

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 Cockran (Herasimchuk) (Board 21), Robert Sergesketter (Board 33), 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 1–50, 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.

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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 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, so to speak, 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."

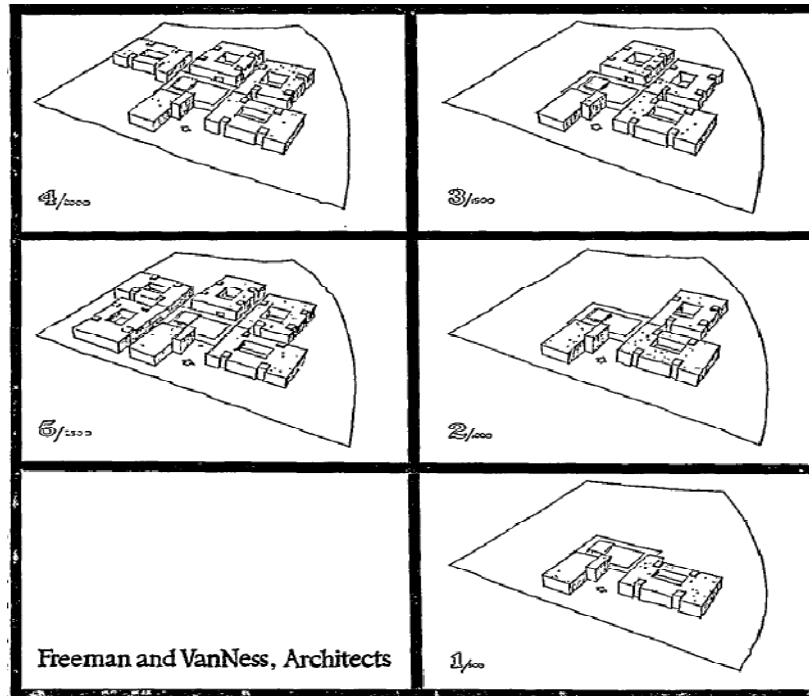
Swelling Numbers

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



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 1976–1977 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 1,106 when Board 14 assembled for duty a mere 13 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 Acting 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 2.²⁴ 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 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 14—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 46 members, an increase in size of more than 300%.

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 the students themselves raised the necessary start-up funding.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 decision makers 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 *HLR*’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 *HLR*’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 *HLR* 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 symposias' 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 Symposia (viewed broadly) can be structured or characterized in a number of ways—as a traditional symposium, a lecture, a conference, or the more generically termed “themed issue.”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 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 ten 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, both local and national.

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, produced 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.

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 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 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 thirteen highly

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qualified authors, eleven 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, “. . . tenaciously!” 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. Captain Nice would hold the *HLR* fort for the next 36 volumes.⁸⁰

Over the years, 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 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 26 times in the pages of *Houston Law Review*—surely a record of 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.

* * *

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*, 50 HOUS. L. REV. 257, 262 (2012).

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 soon-to-be-published *Autobiography of a Law School*. JOHN MIXON, *AUTOBIOGRAPHY OF A LAW SCHOOL* (2012) (unpublished manuscript) (on file with Houston Law Review).

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, *supra* note 4, at 263, 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 276 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 263–68.

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 id.* at 260 & n.15, 272.

13. As previously discussed, *see id.* at 258 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 a matter of considerable ambiguity.

14. See *id.* at 269 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. LEG. 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 373 (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 hires of the period, like Jordan Paust, because of their scholarly specialties, published frequently in *Houston Journal of International Law*.

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] established scholarship as a requirement for promotion and tenure. That requirement marked a significant advance on our path to national responsibility.” *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 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, *supra* note 4, at 262.

29. *See id.* at 263.

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, *supra* note 4, at 263.

37. The story of Decade 1’s contents is chronicled under 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, 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 POLITICS, POLICY AND LAW 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* appear to have been republished as books but also, like many other large projects of the period facilitated by the huge increase in *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 Frost (Editor in Chief of Board 19), Hon. Cathleen Cockran (EIC of Board 21), Robert Sergesketter (EIC of Board 33 and the current 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 attempt to chronicle in the Decade 3 and Decade 4 historical 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 Pig." 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. . . . Whether 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 39-40.

69. Joyce, *supra* note 4, at 260-62 ("*Nothing Succeeds Like Successors*").

70. *Id.* at 262 ("*Enter Houston Law Review*").

71. MIXON, *supra* note 5, at 42 (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 and Proposals for Change*, 17 HOUS. L. REV. 411 (1980).

74. The new Rules became effective on September 1, 1983. Thus, *HLR'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*

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?

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