMED ISSUES AND BOOKS PUBLISHED***The Booker Project: The Future of Federal Sentencing**(Criminal Justice Institute Symposium)*

43 HOUS. L. REV. 269 (2006) (5 articles)

*Thirty Years of Airline Deregulation:**A Structure, Conduct and Performance Review*

45 HOUS. L. REV. 287 (2008) (7 articles)

A Unified Theory of Copyright

L. Ray Patterson and Stanley F. Birch, Jr.

(edited by Craig Joyce)

46 HOUS. L. REV. 215 (2009) (10 chapters)

*Child-Centered Jurisprudence and Feminist Jurisprudence:**Exploring Connections and Tensions*

46 HOUS. L. REV. 671 (2009) (4 articles)

MOST PUBLISHED AUTHORS⁴

1. Craig Joyce (24 works total:

10 book chapters, 14 articles)

T2. Stanley F. Birch, Jr., Greg R. Vetter,
and Ned W. Waxman (3 contributions each)T5. G. Sidney Buchanan, Darren Bush, Graeme Dinwoodie,
Clayton P. Gillette, Robert Klonoff, Lynne Liberato, Michael J.
Malinowski, John Mixon, Michael A. Olivas, Scott Phillips,
and Sandra F. Sperino (2 contributions each)**MOST CITED ARTICLES**

1. *Trademarks and Consumer Search Costs on the Internet*
Stacey L. Dogan and Mark A. Lemley

3. See note 2 above as to why the 2012 lecture appears in Volume 50.

4. For the counting principles involved in this tabulation, see Methodological Note in Craig Joyce, *Driven: The First Decade of Houston Law Review*, *supra*, at 32 n.3.

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- 41 HOUS. L. REV. 777 (2004) (168 citations)
2. *Spare the Rod, Spoil the Director?
Revitalizing Director's Fiduciary Duty Through Legal Liability*
Lisa M. Fairfax
42 HOUS. L. REV. 393 (2005) (124 citations)
3. *A New Zoning and Planning Metaphor:
Chaos and Complexity Theory*
John Mixon and Kathleen McGlynn
42 HOUS. L. REV. 1221 (2006) (80 citations)
4. *A House Divided: Mandatory Arrest, Domestic Violence,
and the Conservativization of the Battered Women's Movement*
G. Kristian Miccio
42 HOUS. L. REV. 237 (2005) (76 citations)
5. *Section 5 Squared: Congressional Power to Extend
and Amend the Voting Rights Act*
Pamela S. Karlan
44 HOUS. L. REV. 1 (2007) (45 citations)

LONGEST ARTICLES

1. *Summary Judgments in Texas: State and Federal Practice*
Judge David Hittner and Lynne Liberato
46 HOUS. L. REV. 1379 (2010) (165 pages)
2. *The Federal Definition of Tax Partnership*
Bradley T. Borden
43 HOUS. L. REV. 925 (2006) (106 pages)
3. *Reconceptualizing the BP Oil Spill
as Parens Patriae Products Liability*
Thomas H. Koenig and Michael L. Rustad
49 HOUS. L. REV. 291 (2012) (102 pages)
4. *The Role of Mental Health Professionals in
Capital Punishment: An Exercise in Moral Disengagement*
Donald P. Judges
41 HOUS. L. REV. 515 (2004) (97 pages)
5. *Doing Well by Doing Good? The Role of Public Service
in the Careers of Black Lawyers*
David B. Wilkins
41 HOUS. L. REV. 1 (2004) (91 pages)

BOOK

A Unified Theory of Copyright
L. Ray Patterson and Stanley F. Birch, Jr.

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HOUSTON LAW REVIEW

(edited by Craig Joyce)

46 HOUS. L. REV. 215 (2009) (10 chapters)

**DEDICATIONS, TRIBUTES,
IN MEMORIA, ETC.**

Volume 41, Issue 2 contains a Tribute to Professor G. Sidney Buchanan upon his Retirement from Teaching.

Volume 42, Issue 5 contains a Tribute to Professor John Mixon upon his 50th Year of Teaching.

Volume 46, Issue 3 contains a Tribute to Professor Irene Merker Rosenberg upon her Retirement from Teaching.

Volume 47, Issue 2 contains an In Memoriam honoring John Maurice O'Quinn.

Volume 47, Issue 3 contains an Introduction honoring Judge John R. Brown.

ALL THE NUMBERS. . .¹

As a final contribution to these 50th Anniversary essays,
the editors present herewith a compilation of
“By the Numbers” from all five of the anniversary essays.

ISSUES AND PAGES

Volume	Issues	Pages
1	3	312
2	3	428
3	3	429
4	4	755
5	5	1048
6	5	1228
7	5	751
8	5	1002
9	5	1122
10	5	1214

1. Compiled by *Houston Law Review* Boards 50 and 51.

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HOUSTON LAW REVIEW

Volume	Issues	Pages
11	5	1322
12	5	1202
13	5	1106
14	5	1137
15	5	1233
16	5	1301
17	5	1068
18	5	1123
19	5	830
20	5	1368
21	5	1042
22	5	1292
23	5	1294
24	5	1052
25	5	1203

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Volume	Issues	Pages
26	5	1048
27	4	848
27A ²	1	549
28	5	1169
29	4	1109
30	5	2107
31	5	1668
32	5	1515
33	5	1647
34	5	1664
35	5	1847
36	5	1893
37	5	1556
38	5	1584
39	5	1590
40	5	1482

2. A.k.a. Robert P. Schuwerk & John F. Sutton, Jr., *A Guide to the Texas Disciplinary Rules of Professional Conduct*, 27A HOUS. L. REV. 1 (1990).

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BOARDS, MEMBERS, EDITORS IN CHIEF, AND FACULTY ADVISORS

Boards	Members	Editors in Chief	Faculty Advisors
1 (1963–64)	14 ⁴	Dan G. Matthews, Morley H. White, and James H. Whitcomb	A.A. White
2 (1964–65)	13	James H. Whitcomb and Thomas S. Hornbuckle	A.A. White
3 (1965–66)	22	Thomas S. Hornbuckle and Marvin David Nathan	A.A. White and Alan D. Cullison
4 (1966–67)	9	Gerald J. Adler and John M. O'Quinn	Alan D. Cullison
5 (1967–68)	12	James R. Martin	Alan D. Cullison
6 (1968–69)	10	Wendell B. Alcorn, Jr.	Alan D. Cullison
7 (1969–70)	11	Marjorie Caldwell	Alan D. Cullison
8 (1970–71)	12	Steven E. Segal	G. Sidney Buchanan
9 (1971–72)	19	William W. Wiggins	G. Sidney Buchanan

4. During the Review's first three years, membership appears to have come and gone issue-by-issue, thereby inflating totals until volume-by-volume membership became the norm in later years.

Boards	Members	Editors in Chief	Faculty Advisors
10 (1972–73)	30	D. Jansing Baker	G. Sidney Buchanan
11 (1973–74)	30	Marjorie A. Wilhelm	G. Sidney Buchanan
12 (1974–75)	28	Michael Paul Irvin	G. Sidney Buchanan
13 (1975–76)	40	Joe P. Martin	G. Sidney Buchanan
14 (1976–77)	46	Nancy Taylor Reed	G. Sidney Buchanan
15 (1977–78)	49	Robert Lynn Pittsford	G. Sidney Buchanan
16 (1978–79)	50	Michael R. Waller	G. Sidney Buchanan
17 (1979–80)	41	Donna Sue Burnett	G. Sidney Buchanan
18 (1980–81)	42	David S. Caudill	G. Sidney Buchanan
19 (1981–82)	36	Claudia Wilson	G. Sidney Buchanan
20 (1982–83)	39	Edward P. Watt	G. Sidney Buchanan
21 (1983–84)	39	Cathleen C. Herasimchuk	G. Sidney Buchanan
22 (1984–85)	41	David J. Van Susteren	G. Sidney Buchanan
23 (1985–86)	40	Phyllis G. Schrader	Irene M. Rosenberg

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Boards	Members	Editors in Chief	Faculty Advisors
24 (1986–87)	49	Mary G. Henderson	Irene M. Rosenberg and Laura Oren
25 (1987–88)	48	Derek Lisk	G. Sidney Buchanan, Laura Oren, and Mark Rothstein
26 (1988–89)	48	Hunter H. White	G. Sidney Buchanan, Irene M. Rosenberg, Laura Oren, and Mark Rothstein
27 (1989–90)	47	Tim Moore	G. Sidney Buchanan, Irene M. Rosenberg, Laura Oren, and Mark Rothstein
28 (1990–91)	52	Nicolas J. Evanoff	G. Sidney Buchanan, Irene M. Rosenberg, and Laura Oren
29 (1991–92)	45	Jeffrey Thompson	G. Sidney Buchanan, Irene M. Rosenberg, and Laura Oren

Boards	Members	Editors in Chief	Faculty Advisors
30 (1992–93)	49	David R. Jones	G. Sidney Buchanan, Irene M. Rosenberg, and Laura Oren
31 (1993–94)	35	W. Robert Shearer	G. Sidney Buchanan, David R. Dow, Seth Chandler, and Robert A. Ragazzo
32 (1994–95)	38	Robert J. Sergesketter	G. Sidney Buchanan, David R. Dow, Seth Chandler, and Robert A. Ragazzo
33 (1995–96)	31	D'Andra Millsap	G. Sidney Buchanan, David R. Dow, Seth Chandler, and Robert A. Ragazzo
34 (1996–97)	34	J. Kevin Blodgett	G. Sidney Buchanan, David R. Dow, Seth Chandler, and Robert A. Ragazzo
35 (1997–98)	32	James L. Simmons	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce

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Boards	Members	Editors in Chief	Faculty Advisors
36 (1998–99)	36	Matthew C. Rawlinson	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce
37 (1999–2000)	31	Laura A. Hanley	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce
38 (2000–01)	41	Nancy R. Kornegay	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce
39 (2001–02)	36	Sydney Gibbs Ballesteros	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Craig Joyce
40 (2002–03)	36	Andrew M. Miller	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Douglas Moll
41 (2003–04)	38	Susan Turcotte	G. Sidney Buchanan, David R. Dow, Robert A. Ragazzo, and Douglas Moll

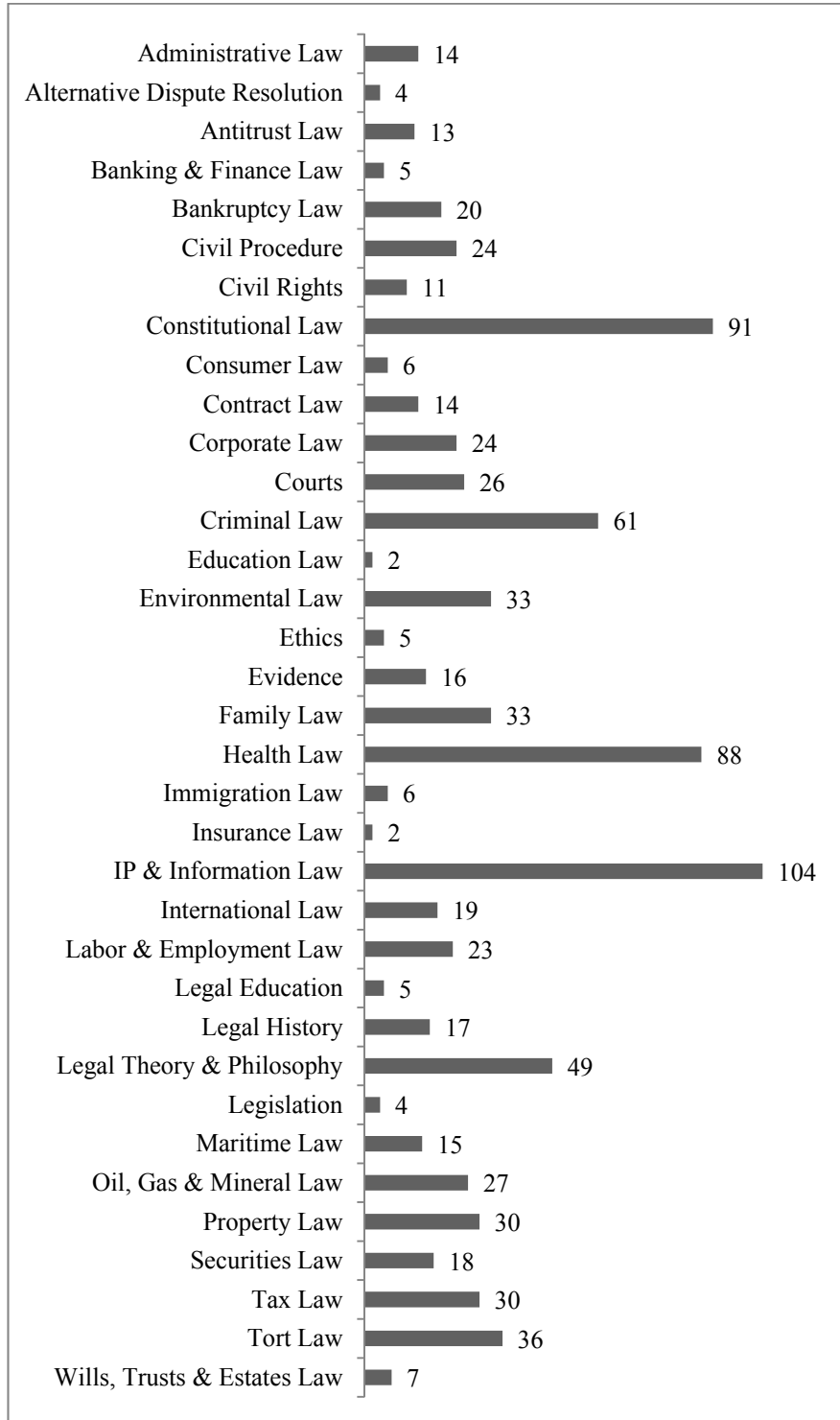
Boards	Members	Editors in Chief	Faculty Advisors
42 (2004–05)	37	Laura J. Rees	G. Sidney Buchanan, Robert A. Ragazzo, Douglas Moll, and Meredith J. Duncan
43 (2005–06)	41	Alex B. Roberts	G. Sidney Buchanan, Robert A. Ragazzo, Douglas Moll, and Meredith J. Duncan
44 (2006–07)	43	Christine M. McMillan	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
45 (2007–08)	42	Bryon A. Rice	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
46 (2008–09)	40	Stephanie Cecere	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner

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Boards	Members	Editors in Chief	Faculty Advisors
47 (2009–10)	39	Matthew Salo	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
48 (2010–11)	40	Michelle Gray	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
49 (2011–12)	41	Matthew Hoffman	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner
50 (2012–13)	48	Peter Danysh	Robert A. Ragazzo, Douglas Moll, Joseph Sanders, and Ronald Turner

ARTICLE TOPICS



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MOST PUBLISHED AUTHORS⁵

1. Jim M. Perdue
(37 works total: 34 book chapters, 3 articles)
2. G. Sidney Buchanan
(31 works total: 9 book chapters, 22 articles and other contributions)
3. Craig Joyce
(28 works total: 10 book chapters, 18 articles and other contributions)
4. James B. Sales
(23 works total: 21 book chapters, 2 articles)
5. Dwight A. Olds
(14 articles)

5. Methodological Note: Professionally authored pieces appearing in *Houston Law Review* are described variously as, for example, “articles,” “essays,” “addresses,” “commentaries,” “forewords,” “introductions,” “prefaces,” “prologues,” “epilogues,” “books,” and “chapters.” The category ascribed to an individual piece by *Houston Law Review* does not connote an editorial judgment as to quality.

Nor does length necessarily equate to worth. In the *Review’s* fourth decade, for example, Volume 40:1’s *Occupational Health and Safety Act Symposium* “Foreword” (at 30 pages) rivals the total page count of the lead-off “Address” (12 pages) and one of the featured “Articles” (19 pages) combined. See Sidney A. Shapiro, *Foreword: Occupational Safety and Health: Policy Options and Political Reality*, 31 HOUS. L. REV. 13 (1994), Ralph Nader, *Address: Occupational Safety and Health Act*, 31 HOUS. L. REV. 1 (1994), and Thomas O. McGarity, *Article: Reforming OSHA: Some Thoughts for the Current Legislative Agenda*, 31 HOUS. L. REV. 99 (1994).

In order to achieve a bright-line rule that requires no qualitative or quantitative discrimination among the contributions to the *Review* described above, the editors of “By the Numbers” have simply counted each such professional authored contribution as an “article” for purposes of the present tabulation.

In the same spirit, each “chapter” of a book is treated in this series of essays as equivalent to an “article” for counting purposes. While no books appear in the Decade 4 tabulation above, tabulations in other decades do contain such recitations of chapters contributed. See, e.g., “By the Numbers” in Decade 2, counting 46 works total (40 chapters and 6 articles) by Jim M. Perdue, James B. Sales, and G. Sidney Buchanan in Volumes 11–20. Craig Joyce & Matthew Hoffman, *Carry On Boldly: The Second Decade of Houston Law Review*, *supra*, at 71.

MOST CITED ARTICLES⁶

1. *Bringing International Law Home*
Harold Hongju Koh
HOUS. L. REV. 623 (1998) (225 citations)
2. *Trademarks and Consumer Search Costs on the Internet*
Stacey L. Dogan and Mark A. Lemley
41 HOUS. L. REV. 777 (2004) (168 citations)
3. *Spare the Rod, Spoil the Director?:
Revitalizing Director's Fiduciary Duty Through Legal Liability*
Lisa M. Fairfax
42 HOUS. L. REV. 393 (2005) (124 citations)
4. *The Legislative History of U.S. Air Pollution Control*
Arnold W. Reitze, Jr.
36 HOUS. L. REV. 679 (1999) (114 citations)
5. *Revised Article 3: "[Revise] It Again, Sam"*
Sarah Howard Jenkins
36 HOUS. L. REV. 883 (1999) (111 citations)

6. Due to the limitations of the available databases, our numbers reflect only citations that occurred from the early 1980s forward and do not include citations during the 1960s and 1970s.

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LONGEST ARTICLES

1. *Copyright in the Dead Sea Scrolls:
Authorship and Originality*
David Nimmer
38 HOUS. L. REV. 1 (2001) (217 pages)
2. *Summary Judgments in Texas: State and Federal Practice*
Judge David Hittner and Lynne Liberato
46 HOUS. L. REV. 1379 (2010) (165 pages)
3. *Admiralty Law in the Fifth Circuit—A Compendium
for Practitioners: II*
Carl O. Bue, Jr.
5 HOUS. L. REV. 767 (1968) (159 pages)
4. *Perpetuating Risk? Workers' Compensation
and the Persistence of Occupational Injuries*
Emily A. Spieler
31 HOUS. L. REV. 119 (1994) (145 pages)
5. *Eight Gates for Expert Witnesses [Part I]*
Judge Harvey Brown
36 HOUS. L. REV. 743 (1999) (139 pages)

**LONGEST “BOOKS” BY
SINGLE OR JOINT AUTHORS⁷**1. *Product Liability Law in Texas*

James B. Sales

23 HOUS. L. REV. 1 (1986)

(700 pages)

2. *The Law of Texas Medical Malpractice*

Jim M. Perdue

22 HOUS. L. REV. 1 (1985)⁸

(660 pages)

3. *A Guide to the Texas Disciplinary**Rules of Professional Conduct*

Robert P. Schuwerk and John F. Sutton, Jr.

27 HOUS. L. REV. 849 (1990)

(560 pages)

4. *1987 Texas Tort Reform: The Quest for a Fairer
and More Predictable Texas Civil Justice System*

John T. Montford and Will G. Barber

25 HOUS. L. REV. 59, 245, and 1005 (1988)

(305 pages)

5. *The Law of Strict Tort Liability in Texas*

James B. Sales and Jim M. Perdue

Co-authored by: Edward J. Cooney, Byron Lee, Lames L. Moore,

Deborah Watson Rider, Marleen Samea Roosth, and

Alan Vomacka

14 HOUS. L. REV. 1 (1976)

(285 pages)

7. Excluded from this category are works of similar length, such as Newell Blakely et al., *Texas Rules of Evidence Handbook*, 20 HOUS. L. REV. 1 (1983), in which, although the work may have had a coordinator or supervising editor, particular chapters or articles clearly were authored by separate individuals.

8. Jim M. Perdue continued to update the *Texas Medical Malpractice Handbook* even after the publication of the 1985 version, although subsequent versions were not actually published in the pages of *Houston Law Review*. See JIM MAC PERDUE, TEXAS MEDICAL MALPRACTICE HANDBOOK (1989).

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**DEDICATIONS, TRIBUTES,
IN MEMORIA, ETC.**

Volume 3, Issue 1 contains a Dedication to Newell H. Blakely.

Volume 4, Issue 3 contains a Dedication to the Maurice Frankel Foundation and its Board of Directors.

Volume 4, Issues 3 and 4 contain Dedications to Professor and Law Librarian Mabel M. Smith.

Volume 5, Issue 1 contains a Tribute to A.A. White.

Volume 8, Issue 1 contains a Dedication to Charles I. Francis.

Volume 9, Issue 1 contains a Tribute to Dwight A. Olds.

Volume 20, Issues 1 and 2 (the first edition of the *Texas Rules of Evidence Handbook*) contain a Dedication to Newell H. Blakely.

Volume 23, Issue 1 contains a Dedication to Jon Ty Phillips.

Volume 25, Issue 1 (the 25th Anniversary Issue) contains a Dedication to Newell H. Blakely.

Volume 28, Issue 4 contains a Tribute to Thomas Gibbs Gee.

Volume 28, Issue 5 contains a Tribute to Alvin B. Rubin.

Volume 30, Issues 1 and 2 (the second edition of the *Texas Rules of Evidence Handbook*) contain Dedications to Newell H. Blakely and Cathleen C. Herasimchuk.

Volume 31, Issue 5 contains an In Memoriam honoring Gilbert Lee Finnell, Jr.

Volume 32, Issue 1 contains a Tribute to G. Sidney Buchanan.

Volume 36, Issue 2 contains a Tribute to Justice Raul A. Gonzalez upon his Retirement from the Supreme Court of Texas.

Volume 39, Issue 4 contains an In Memoriam honoring Yale Rosenberg.

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Volume 41, Issue 2 contains a Tribute to G. Sidney Buchanan upon his Retirement from Teaching.

Volume 42, Issue 5 contains a Tribute to John Mixon marking his 50th Year of Teaching.

Volume 46, Issue 3 contains a Tribute to Irene Merker Rosenberg upon her Retirement from Teaching.

Volume 47, Issue 2 contains an In Memoriam honoring John Maurice O'Quinn.

Volume 47, Issue 3 contains an Introduction honoring Judge John R. Brown.