

# THE *JOURNAL'S* JOURNEY: A HISTORY OF THE *MISSISSIPPI LAW JOURNAL*

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## INTRODUCTION

So, it is with a sense of pride, we present this maiden issue of the *Mississippi Law Review* to the profession of the state. Yet, this number of the *Review* is little more toward our dream of what law review should be than the first faltering step of a baby toward accomplishing its feat of walking. In common parlance, we have “broken the ice,” or set a precedent so that the future students of the law school will not hesitate to plunge in the water, or to push this precedent into its proper place of prestige.<sup>1</sup>

So wrote Joseph M. Howorth, the first student to serve as editor-in-chief of the *Mississippi Law Review*, the little-known predecessor to the *Mississippi Law Journal*.<sup>2</sup> While the *Review* suffered a quick demise—it was only published from 1922 to 1923<sup>3</sup>—it did succeed in setting a precedent for future law

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<sup>1</sup> *Mississippians, We Serve*, 1 MISS. L. REV. 12, 12 (1922).

<sup>2</sup> *Id.*

<sup>3</sup> Michael de L. Landon, *The Origins of the Mississippi Law Journal*, 50 MISS. L.J. 1, 4 (1979).

students, such that only five years later the *Review* was resurrected in the form of the *Mississippi Law Journal*, now in its eighty-third year of existence.

The *Mississippi Law Journal* is one of the oldest student-edited law reviews in the American South. In fact, stretching back to its origin in 1922 with the founding of the *Mississippi Law Review*, the *Journal* is the fourth-oldest student-edited law review in the South, with only the *Virginia Law Review* (1913),<sup>4</sup> the *Tulane Law Review* (1916),<sup>5</sup> and the *Loyola Law Review* (1920)<sup>6</sup> preceding it.<sup>7</sup>

In January of 2011 the *Journal* moved its offices into the newly constructed Robert C. Khayat Law Center.<sup>8</sup> The *Journal's* office in the new building is its sixth in over eight decades. Thus, in a new office, in a new law building, now is an appropriate time to review the *Journal's* rich and remarkable history through some of the more important events, persons, and articles in the life of the *Journal*.

#### I. VENTRESS AND LAMAR (FARLEY) HALLS: 1922–1946

The journey of the *Mississippi Law Journal* began in November of 1922 with the publication of the first issue of the *Journal's* obscure predecessor, the *Mississippi Law Review*.<sup>9</sup> At

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<sup>4</sup> *About VLR*, VA. L. REV., <http://www.virginialawreview.org/page.php?s=general&p=about> (last visited Apr. 25, 2012).

<sup>5</sup> *Tulane Law Review: A History*, TUL. L. REV., <http://www.law.tulane.edu/tlsjournals/lawreview/index3.aspx?id=13168> (last visited Apr. 25, 2012).

<sup>6</sup> Brian Huddleston, *Loyola Law School in the Early 1920s*, LUNO LAW LIBRARY BLOG (Mar. 31, 2011, 9:05 AM), <http://lunolaw.blogspot.com/2011/03/loyola-law-school-in-early-1920s.html> (last visited Apr. 25, 2012).

<sup>7</sup> The *Texas Law Review* and the *North Carolina Law Review* were also founded in 1922, the year the *Mississippi Law Review* was founded. Contrary to popular belief, the *Harvard Law Review*, founded in 1887, was not the first student-edited law review in the United States. Michael I. Swygert & Jon W. Bruce, *The Historical Origins, Founding, and Early Development of Student-Edited Law Reviews*, 36 HASTINGS L.J. 739, 763 (1985). Appearing before the *Harvard Law Review* were two short-lived student-edited journals, the *Albany Law School Journal*, founded in 1875, and the *Columbia Jurist*, founded in 1885. *Id.* at 764-69. Nevertheless, of the reviews that continue to be published today, Harvard's is the oldest. *Id.* at 779. After Harvard, the next five law schools to publish student-edited reviews were Yale (1891), Pennsylvania (1896), Columbia (1901), Michigan (1902), and Northwestern (1906). *Id.* By 1930, forty-three United States law schools featured law reviews. *Id.* at 787.

<sup>8</sup> See *Dedication of the Robert C. Khayat Law Center*, 81 MISS. L.J. 1 (2011).

<sup>9</sup> 1 MISS. L. REV. 1 (1922).

that time, the law school was housed in what is now known as Ventress Hall.<sup>10</sup> The *Review* was edited and published by a University of Mississippi law school honor society known as The Blackstone Law Club and was patterned after similar reviews published by law students at Harvard and the University of Virginia.<sup>11</sup> The goal of the *Review* was to publish “notes on Recent Decisions, critical book reviews, news of the Mississippi Bar Association, and other articles of interest contributed by leading lawyers of the state.”<sup>12</sup> Although most of its subscribers were members of the Mississippi Bar (Bar), the *Review* had no official connection to the Bar.<sup>13</sup>

In the spring of 1922, a female student named Addie McCain was elected by her peers as the first editor of the *Review*.<sup>14</sup> But because Miss McCain did not return to the law school in the fall of 1922, Joseph M. Howorth was elected in her place and was the first student to actually serve as editor.<sup>15</sup> One of the six associate editors of the *Review*'s first issue was Robert J. Farley,<sup>16</sup> who would become an important mentor to the *Mississippi Law Journal* while serving as the eighth dean of the law school from 1946 to 1963.<sup>17</sup>

The *Review* published five issues comprising one volume, the publication of which was thought to be a factor in the prestigious American Association of Law School's bestowing the law school

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<sup>10</sup> MICHAEL DE L. LANDON, THE UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW: A SESQUICENTENNIAL HISTORY 49 (2006). The law school moved into Ventress Hall in 1911. *Id.* Before that time the building housed the university's main library. *Id.* When the law school occupied the building it was officially called “Lamar Hall,” but it was more commonly referred to as simply the “law building.” *Id.*

<sup>11</sup> Landon, *supra* note 3, at 3.

<sup>12</sup> *Id.* (citing MISSISSIPPIAN, Oct. 6, 1922, at 3).

<sup>13</sup> *Well Begun, Half Done*, 1 MISS. L. REV. 90, 91 (1922-23).

<sup>14</sup> Landon, *supra* note 3, at 4.

<sup>15</sup> Landon, *supra* note 3, at 4; *see also Mississippians, We Serve*, *supra* note 1, at 13. Joseph M. Howorth went on to practice law in Jackson, Mississippi with his wife, Lucy Somerville Howorth. Dorothy S. Shawhan & Martha H. Swain, LUCY SOMERVILLE HOWORTH: NEW DEAL LAWYER, POLITICIAN, AND FEMINIST FROM THE SOUTH 56 (2006). In 1934, President Franklin D. Roosevelt appointed Mrs. Howorth to the United States Board of Veterans Appeals, and her husband accompanied her to Washington, D.C. *Id.* at 81-83. In 1954, the couple returned to Mississippi and established a law practice together in Cleveland. Mr. Howorth died in 1982. *Id.* at 136.

<sup>16</sup> 1 MISS. L. REV. 12 (1922).

<sup>17</sup> LANDON, *supra* note 10, at 81.

with an “A” rating in 1924.<sup>18</sup> In the spring of 1924, however, the Mississippi legislature cut its annual appropriation to the state’s colleges and universities, forcing the University of Mississippi law faculty to end its subsidy of the *Review*.<sup>19</sup> As a result of the loss of the subsidy, the *Review* published its last issue in April of 1923.<sup>20</sup>

Nevertheless, it was not long before the law school and members of the Bar revived the idea for a scholarly publication. At the May 1928 meeting of the Bar at the Markham Hotel in Gulfport, Bar President R.E. Wilbourn shared with his fellow members an idea put forth by then Secretary-Treasurer Louis M. Jiggits.<sup>21</sup> Jiggits had suggested that the Bar follow the example of Minnesota and partner with the University of Mississippi to publish a quarterly law journal.<sup>22</sup> Wilbourn suggested that the proposed journal publish Bar materials, such as the proceedings of the annual meeting, and that:

News of the State Law School, reviews of the current State and United States Supreme Court Decisions, and discussions of timely topics of interest to the Bar, and tending to promote high ethical ideals, and a proper attitude toward law reform would constitute further material for the pages of such journal.<sup>23</sup>

Wilbourn explained that the journal could be funded by the money the Bar spent every year to publish their proceedings, with income generated from subscriptions to the journal and by advertisements within the journal.<sup>24</sup> A board of directors, consisting of the law school dean and officers of the Bar, would oversee the law student staff’s editing and publishing of the journal.<sup>25</sup> The *Journal’s* student editors would be “selected on the basis of their Law School records and aptitude for research.”<sup>26</sup>

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<sup>18</sup> Landon, *supra* note 3, at 4.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Proceedings of Twenty-Third Annual Meeting of the Mississippi State Bar Association*, 1 MISS. L.J. 14, 49 (1928) [hereinafter *Twenty-Third Annual Meeting*].

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 49-50.

<sup>24</sup> *Id.* at 49.

<sup>25</sup> *Id.*

<sup>26</sup> 35 BULLETIN OF UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW 14 (1936-37). The bulletins were published as part of the university’s annual school catalogue. The

W.B. Mixon of McComb raised the only concern about the journal proposal when he scornfully asked, "Would the students tell the lawyers of the State what they ought to do? That's going to be done by the students of the University of Mississippi?"<sup>27</sup> The University of Mississippi School of Law Dean Thomas C. Kimbrough calmly reassured Mr. Mixon and others that the student editors would certainly not attempt to teach the state's lawyers how to practice law and that student-edited law reviews were common across the United States.<sup>28</sup> Otherwise, the journal idea received overwhelming support from members of the Bar, and, on May 3, 1928, the Bar voted to approve the proposal.<sup>29</sup>

The *Mississippi Law Journal* was launched without delay, and at the 1929 meeting of the Bar the *Journal's* first editor-in-chief Dugas Shands and its first business manager H. Edwin White gave a successful report of the *Journal's* first year.<sup>30</sup> The *Journal's* first issue was the July 1928 issue, and it contained the proceedings of the 1928 Bar meeting.<sup>31</sup> The note editor for that

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annual catalogues can be found in the Department of Special Collections at J.D. Williams Library on the University of Mississippi campus. In the early years of the *Journal*, students were selected for membership by the dean of the law school in collaboration with the faculty. See *Proceedings of the First Annual Meeting of the Mississippi State Bar*, 5 MISS. L.J. 2, 36 (1932) [hereinafter *First Annual Meeting*]. While the students of the *Journal* now select new members themselves, the official and generic description of how *Journal* members are selected remains almost identical to what it was in 1932: the 2010-11 Law School Catalog states that "[s]tudents are selected for the editorial staff of the *Journal* based on their scholastic records and their aptitude for legal research and writing." UNIV. OF MISS., 2010-11 SCHOOL OF LAW CATALOG: BULLETIN OF THE UNIVERSITY OF MISSISSIPPI 8.

<sup>27</sup> *Twenty-Third Annual Meeting*, *supra* note 21, at 108.

<sup>28</sup> *Id.* at 108-09.

<sup>29</sup> *Id.* at 110-11.

<sup>30</sup> *Proceedings of the Twenty-Fourth Annual Meeting of the Mississippi State Bar Association*, 2 MISS. L.J. 8, 33-34 (1929) [hereinafter *Twenty-Fourth Annual Meeting*]. Shands's tenure as editor-in-chief lasted one year. For most of the *Journal's* history the tenure for editors-in-chief and other *Journal* leadership positions has been one year. However, for a period in the 1970s and 1980s the *Journal* experimented with having an editor-in-chief each semester, including the summer (three per calendar year), and having two editors-in-chief per calendar year (each serving approximately six months). See REPORT OF THE COMMITTEE ON TENURE OF THE EDITOR-IN-CHIEF OF THE MISSISSIPPI LAW JOURNAL 1 (Feb. 21, 1985) (on file with the *Mississippi Law Journal*). The *Journal* has since returned to the one-year tenure model. See 81 MISS. L.J. masthead (2012).

<sup>31</sup> See 1 MISS. L.J. 1, 14 (1928).

first issue was John C. Satterfield,<sup>32</sup> who, in 1961, would serve as president of the American Bar Association.<sup>33</sup>

In total, the *Journal's* first volume comprised four issues. The most notable article of this volume was the Mississippi annotations to the American Law Institute's *Restatement of Torts*, compiled by Chief Justice Sydney Smith of the Mississippi Supreme Court.<sup>34</sup> At its beginning, the *Journal* had 140 subscriptions from members of the Bar, eighty-six subscriptions from law schools, forty-six from lawyers who were not members of the Bar, and a subscription from every University of Mississippi law student.<sup>35</sup> There were also five subscribers in Germany, one in the Philippines, and several subscribers from Canadian universities.<sup>36</sup>

In the 1929-30 academic year there were 105 students enrolled in the University of Mississippi School of Law.<sup>37</sup> Among that population was Lyda Gordon Shivers, who was the first female to receive a law degree from the University of Mississippi.<sup>38</sup> Shivers was a member of the *Journal*, serving as an associate editor,<sup>39</sup> and went on to become a longtime faculty member at the University of North Carolina at Greensboro, including serving as chair of its sociology department from 1954 to 1968.<sup>40</sup>

While the *Journal* was off to a good start, it did not take long for its livelihood to be tested. With the crash of the stock market in 1929, the nation's economy plummeted, and the *Journal* was not immune from the effects. In 1931, declining membership forced the Bar to cut the *Journal's* subsidy to half of what it had

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<sup>32</sup> See 1 MISS. L.J. iii (1928).

<sup>33</sup> LANDON, *supra* note 10, at 63. Prior to serving as president of the ABA, Satterfield was president of the Mississippi state bar in 1954-55. *Id.*

<sup>34</sup> See *Mississippi Annotations of the American Law Institute Torts*, 1 MISS. L.J. 236 (1928).

<sup>35</sup> *Twenty-Fourth Annual Meeting*, *supra* note 30, at 39-40.

<sup>36</sup> *Id.* at 40.

<sup>37</sup> LANDON, *supra* note 10, at 64.

<sup>38</sup> *Department of Sociology: History*, UNIV. OF N.C. GREENSBORO, <http://www.uncg.edu/soc/general/history.html> (last visited Apr. 25, 2012).

<sup>39</sup> See 2 MISS. L.J. 235 (1929).

<sup>40</sup> *Department of Sociology*, *supra* note 38.

been the previous year.<sup>41</sup> While Volume 2 contained 492 pages,<sup>42</sup> Volume 3 dropped to 358 pages,<sup>43</sup> and Volume 4 would consist of only three issues and 225 pages.<sup>44</sup> It must have appeared to many at the time that the *Journal* would suffer the same fate as its short-lived predecessor.

However, two things happened that together secured the *Journal's* continued vitality. In 1932, the Mississippi state legislature passed the Unified Bar Act, requiring every one of the nearly 1300 lawyers in the state to become a dues-paying member of the state bar association.<sup>45</sup> Then, at the first annual meeting of the unified Bar, held in September of 1932, the Bar approved a plan to send copies of the *Journal* to each member of the now vast Mississippi Bar Association.<sup>46</sup> To accommodate this plan, the Bar tripled the subsidy it had allocated to the *Journal* the previous year.<sup>47</sup> The *Journal* had survived its first test.

The first annual meeting of the unified Bar was significant for the *Journal* in other ways as well. At that meeting the Bar agreed to establish a committee comprised of select members of the Bar to oversee and serve as liaison to the *Journal*.<sup>48</sup> The committee existed in some form until 1981, the year the Bar relinquished its oversight of the *Journal*.<sup>49</sup> The members also agreed that the dean of the law school should appoint a faculty committee to oversee the work of the *Journal's* student editors.<sup>50</sup> This group of faculty overseers still exists today in the form of the *Journal's* faculty advisors.<sup>51</sup>

In 1930, construction of a new, three-story law building was completed. Along with “a club room, lounging room, locker room,

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<sup>41</sup> *Proceedings of the Twenty-Sixth Annual Meeting of the Mississippi Bar Association*, 4 MISS. L.J. 4, 69 (1931).

<sup>42</sup> *See generally* 2 MISS. L.J. 1 (1929).

<sup>43</sup> *See generally* 3 MISS. L.J. 1 (1930).

<sup>44</sup> *See generally* 4 MISS. L.J. 1 (1931).

<sup>45</sup> *See* 1932 Miss. Laws ch. 121; *see also* Landon, *supra* note 3, at 6.

<sup>46</sup> *First Annual Meeting*, *supra* note 26, at 35-38.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> The state bar committee responsible for overseeing the *Journal* went by different names over the years: “Committee on the Law Journal,” “Law Journal—Law School Liaison Committee,” and the “Law School Liaison and Education Committee.”

<sup>50</sup> *First Annual Meeting*, *supra* note 26, at 35-38.

<sup>51</sup> *See* 81 MISS. L.J. masthead (2012).

and work rooms” for students, the ground floor of Lamar Hall, now known as Farley Hall, included “a large and commodious *Law Journal* room,” which served as the “office of the Editor and Business Manager of the *Mississippi Law Journal*.”<sup>52</sup> Hugh N. Clayton was the first editor-in-chief to occupy that “large and commodious” office space.<sup>53</sup> Clayton would go on to have an illustrious career in his law practice and in service to his community. His many accomplishments include founder and first president of the Young Lawyers Division of the Mississippi Bar,<sup>54</sup> president of the Bar in 1959,<sup>55</sup> and longtime Mississippi delegate to the American Bar Association.<sup>56</sup> Clayton passed away in 1994 at the age of eighty-six.<sup>57</sup>

Three years after Hugh N. Clayton served as editor, the *Journal* was led by another student who would later achieve notoriety. John W. Wade, editor-in-chief of the *Journal* in 1933-34, was Dean of Vanderbilt Law School from 1952 to 1972<sup>58</sup> and co-author of successive editions of a widely-used casebook on tort law.<sup>59</sup> In addition to being a student member of the *Journal*, Wade served as the *Journal*'s faculty advisor from 1936 to 1943 and 1945 to 1946 before leaving the University of Mississippi to join the faculty at Vanderbilt.<sup>60</sup>

While the *Journal*'s relationship with the Bar meant that it never had to fear for subscribers, it also exposed the *Journal* to occasional meddling from members of the Bar. At the 1935 annual

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<sup>52</sup> LANDON, *supra* note 10, at 71.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 77.

<sup>55</sup> *Past Presidents of the Mississippi Bar*, MISS. BAR, <http://www.msbar.org/past-pres.php> (last visited Apr. 27, 2012).

<sup>56</sup> 140 CONG. REC. S7056-58 (daily ed. June 16, 1994) (statement of Sen. Thad Cochran), *available at* <http://www.gpo.gov/fdsys/pkg/CREC-1994-06-16/html/CREC-1994-06-16-pt1-PgS34.htm>.

<sup>57</sup> *Id.*

<sup>58</sup> *A Brief History of Vanderbilt University Law School*, VAND. L. SCH., <http://law.vanderbilt.edu/about-the-school/history/index.aspx> (last visited Apr. 27, 2012).

<sup>59</sup> The casebook is now in its twelfth edition. *See* WILLIAM L. PROSSER, JOHN W. WADE, VICTOR E. SCHWARTZ, KATHRYN KELLY & DAVID F. PARTLETT, PROSSER, WADE AND SCHWARTZ'S TORTS CASES AND MATERIALS (12th ed. 2010).

<sup>60</sup> *See* Ronald J. Rychlak, *John Wade: Teacher, Lawyer, Scholar*, 65 MISS. L.J. 1, 5 (1995). Wade was absent from the law school from 1943-45 because he enlisted in the United States Marine Corps as an intelligence officer. *Id.*

Bar meeting, the *Journal's* printing contract came under scrutiny. At that time the *Journal* was using a company out of Jackson, Tennessee for printing and mailing of its publication.<sup>61</sup> But, during consideration of the *Journal's* annual appropriation, Judge W.H. Powell expressed frustration that the *Journal* was using an out-of-state printer and made a motion that the printing contract be awarded to a Mississippi company.<sup>62</sup> Mr. J.V. Gibson joined the debate and expressed a separate concern that the printing be done by union labor.<sup>63</sup> In the end, David C. Bramlette, Chairman of the Law Journal Committee, succeeded in rebutting these concerns, stating that he was “opposed to hog-tying these young gentlemen managing this journal, who are managing it so well.”<sup>64</sup> Nevertheless, in 1936, undoubtedly fearful of future controversy, the *Journal* contracted with a company from Meridian for its printing and mailing.<sup>65</sup>

In Volume 11 (1938-39), the *Journal* began including in each issue a review of recent decisions by the Mississippi Supreme Court.<sup>66</sup> Law faculty and lawyers in the state wrote the reviews. The *Journal* would continue this practice off and on over the years, and it remains today in the form of the Mississippi Briefing Service, written by student members of the *Journal*.<sup>67</sup> In the spring of 2012 the *Journal* launched *BriefServ*, an online, searchable database of these case briefs.<sup>68</sup>

The *Journal* launched another program during this period that still exists today. The 1938-39 law school bulletin announced:

Each year awards are made by the faculty of the School of Law and the Editorial Board of the *Mississippi Law Journal* to the writer of the best Case Note and the writer of the best

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<sup>61</sup> *Proceedings of the Thirtieth Annual Meeting of the Mississippi State Bar*, 8 MISS. L.J. 4, 80-84 (1935).

<sup>62</sup> *Id.* at 81.

<sup>63</sup> *Id.* at 82-84.

<sup>64</sup> *Id.* at 84.

<sup>65</sup> *Proceedings of the Thirty-First Annual Meeting of the Mississippi State Bar*, 9 MISS. L.J. 6, 109 (1936).

<sup>66</sup> See C. Sydney Carlton, Note, *The Work of the Mississippi Supreme Court For the September 1937, and the March 1938, Terms*, 11 MISS. L.J. 1 (1938).

<sup>67</sup> See *Welcome to BriefServ*, BRIEFSERV, <http://msbriefserv.com/> (last visited Apr. 15, 2012).

<sup>68</sup> *Id.*

Case Comment appearing during the current year in the *Mississippi Law Journal*. These awards consist of law books to be selected by the recipients.<sup>69</sup>

While law books are no longer given as awards and the students themselves now select the recipients, the *Journal* continues to annually recognize the writers of the best case note and best comment.<sup>70</sup>

Alternatively, the *Journal* has long since lost the benefit of a law school policy established in 1940 and in place for many years after: "Every student in the Law School is required to pay a fee of \$1.00 per semester to the *Mississippi Law Journal* and is entitled to receive all current issues of the *Journal*."<sup>71</sup> Law students who had not been selected for membership on the *Journal* were probably relieved when they no longer were required to help subsidize it.

In 1942, Evelyn Gandy became the first woman to serve as editor-in-chief of the *Journal*.<sup>72</sup> She was also the first woman elected as president of the law school student body.<sup>73</sup> Gandy would later become the first woman in Mississippi ever elected to the offices of State Representative, State Treasurer, State Insurance Commissioner, and Lieutenant Governor.<sup>74</sup> Gandy died in January of 2007 at the age of eighty-seven.<sup>75</sup>

In 1945, the *Journal's* last year with an office on the ground floor of Lamar Hall, the *Journal* published an issue dedicated to the memory of Thomas C. Kimbrough, Dean of the University of Mississippi School of Law from 1921 to 1930 and 1932 to 1945.<sup>76</sup> Dean Kimbrough was instrumental in launching both the *Mississippi Law Review* and the *Mississippi Law Journal* and is one of the most revered deans in the law school's history. Under

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<sup>69</sup> 37 BULLETIN OF THE UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW 17 (1939).

<sup>70</sup> See *Awards*, MISSISSIPPI LAW JOURNAL, <http://mississippilawjournal.org/about-us/awards/> (last visited Apr. 15, 2012).

<sup>71</sup> 38 BULLETIN OF THE UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW 17 (1940).

<sup>72</sup> LANDON, *supra* note 10, at 80.

<sup>73</sup> *Evelyn Gandy*, STENNIS CTR. FOR PUB. SERV. LEADERSHIP, <http://www.stennis.gov/programs/womens-leadership-initiatives/lindy-boggs-award/78-evelyn-gandy-1998> (last visited Apr. 27, 2012).

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> See *Dean T.C. Kimbrough*, 17 MISS. L.J. 307, 307-313 (1946).

Dean Kimbrough, the law school expanded its enrollment and rose in national status.<sup>77</sup> Dean Kimbrough died in December of 1945 and was replaced as Dean by Robert J. Farley.<sup>78</sup>

## II. THE DEAD HOUSE: 1946–1959

Enrollment at the law school dropped sharply as a result of World War II.<sup>79</sup> Despite the fewer number of students, the *Journal* was able to report after the war that it was “particularly proud of the fact that the *Journal* was able to continue publication, without a lapse, during the recent war.”<sup>80</sup>

While enrollment had fallen to twenty-two in the 1944-45 academic year, it jumped to over one hundred in the 1945-46 academic year—the academic year immediately after the war.<sup>81</sup> As a result of the post-war rise in enrollment, the law building had become over-crowded, and in July of 1946 a small brick structure that sat behind the law building was given to the *Law Journal* for exclusive use as its office.<sup>82</sup> This building was known as the “Dead House.”<sup>83</sup>

The building earned its name during the Civil War when it was used as a morgue to house the bodies of soldiers after the battle of Shiloh on April 6-7, 1862.<sup>84</sup> The morgue was used alternately by the Confederate and Union armies during the course of the war.<sup>85</sup> After the Civil War, the building was used as the Delta Kappa Epsilon fraternity house and as a residence for faculty members.<sup>86</sup>

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<sup>77</sup> LANDON, *supra* note 10, at 53.

<sup>78</sup> *Id.* at 81.

<sup>79</sup> LANDON, *supra* note 10, at 80.

<sup>80</sup> Robert J. Farley, *School of Law in ANNUAL REPORT OF THE CHANCELLOR OF THE UNIVERSITY OF MISSISSIPPI* 71(1948).

<sup>81</sup> LANDON, *supra* note 10, at 80.

<sup>82</sup> R.J. Farley, *School of Law in ANNUAL REPORT TO THE CHANCELLOR FOR THE SESSION 1946-1947 BY THE DEAN OF THE UNIVERSITY* 47 (1947).

<sup>83</sup> LANDON, *supra* note 10, at 83.

<sup>84</sup> LANDON, *supra* note 10, at 83.

<sup>85</sup> *Proceedings of the Nineteenth Annual Meeting of the Junior Bar Section*, 26 MISS. L.J. 301, 314-15 (1954) [hereinafter *Nineteenth Annual Meeting of the Junior Bar Section*].

<sup>86</sup> LANDON, *supra* note 10, at 83.

When the *Journal* took over the Dead House it had fallen into disrepair.<sup>87</sup> With the help of Dean Robert J. Farley, however, the *Journal* was able to renovate the building, transforming it into a comfortable place in which to work.<sup>88</sup> The building contained an editorial and business office, a reception room, three work rooms for *Journal* members, and a small library.<sup>89</sup> While possibly a bit frightened by its past, members of the *Journal* were proud of their little building, and boasted in their annual report to the Bar that the “*Journal* has the distinction of being one of the very few, if not the only, law journals in the nation maintaining a private building of its own.”<sup>90</sup>

One of the first editors-in-chief to occupy the Dead House was a young man from Grenada, Mississippi named William F. Winter. Winter, editor-in-chief in 1948,<sup>91</sup> would later serve as the fifty-eighth Governor of Mississippi from 1980-84.<sup>92</sup> Governor Winter led the *Journal* in compiling a cumulative index of its first twenty volumes, which would later be published in 1950.<sup>93</sup> Also under Winter, the *Journal* began awarding certificates of service to *Journal* staff upon graduation from the law school, a practice that continues today.<sup>94</sup>

During this period the *Journal* became closely involved with a consortium of southern law reviews called the Southern Law Review Conference, and on March 25-26, 1949, the *Journal* hosted

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<sup>87</sup> *Proceedings of the Fourteenth Annual Meeting of the Junior Bar Section*, 21 MISS. L.J. 456, 472 (1949).

<sup>88</sup> *Id.* The *Journal*'s extensive renovation of the Dead House included the addition of a room by closing in a former porch. SCHOOL OF LAW ANNUAL REPORT 72 (1947-1948). “Paint and wallpaper were applied to the interior walls and ceilings, some of the floors were sanded and varnished, Venetian blinds were hung, and fluorescent lights were installed.” *Proceedings of the Forty-Fourth Annual Meeting of the Mississippi State Bar*, 20 MISS. L.J. 424, 509 (1949) [hereinafter *Forty-Fourth Annual Meeting*]. Additionally, the outside of the building was painted. *Proceedings of the Sixteenth Annual Meeting of the Junior Bar Section*, 23 MISS. L.J. 336, 358 (1952). Finally, the interior was painted and wallpapered and the floors were refinished. *Proceedings of the Seventeenth Annual Meeting of the Junior Bar Section*, 24 MISS. L.J. 383, 394 (1953).

<sup>89</sup> See LANDON, *supra* note 10, at 83.

<sup>90</sup> *Nineteenth Annual Meeting of the Junior Bar Section*, *supra* note 85, at 314.

<sup>91</sup> See 19 MISS. L.J. masthead (1948).

<sup>92</sup> *The Honorable William F. Winter*, WILLIAM WINTER INST. FOR RACIAL RECONCILIATION, <http://www.winterinstitute.org/pages/aboutus.htm> (last visited Apr. 29, 2012).

<sup>93</sup> *Forty-Fourth Annual Meeting*, *supra* note 88, at 511.

<sup>94</sup> *Id.* at 510.

its third-annual meeting.<sup>95</sup> Seventy-six delegates attended the event, representing law reviews from fifteen southern law schools, such as the University of Texas, Vanderbilt University, and the University of Virginia.<sup>96</sup> The conference featured an address from the Honorable Joseph C. Hutcheson, Jr., Chief Judge of the United States Court of Appeals for the Fifth Circuit.<sup>97</sup> As a sort of happy hour, Dean Robert J. Farley and *Journal* staff invited delegates to the Dead House for a “Coca-Cola party” after the second day of meetings.<sup>98</sup> At the conference’s conclusion, the delegates elected Professor William N. Ethridge, Jr., faculty advisor to the *Journal*, as Chairman for the following year’s conference.<sup>99</sup> According to delegates from the *University of Tennessee Law Journal*, the meeting in Oxford was “one of the most enjoyable and beneficial experiences in the three-year history” of the conference and it was a “splendid success.”<sup>100</sup>

The 1949 meeting of the Southern Law Review Conference was such a success that the conference returned to Oxford in 1954 for its eighth-annual meeting.<sup>101</sup> The 1954 conference was attended by nearly one hundred delegates from seventeen law schools.<sup>102</sup> The highlight of the conference was a keynote address given by the Honorable Felix Frankfurter, Associate Justice of the United States Supreme Court.<sup>103</sup> William N. Ethridge, Jr., former conference chairman and faculty advisor of the *Journal*, who in 1952 had been elected as an Associate Justice to the Mississippi Supreme Court, also spoke at the conference.<sup>104</sup>

Publication of the October 1954 issue marked a milestone for the *Journal*: the completion of the twenty-fifth volume. The

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<sup>95</sup> Transcript of Proceedings of the Third Annual Meeting of the Southern Law Review Conference, at iii (Mar. 25-26, 1949) (on file with the Department of Special Collections, J.D. Williams Library, University of Mississippi).

<sup>96</sup> *Id.* at 1-2.

<sup>97</sup> *Id.* at iv.

<sup>98</sup> *Id.* at 3.

<sup>99</sup> *Id.* at 75.

<sup>100</sup> George C. Thomas, Comment, *Southern Law Review Conference*, 20 TENN. L. REV. 763, 763 (1949).

<sup>101</sup> LANDON, *supra* note 10, at 88.

<sup>102</sup> *Proceedings of the Eighteenth Annual Meeting of the Junior Bar Section*, 25 MISS. L.J. 329, 340 (1953) [hereinafter *Eighteenth Annual Meeting*].

<sup>103</sup> *Id.* Justice Frankfurter was invited by Dean Robert J. Farley to be the principal speaker at the 1954 Law Day. LANDON, *supra* note 10, at 94.

<sup>104</sup> *Eighteenth Annual Meeting*, *supra* note 102, at 340.

*Journal* was now in its twenty-sixth year of uninterrupted publication and had a circulation of approximately 2,300 copies per issue.<sup>105</sup> Subscribers included the members of the Bar, students of the law school, and libraries throughout the world.<sup>106</sup> And because every lawyer in Mississippi received a copy of the *Journal* as part of their Bar membership, the *Journal's* circulation was one of the largest in the country.<sup>107</sup> International subscribers included individuals and institutions in England, Saudi Arabia, South Africa, Argentina, Australia, Belgium, Germany, Mexico, and the Philippines.<sup>108</sup>

In 1958, a three-story extension was added onto the back of Lamar Hall, which meant, to the chagrin of preservationists, that the Dead House was torn down.<sup>109</sup> The *Journal* moved its office to the basement floor of Lamar (Farley) Hall, a location *Journal* members thought temporary.<sup>110</sup> Little did they know, the *Journal* would remain in this undesirable location for the next twenty years.

### III. LAMAR (FARLEY) HALL: 1959–1978

The United States Supreme Court's decision in *Brown v. Board of Education* in May of 1954 ushered in a tense period at the University of Mississippi School of Law.<sup>111</sup> Dean Robert J. Farley and other members of the law faculty were scrutinized by segregationists for urging state leaders to accept the holding in *Brown*.<sup>112</sup> Professor William Patrick Murphy, the law school's

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<sup>105</sup> *Report of the Editorial Board of the Mississippi Law Journal*, 25 MISS. L.J. 338 (1954) [hereinafter *Report of the Editorial Board 1954*].

<sup>106</sup> *Id.* at 338-39.

<sup>107</sup> E-mail from John R. Bradley, Professor, University of Mississippi School of Law, to author (Sept. 8, 2010) (on file with author) [hereinafter E-mail from John R. Bradley].

<sup>108</sup> *Report of the Editorial Board 1954*, *supra* note 105, at 339.

<sup>109</sup> LANDON, *supra* note 10, at 91; *see also Report of the Editorial Board of the Mississippi Law Journal*, 30 MISS. L.J. 566 (1959) [hereinafter *Report of the Editorial Board 1959*].

<sup>110</sup> *Report of the Editorial Board 1959*, *supra* note 109, at 566.

<sup>111</sup> *See* LANDON, *supra* note 10, at 92-96; *see also* Charles W. Eagles, "Thought Control" in *Mississippi: The Case of Professor William P. Murphy*, 66 J. MISS. HIST. 151, 151-99 (2004).

<sup>112</sup> LANDON, *supra* note 10, at 91-96.

expert on constitutional law, received the most scrutiny of all the faculty.<sup>113</sup>

In the summer of 1961, the *Journal* was planning to publish a series of articles detailing Professor Murphy's dissertation at Yale on the Founding Fathers, the United States Constitution, and states' rights.<sup>114</sup> Murphy's thesis challenged the constitutional basis for the exercise of states' rights to nullify federal law.<sup>115</sup> Wanting to see the entire series published, but also aware that political forces in the state wanted to block its publication, Dean Farley urged John R. Bradley Jr., the *Journal's* editor-in-chief in 1961, to accelerate publication of the Murphy series.<sup>116</sup> Unaware of the details motivating Dean Farley's concern, Bradley and the *Journal* expedited publication of the articles.<sup>117</sup>

Soon thereafter, in September of 1962, the Mississippi state senate passed a resolution calling on the university board of trustees to fire Murphy, and the board responded by insisting that Murphy not teach at the law school.<sup>118</sup> Weary of the conflict and uncertain about his job security, Murphy left in the fall of 1962 to join the faculty at the University of Missouri School of Law.<sup>119</sup> Only weeks after Murphy's departure, James Meredith integrated the University of Mississippi, and violence engulfed the campus, resulting in two deaths and occupation by federal troops for weeks to come.<sup>120</sup>

Despite the tension at the law school, and the racial turmoil in the state, the *Journal* was a thriving publication. Dean Joshua M. Morse III boasted in his 1963-64 report to the university board of trustees that the "Mississippi Law Journal is the fourth largest

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<sup>113</sup> *Id.*

<sup>114</sup> E-mail from John R. Bradley, *supra* note 107.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> LANDON, *supra* note 10, at 95.

<sup>119</sup> *Id.* at 96.

<sup>120</sup> *Id.* Professor Murphy died in September of 2007. The *Journal's* fourth issue of Volume 77 (2008) contains articles commemorating Murphy's career, with special emphasis on his professorship at the University of Mississippi School of Law. *See* 77 MISS. L.J. 917, 917-56 (2008); *see also* Eagles, *supra* note 111. Professor Murphy's ouster from the University of Mississippi reached national headlines. *See Teacher, Target of Attacks, Resigns Post in Mississippi*, N.Y. TIMES, Aug. 6, 1962, at 22.

journal in order of circulation in the United States, having 2800 [sic] subscribers. The Law Journal reaches more readers than the Yale, Vanderbilt, Texas, or George Washington law publications.”<sup>121</sup>

This period not only marked a high point in the *Journal's* circulation, but there were also several particularly noteworthy *Journal* members during the 1960s. From 1962 to 1965, William Thad Cochran was a member of the *Journal*, serving as an articles editor in the 1964-65 academic year.<sup>122</sup> Cochran would later be elected to the United States House of Representatives in 1974 and to the United States Senate in 1978, where he continues to serve today.<sup>123</sup> Robert Conrad Khayat was a member of the *Journal* from 1964 to 1965.<sup>124</sup> Later, as a member of the University of Mississippi law faculty, Khayat would serve for a brief time as faculty advisor to the *Journal*.<sup>125</sup> In 1995, Khayat would become the fifteenth Chancellor of the University of Mississippi, a position he held until his retirement in June of 2009.<sup>126</sup> Overlapping with Chancellor Khayat on the *Journal* was Robert A. Weems, a member from 1965 to 1966 who served as index and review editor during that academic year.<sup>127</sup> Weems joined the University of Mississippi law faculty in 1977, and remains there today.<sup>128</sup> He has also served as faculty advisor to the *Journal*.<sup>129</sup> A

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<sup>121</sup> Joshua M. Morse III, *School of Law*, in ANNUAL REPORT OF THE CHANCELLOR OF THE UNIVERSITY OF MISSISSIPPI TO THE BOARD OF TRUSTEES OF INSTITUTIONS OF HIGHER LEARNING 107 (1964).

<sup>122</sup> See 36 MISS. L.J. masthead (1965); 35 MISS. L.J. masthead (1964); 34 MISS. L.J. masthead (1962). The reason for Cochran's lengthy membership on the *Journal*, 1962-65, was that during the 1963-64 academic year Cochran was on leave of absence from the *Journal* studying at Trinity College, University of Dublin, Ireland, on a Rotary Foundation Graduate Fellowship. See 35 MISS. L.J. masthead (1964); see also *Biography*, THAD COCHRAN, <http://www.cochran.senate.gov/public/index.cfm/biography> (last visited Apr. 29, 2012).

<sup>123</sup> *Biography*, *supra* note 122.

<sup>124</sup> See 37 MISS. L.J. masthead (1965); 36 MISS. L.J. masthead (1964).

<sup>125</sup> Khayat was faculty advisor to the *Journal* in 1970-71. See 42 MISS. L.J. masthead (1971); 41 MISS. L.J. masthead (1970).

<sup>126</sup> *Saying Goodbye: Friends Reflect on the Legacy of Robert Khayat*, UM LAW., Spring/Summer 2009, available at [http://law.olemiss.edu/umlaw\\_mag/UMLAWYER\\_SUMMER09/l\\_f\\_khayat.html](http://law.olemiss.edu/umlaw_mag/UMLAWYER_SUMMER09/l_f_khayat.html).

<sup>127</sup> See 36 MISS. L.J. masthead (1965).

<sup>128</sup> *Faculty Directory*, UNIV. OF MISS. SCHOOL OF LAW, [http://www.law.olemiss.edu/faculty\\_profiles/faculty\\_weems.html](http://www.law.olemiss.edu/faculty_profiles/faculty_weems.html) (last visited Apr. 29, 2012).

<sup>129</sup> See generally 81 MISS. L.J. masthead (2012).

contemporary of Weems, Guthrie T. (Guff) Abbott joined the *Journal* in 1965, serving as the case note editor during the 1965-66 academic year.<sup>130</sup> Abbott would later become a member of the University of Mississippi law faculty in 1968, and was the acting dean of the law school from 1985 to 1986.<sup>131</sup> Abbott too would serve as faculty advisor to the *Journal*.<sup>132</sup> Finally, Samuel M. Davis was a member of the *Journal* from 1968 to 1969, serving as editor-in-chief in 1969.<sup>133</sup> Davis later served as Dean of the University of Mississippi School of Law from 1997 to 2010.<sup>134</sup>

In 1967, the *Journal* launched a program that would eventually become the key to its financial viability. Through the Mississippi Briefing Service, the *Journal* delivered synopses of recent decisions of the Mississippi Supreme Court to subscribers of the service.<sup>135</sup> The *Journal* created the service primarily to generate more income for the *Journal*.<sup>136</sup> The *Journal* initially struggled to get its staff to take the briefing service seriously. To combat this problem, the *Journal* began notating the case briefs with the name of the *Journal* staff member who prepared the brief, a practice that continues today.<sup>137</sup> Although the service was a time-consuming venture, it successfully generated much-needed funds.<sup>138</sup> The briefing service operates today much as it did at its inception, with one exception being that the service now reports the decisions of the Mississippi Court of Appeals, in addition to the Mississippi Supreme Court.<sup>139</sup>

In February of 1969, foreshadowing a critical juncture in its future, the *Journal* received a disconcerting letter from George Van Zant, Executive Director of the Mississippi Bar Association. In the letter, Van Zant stated:

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<sup>130</sup> See 37 MISS. L.J. masthead (1965).

<sup>131</sup> See *Tribute to Guthrie T. Abbott*, 70 MISS. L.J. 489, 489-96 (2000).

<sup>132</sup> *Id.*

<sup>133</sup> See 40 MISS. L.J. masthead (1968); 39 MISS. L.J. masthead (1968).

<sup>134</sup> E-mail from Samuel M. Davis, Dean, University of Mississippi School of Law, to law school student body (Dec. 1, 2009) (on file with the *Mississippi Law Journal*).

<sup>135</sup> E-mail from Cliff Hodge, former professor, University of Mississippi School of Law, to author (Sept. 9, 2010) (on file with author).

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> See *Welcome to BriefServ*, BRIEFSEV, <http://msbriefserv.com/> (last visited Apr. 15, 2012).

As far as I can determine, the Mississippi State Bar is the only state bar in the country which subsidizes a law school journal. I firmly believe there is going to have to be a realignment in the financing of the journal with the university taking all or a significant part of it.”<sup>140</sup>

The letter arrived at a time when the *Journal* was already dissatisfied with the subsidy it had been receiving from the Bar. The cost of publishing the *Journal* and providing it free of charge to each member of the Bar was beginning to cost more than the amount of money the Bar was providing for the service. For the time being, however, the *Journal's* relationship with the Bar remained intact.

The *Journal's* masthead in the Winter of 1969 included a particularly noteworthy name: Nausead L. Stewart.<sup>141</sup> Stewart was the first African American member of the *Journal*.<sup>142</sup> She would later become an active civil rights litigator in Mississippi, working alongside fellow University of Mississippi law graduates and civil rights luminaries, Reuben V. Anderson and Constance Slaughter-Harvey.<sup>143</sup> While African American students have since served in *Journal* leadership positions, the first being Kenneth G. Stamps in 1979,<sup>144</sup> and most recently Kristie Metcalfe in 2009-10,<sup>145</sup> the *Journal* has yet to elect an African American editor-in-chief.

In 1970, the *Journal* elected Hugh C. “Buzzy” Clayton editor-in-chief.<sup>146</sup> Buzzy Clayton’s election marked the first time that a father and son had both been elected editor of the *Journal*.

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<sup>140</sup> Letter from George Van Zant, Executive Director of the Mississippi State Bar, to Jerry Langford, Business Manager of the *Mississippi Law Journal* (Feb. 10, 1969) (on file with the *Mississippi Law Journal*).

<sup>141</sup> See 41 MISS. L.J. masthead (1969).

<sup>142</sup> The author wishes to thank the following people for their assistance in identifying Ms. Stewart as the first African American member of the *Journal*: the Honorable William L. Waller, Jr., Chief Justice of the Mississippi Supreme Court; Kristie Metcalfe, Notes & Comments Editor, 2009-10; and Jake Curtis, Notes & Comments Editor, 2010-11.

<sup>143</sup> Reuben V. Anderson, *Reflections—My Experience at the University of Mississippi Law School*, 74 MISS. L.J. xxvii (2004); Constance Iona Slaughter-Harvey, *Law School Reflections*, 74 MISS. L.J. xxxv (2004).

<sup>144</sup> See 50 MISS. L.J. masthead (1979).

<sup>145</sup> See 79 MISS. L.J. masthead (2009).

<sup>146</sup> See 41 MISS. L.J. masthead (1970).

Buzzy's father Hugh N. Clayton served as the *Journal's* third editor-in-chief in 1930-31.<sup>147</sup> In March of 1980, in a small ceremony the same day as the formal dedication of the new law building, the new *Journal* suite was named the "Clayton Law Journal Suite" in honor of Hugh and Buzzy, and a plaque was hung that read "Dedicated In Honor Of The Only Father And Son Who Each Served As Editor-In-Chief Of the Mississippi Law Journal."<sup>148</sup> Tragically, Buzzy Clayton died of leukemia in July of 1972, just two years after his tenure as editor of the *Journal*.<sup>149</sup> While the *Journal* maintains the Clayton plaque today, its words are no longer true. In 1986, the *Journal* elected Walter J. Brand editor-in-chief,<sup>150</sup> the same accomplishment his father, Jack W. Brand, had attained in 1959.<sup>151</sup>

In 1971, the *Journal* made an unusual entry into the realm of national politics, sending a collective letter to President Richard Nixon urging the nomination of Judge Charles Clark to the United States Supreme Court.<sup>152</sup> Clark, a Mississippi native and graduate of the University of Mississippi School of Law, was a judge on the United States Court of Appeals for the Fifth Circuit.<sup>153</sup> But this was not the *Journal's* only connection to the United States Supreme Court during this period, however. In the 1970s, two *Journal* members served as law clerks to Justices on the high court: Rhessa H. Barksdale, a member of the *Journal* from 1971 to 1972, who in 1990 would become a judge on the United States Court of Appeals for the Fifth Circuit, clerked for Associate Justice Byron White in 1972-73;<sup>154</sup> and William Wayne Drinkwater, a member of the *Journal* from 1973 to 1974, clerked for Chief Justice Warren E. Burger in 1976-77.<sup>155</sup> Barksdale and Drinkwater were not the first members of the *Journal* to clerk on

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<sup>147</sup> LANDON, *supra* note 10, at 137.

<sup>148</sup> *Id.*

<sup>149</sup> 140 CONG. REC. S7056-58 (daily ed. June 16, 1994) (statement of Sen. Thad Cochran), available at <http://www.gpo.gov/fdsys/pkg/CREC-1994-06-16/html/CREC-1994-06-16-pt1-PgS34.htm>.

<sup>150</sup> See 56 MISS. L.J. masthead (1986).

<sup>151</sup> See 30 MISS. L.J. masthead (1959).

<sup>152</sup> Letter from *Mississippi Law Journal* collectively, to President Richard M. Nixon (Sept. 1969) (on file with the *Mississippi Law Journal*).

<sup>153</sup> *Foreword*, 61 MISS. L.J. (1991).

<sup>154</sup> LANDON, *supra* note 10, at 131.

<sup>155</sup> LANDON, *supra* note 10, at 131.

the United States Supreme Court: Huey B. Howerton, Jr., editor-in-chief of the *Journal* in 1944-45 and faculty advisor to the *Journal* from 1947 to 1948, clerked for Associate Justice Hugo Black in 1951-52;<sup>156</sup> and Raymond L. Brown, a member of the *Journal* from 1961 to 1962, clerked for Associate Justice Thomas C. Clark in 1962-63.<sup>157</sup>

The 1970s also witnessed two students serve on the *Journal* who would later rise to high public office. Haley Barbour, the future chairman of the Republican National Committee (1993-97) and Governor of Mississippi (2003-11), was a member of the *Journal* in 1971-73;<sup>158</sup> and Roger Wicker, future member of the United States House of Representatives (1995-2007) and United States Senate (2007-present), was a member in 1974-75.<sup>159</sup> Thus, from 2007 to 2011, with Thad Cochran and Roger Wicker in the United States Senate and Haley Barbour as Governor, the most prestigious political offices in Mississippi were held by former members of the *Mississippi Law Journal*.

In 1972, the *Journal* published an article written by Jackson lawyer and *Journal* alumnus Lawrence J. Franck that would prove to be one of the most influential articles ever published by the *Journal*.<sup>160</sup> At the time of Franck's article, Mississippi trial practice was controlled by an "[a]ntiquated and ill-designed . . . hodge-podge of confusing, scattered statutes, court rules, and case decisions . . . ."<sup>161</sup> This was contrary to practice in federal court, where the federal rules of procedure provided extensive uniform rules for trial practice. The Bar had pressed the legislature to reform the civil rules but to no avail.<sup>162</sup> Franck's article, *Practice*

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<sup>156</sup> *Id.*

<sup>157</sup> *Id.* In addition to being the *Journal's* only members to serve as law clerks on the United States Supreme Court; Howerton, Brown, Barksdale, and Drinkwater are also the only graduates of the University of Mississippi School of Law to do so. *Id.*

<sup>158</sup> See *Governor Haley Barbour*, BGR GROUP, <http://www.bgrdc.com/x-bios/bgr-barbour-h.html> (last visited Apr. 15, 2012); see also 42 MISS. L.J. masthead (1971).

<sup>159</sup> See 45 MISS. L.J. masthead (1974); see also *About Roger*, ROGER WICKER, <http://www.wicker.senate.gov/public/index.cfm?FuseAction=AboutRoger.Biography> (last visited Apr. 29, 2012).

<sup>160</sup> Lawrence J. Franck, *Practice and Procedure in Mississippi: An Ancient Recipe for Modern Reform*, 43 MISS. L.J. 287 (1972).

<sup>161</sup> *Id.* at 287.

<sup>162</sup> E-mail from Luther T. Munford, Jackson, Mississippi attorney, to author (Feb. 2, 2011) (on file with author).

*and Procedure in Mississippi: An Ancient Recipe for Modern Reform*, argued that the Mississippi Supreme Court had the inherent power to establish uniform rules of practice and procedure—without aid of the legislature.<sup>163</sup> In 1975, the Mississippi Supreme Court decided *Newell v. State* in which the court, citing Franck's *Journal* article, unanimously announced that it would "draw upon its inherent power to prescribe rules of procedure to facilitate the administration of justice in the courts throughout the state."<sup>164</sup> Accordingly, starting in 1981 and continuing today, the Court proceeded to adopt rules of practice and procedure for all the state's courts.<sup>165</sup>

But only a year after Franck's article, the *Journal* published an article that has been cited by courts and scholars more times than any other article published by the *Journal*. In *On the Nature of Strict Tort Liability for Products*, Professor John W. Wade, former *Journal* editor-in-chief (1933-34) and Dean of the Vanderbilt Law School (1952-71), identified the three now familiar categories of product liability claims: manufacturing defects, design defects, and failure to warn.<sup>166</sup> He also proposed that courts use a risk-utility test in design defect cases, a test that is now used by an overwhelming majority of United States courts.<sup>167</sup> Finally, the article set forth the now favored seven-factor strict liability test for determining whether a product is unreasonably dangerous.<sup>168</sup> Not surprisingly, Wade's article has been cited by state and federal courts in approximately 200 judicial opinions and countless articles, treatises, and case books.<sup>169</sup>

By 1974 the *Journal* required significant administrative and clerical assistance that it received from the full-time help of one of

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<sup>163</sup> Franck, *supra* note 160, at 287-88.

<sup>164</sup> 308 So. 2d 71, 76, 78 (Miss. 1975).

<sup>165</sup> See *Hall v. State*, 539 So. 2d 1338, 1345 (Miss. 1989).

<sup>166</sup> John W. Wade, *On the Nature of Strict Tort Liability for Products*, 44 MISS. L.J. 825, 841-42 (1973).

<sup>167</sup> For a recent survey of jurisdictions using the risk-utility test and affirming its use by an "overwhelming majority" of United States courts, see *Branham v. Ford Motor Co.*, 701 S.E.2d 5, 14-15 (S.C. 2010).

<sup>168</sup> Wade, *supra* note 166, at 837-38.

<sup>169</sup> Calculation based on author's research. Wade's article continues to be cited by courts today. See, e.g., *Schmidt v. Boardman Co.*, 11 A.3d 924, 940 (Pa. 2011); see also Gary Myers, *Dean John Wade and the Law of Torts*, 65 MISS. L.J. 29, 30 (1995).

the law school's secretaries.<sup>170</sup> Due to budget cuts, however, the law school informed the *Journal* that the organization would no longer be able to use the law school secretary.<sup>171</sup> In response, the *Journal* hired Ms. Sherry Moore in 1975 as the *Journal*'s first full-time administrative assistant.<sup>172</sup> In order to pay Ms. Moore's salary, the *Journal* appropriated the meager salaries it was paying the students on its editorial board.<sup>173</sup> The administrative assistant position became a *Journal* fixture until 2008 when the *Journal* would again operate without one.<sup>174</sup>

Also in 1974, the *Journal* established the *Mississippi Law Journal* Alumni Association.<sup>175</sup> The stated purpose of the alumni association was to maintain contact with *Journal* alumni and to provide funds for special projects.<sup>176</sup> Another purpose of the association was to help convince the Bar that increased funding was needed for the *Journal*.<sup>177</sup> Each association member paid ten dollars annually as dues.<sup>178</sup> An alumni newsletter, called "Footnotes," was published once per semester and sent to members of the association.<sup>179</sup> The *Journal* created an associate editor's position to administer the association and to be

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<sup>170</sup> Memorandum concerning *Mississippi Law Journal* Secretary (June 3, 1974) (on file with the *Mississippi Law Journal*).

<sup>171</sup> *Id.*

<sup>172</sup> Memorandum from Stanley Q. Smith, Business Manager, *Mississippi Law Journal*, to file (Nov. 13, 1979) (on file with the *Mississippi Law Journal*). The *Journal* employed Mrs. Billie B. Walshock as a part-time administrative assistant for a short time in 1974. Memorandum from E. Stephen Williams, Business Manager, *Mississippi Law Journal*, to Stephen W. Rosenblatt, Editor-in-Chief, *Mississippi Law Journal* (Sept. 18, 1974) (on file with the *Mississippi Law Journal*).

<sup>173</sup> Letter from Tom Collier, Editor-in-Chief, *Mississippi Law Journal*, to Dean Parham Williams, Dean of the University of Mississippi School of Law (June 30, 1975). The editorial board salaries were later reinstated out of *Journal* appropriations. Letter from H.M. Yoste, Jr., Editor-in-Chief, *Mississippi Law Journal*, to Luther Ott (Dec. 22, 1977) (on file with the *Mississippi Law Journal*).

<sup>174</sup> Letter from William Painter, Editor-in-Chief, *Mississippi Law Journal*, to *Mississippi Law Journal* Alumni (June 10, 1974) (on file with the *Mississippi Law Journal*).

<sup>175</sup> Letter from William Painter, Editor-in-Chief, *Mississippi Law Journal*, to Robert H. Hodges (June 10, 1974) (on file with the *Mississippi Law Journal*).

<sup>176</sup> Letter from William Painter, *supra* note 174.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

responsible for publication of the alumni newsletter, the collection of dues, and the organization of events with *Journal* alumni.<sup>180</sup>

The alumni association was replaced in November of 1978 by a similar entity named The *Mississippi Law Journal* Association, Inc.<sup>181</sup> The *Law Journal* association was primarily responsible for raising and investing funds to ensure financial support for the *Journal's* operation.<sup>182</sup> The association included current student members of the *Journal* and interested former *Journal* members.<sup>183</sup> Control of the association was vested in the current editor-in-chief and a board of directors that consisted of past *Journal* editors-in-chief and business managers.<sup>184</sup> The association generated income from alumni dues, gifts, and donations. Thus, in 1978 the *Journal* was composed of two separate organizations: (1) the *Mississippi Law Journal*; and (2) the *Mississippi Law Journal* Association, Inc.

The *Law Journal* association was also responsible for a commercial venture, the *Mississippi Attorney's Desk Book*.<sup>185</sup> First published by the *Journal* in June of 1976, the desk book was a loose-leaf reference service containing the court rules for the Mississippi Supreme Court as well as the uniform and individual rules governing practice in Mississippi's federal district courts and the Fifth Circuit Court of Appeals.<sup>186</sup> The desk book also contained the uniform chancery, circuit, and county court rules and additional rules adopted by individual judges.<sup>187</sup> Student members of the law journal association, who published the desk book, supplemented it three times annually.<sup>188</sup> The association financed the desk book and, consequently, received the revenue

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<sup>180</sup> *Id.*

<sup>181</sup> CHARTER OF INCORPORATION OF THE MISSISSIPPI LAW JOURNAL ASSOCIATION, INC. (1978) (on file with the Office of the Mississippi Secretary of State) (bk. 249, at 521).

<sup>182</sup> *Id.*

<sup>183</sup> *Id.* at 523.

<sup>184</sup> *Id.*

<sup>185</sup> Memorandum from William N. Reed, Editor-in-Chief, *Mississippi Law Journal*, to Members of the Mississippi State Bar Association (Feb. 18, 1977) (on file with the *Mississippi Law Journal*); see MISSISSIPPI ATTORNEY'S DESK BOOK (2d ed. 1977). The first advertisement for *The Mississippi Attorney's Desk Book* appeared in the *Journal's* second issue of Volume 47 (1976). See 47 MISS. L.J. 171 (1976).

<sup>186</sup> See MISSISSIPPI ATTORNEY'S DESK BOOK, *supra* note 185.

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

from its sale. The *Journal* ceased publication of the desk book in the mid-1980s when a similar publication from West Publishing drove it out of business.<sup>189</sup>

In 1978, the *Journal* completed its time in Lamar (Farley) Hall with a celebration of the *Journal's* fiftieth year of publication. On April 1st of that year, approximately eighty current and former members of the *Journal* met in Oxford as part of the annual spring law alumni weekend to celebrate the *Journal's* longevity.<sup>190</sup> Mr. Hugh N. Clayton, who had witnessed almost all fifty years of the *Journal's* existence, addressed the proud and gleeful gathering.<sup>191</sup>

#### IV. LAMAR LAW CENTER: 1978–2010

Entering its fifty-first year of existence, the outlook for the *Journal* was bright. In addition to publishing four issues every year, the *Journal* published the Mississippi Briefing Service and the *Mississippi Attorney's Desk Book*. In the summer of 1978, the *Journal* moved its office to the new state-of-the-art law building, the Lamar Law Center.<sup>192</sup> The *Journal* made the move to the new building gladly, as its previous office in the basement of Lamar (Farley) Hall had become dilapidated.<sup>193</sup> *Journal* members perceived the *Journal's* initial allocation of space in the new building as inadequate, but after wrangling with law school administrators its space allocation was increased by 700 square feet.<sup>194</sup> In its spacious new headquarters, the *Journal* was able to provide individual offices to most of its editorial board.<sup>195</sup>

Despite the *Journal's* auspicious outlook after fifty years of publication, the *Journal's* increasingly tenuous relationship with

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<sup>189</sup> *Id.*

<sup>190</sup> Letter from H.M. Yoste, Jr., Editor-in-Chief, *Mississippi Law Journal* to the Board of Bar Commissioners of the Mississippi State Bar (Apr. 24, 1978) (on file with the *Mississippi Law Journal*).

<sup>191</sup> *Id.*

<sup>192</sup> LANDON, *supra* note 10, at 136.

<sup>193</sup> University of Mississippi law professor, Deborah Hodges Bell, who was a member of the *Journal* when the law school moved into the Lamar Law Center, described the *Journal's* previous office in Lamar Hall as a “ratty, dusty space in the basement.” E-mail from Deborah Hodges Bell, Professor, University of Mississippi School of Law, to author (Sept. 9, 2010) (on file with author).

<sup>194</sup> *Id.*

<sup>195</sup> *Id.*

the Bar finally began to emerge. In the late 1970s certain members of the Bar began to seriously question the Bar's support of the *Journal*. One concern was simply that the cost of the *Journal* to the Bar was too high.<sup>196</sup> Another concern was that with the founding of the *Mississippi College Law Review* in 1978, it was unfair for the Bar to subsidize the law journal at one law school in the state but not at the other.<sup>197</sup> Finally, some members of the Bar thought that the *Journal's* focus was no longer on the Bar but rather on publishing articles of national interest.<sup>198</sup>

At least in part because of these concerns, the Bar's annual appropriation to the *Journal* began decreasing, severely straining the *Journal's* finances.<sup>199</sup> Further, although it was losing Bar funding, the *Journal* was still required to print and mail copies of its issues to every Bar member. As a result, the publication and mailing costs began to far exceed the Bar's annual appropriation to the *Journal*.<sup>200</sup>

It became apparent to both the Bar and the *Journal* that their official relationship was in jeopardy. Over a sixth-month period in 1980-81, the *Journal* met with members of the Bar to discuss alternative arrangements.<sup>201</sup> In the end, the Bar and the *Journal* reached an agreement whereby the *Journal* would no longer receive financial assistance from the Bar, and the *Journal*, in turn, would discontinue providing each member of the Bar with copies of the *Journal*.<sup>202</sup> The effective date of the agreement was

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<sup>196</sup> Letter from Ronnie L. Walton, Chairman of the Law School Liaison & Education Committee of the Mississippi Bar, to Law School Liaison & Education Committee Members (Jan. 24, 1980) (on file with the *Mississippi Law Journal*).

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

<sup>199</sup> Letter from LaVone Warren, Editor-in-Chief, *Mississippi Law Journal*, to Mississippi State Bar Members (Aug. 28, 1981) (on file with the *Mississippi Law Journal*); see also *Mississippi Law Journal to be Offered by Subscription Only*, MISS. LAW., Nov.-Dec. 1981, at 14.

<sup>200</sup> *Mississippi Law Journal to be Offered by Subscription Only*, *supra* note 199. As of October 1980, the bar appropriated \$21,000 per year. For this sum, each of the 4500 members of the bar received a copy of the *Journal* for approximately \$4.67 per volume; this compared with printing costs in excess of \$7.50 per volume. Under the arrangement with the bar, therefore, the *Journal* was losing approximately \$10,000 per year. *Mississippi Law Journal* Editorial Board Meeting Minutes (Oct. 9, 1980) (on file with the *Mississippi Law Journal*).

<sup>201</sup> *Mississippi Law Journal to be Offered by Subscription Only*, *supra* note 199.

<sup>202</sup> *Id.*

June 1, 1982.<sup>203</sup> As of that date, the *Journal* was to become a separate, independent entity, operating on a subscription basis only. After more than fifty years of support from the Bar, the *Journal* would have to survive on its own.

The *Journal* hoped that by operating on a subscription basis it would have the flexibility to adapt to the changing cost of printing and mailing. But because of its relationship with the Bar, never in its history had the *Journal* had to worry about attracting subscriptions. The agreement with the Bar gave the *Journal* six months to solicit subscription orders from members of the Bar. The subscription drive began in August of 1981.<sup>204</sup>

Fortunately, the subscription drive was a success, and by November of 1981 the *Journal* had already received over 650 subscriptions.<sup>205</sup> And less than a year later, in October of 1982, the *Journal* was able to proudly report to the Bar's law school liaison committee that the *Journal's* financial condition had significantly improved since its split with the Bar.<sup>206</sup> The *Journal* had approximately 1100 subscriptions from members of the Bar, and with 300 more subscriptions the *Journal* would break even on printing costs, a feat that had become elusive in the final years of funding from the Bar.<sup>207</sup> The *Journal* had survived the split.

The first test for the now independent *Journal* came quickly when in 1983, Dr. Peter Wagner, University of Mississippi Vice Chancellor for Academic Affairs, proposed that the university should not give substantial weight to articles published in law reviews during the tenure and promotion process for members of the University of Mississippi law faculty.<sup>208</sup> Dr. Wagner believed that law reviews were inferior to other scholarly publications because they were student edited and not peer reviewed.<sup>209</sup> In response to the proposal, several law professors and members of

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<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> *Id.*

<sup>206</sup> *Id.*

<sup>207</sup> *Id.*

<sup>208</sup> Memorandum from Parham Williams, Dean, University of Mississippi School of Law, to Law Faculty (Mar. 9, 1983) (on file with the *Mississippi Law Journal*); see also Letter from Mitchell Cowan, Editor-in-Chief, *Mississippi Law Journal*, to Dr. Peter E. Wagner, Vice Chancellor for Academic Affairs, University of Mississippi (June 24, 1983) (on file with the *Mississippi Law Journal*).

<sup>209</sup> Memorandum from Parham Williams, *supra* note 208.

the Bar explained to Dr. Wagner, a physicist by training, the nature and function of law reviews in the American legal system.<sup>210</sup> Dr. Wagner agreed to alter his proposal so that the university would consider articles written by University of Mississippi law faculty that were published in other law reviews, but not articles published in the *Journal* because “publication in our own law review . . . is subject to the problem of compromise.”<sup>211</sup>

Having grown accustomed to publishing articles written by University of Mississippi faculty members, Dr. Wagner’s amended proposal alarmed the *Journal*. The *Journal* perceived that the likely effect of Wagner’s proposal would be to dry up this valuable source of scholarship. The *Journal* responded to the proposal with vigor and quickly sent letters to former editors-in-chief requesting that they write Dr. Wagner in opposition to his proposal.<sup>212</sup> It did not take long for letters to begin pouring into Dr. Wagner’s office expressing displeasure with his proposal.<sup>213</sup> And on March 27, 1983, the General Assembly of the National Conference of Law Reviews passed a resolution resolving that “worthy publications by law professors in law reviews of accredited law schools be accorded substantial weight during the tenure and promotion process of such professors’ universities.”<sup>214</sup> Despite being astonished and impressed by the *Journal*’s dynamic response to his proposal, Wagner never altered his position. Nevertheless, he did not remain a University of Mississippi Vice Chancellor for long, and his successor did not share his views.<sup>215</sup> In the end, his policy had no real effect.<sup>216</sup>

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<sup>210</sup> *Id.*

<sup>211</sup> Letter from Mitchell Cowan, Editor-in-Chief, *Mississippi Law Journal*, to the Honorable William F. Winter (July 1, 1983) (on file with the *Mississippi Law Journal*).

<sup>212</sup> *Id.*

<sup>213</sup> Letters from former editors-in-chief of the *Mississippi Law Journal* to Dr. Peter Wagner, Vice Chancellor for Academic Affairs, University of Mississippi (various dates during 1983) (on file with the *Mississippi Law Journal*).

<sup>214</sup> Resolution from The National Conference of Law Reviews, Inc. (Mar. 27, 1983) (on file with the *Mississippi Law Journal*). The author was unable to confirm whether the *Journal* had a role in prompting the resolution, but the resolution’s timing suggests that it probably did.

<sup>215</sup> E-mail from Guthrie (Guff) T. Abbott, Professor Emeritus, University of Mississippi School of Law professor, to author (Feb. 27, 2011) (on file with author).

<sup>216</sup> *Id.*

In addition to facing challenges alone, independence from the Bar also forced the *Journal* to become fully responsible for its own destiny. The *Journal* did not shy away from this new role, and in the 1980s and 1990s the *Journal* made several important decisions to reshape its internal operations and public identity.

In April of 1986, the *Journal* hired Peggy C. Nail as an administrative assistant.<sup>217</sup> Nail would go on to serve the *Journal* for the next twenty plus years and, in the process, became a key part of the *Journal's* backbone. Nail passed away on June 5, 2008, after a battle with cancer.<sup>218</sup> She is remembered fondly by former members of the *Journal*. The Fall 2008 issue of the *Journal* was published in memory of Peggy Nail, “for her years of service to the *Mississippi Law Journal*.”<sup>219</sup>

Also in 1986, the *Journal* joined its sister organization, the Mississippi Law Journal Association, Inc., in adopting bylaws and incorporating under the laws of the State of Mississippi.<sup>220</sup> Before it was incorporated, the *Journal* had an uncertain legal status as some form of unincorporated association. Incorporation had become necessary because by that time the *Journal* was not only independent from the Bar, it was also independent from the university, from which the *Journal* was receiving no financial support. The corporate status ensured the *Journal's* autonomy from the university and reinforced its complete authority in purchasing procedures (e.g., choice of publisher).

In 1995, the *Journal* established the Robert C. Khayat Scholarship in honor of the *Journal* alumnus, faculty advisor to the *Journal*, and chancellor of the university.<sup>221</sup> The Khayat Scholarship continues to be awarded each spring to the most outstanding *Journal* member(s).<sup>222</sup>

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<sup>217</sup> Memorandum from *Mississippi Law Journal* Business Manager to file (Apr. 16, 1986) (on file with the *Mississippi Law Journal*).

<sup>218</sup> *Mrs. Peggy Carnahan Nail: Life Legacy*, WALLER FUNERAL HOME, [http://www.wallerfuneralhome.com/sitemaker/sites/Waller2/obit.cgi?user=979\\_MNail11](http://www.wallerfuneralhome.com/sitemaker/sites/Waller2/obit.cgi?user=979_MNail11) (last visited Apr. 15 2012).

<sup>219</sup> See generally 78 MISS. L.J. (2008).

<sup>220</sup> *The Mississippi Law Journal, Inc.*, MISS. SEC'Y OF STATE: BUS. SERVS., <https://business.sos.state.ms.us/corp/soskb/Corp.asp?144445> (last visited Apr. 30, 2012).

<sup>221</sup> See generally *Robert C. Khayat Scholarship Endowment*, 81 MISS. L.J. (2012).

<sup>222</sup> See *Awards*, MISSISSIPPI LAW JOURNAL, <http://mississippilawjournal.org/about-us/awards/> (last visited Apr. 15, 2012).

That year also saw the board of directors of the *Mississippi Law Journal* Association, Inc. vote to create an endowment with The University of Mississippi Foundation.<sup>223</sup> The association transferred its assets to the endowment, and the association granted the foundation authority and responsibility for investing and managing the corpus of the endowment.<sup>224</sup>

On October 15, 1996, the *Journal* organized a ceremony to rededicate its office in the Lamar Law Center as the Clayton Law Journal Suite.<sup>225</sup> The event took place in the mall area of the law center, with Chancellor Robert C. Khayat and Acting Dean of the law school William M. Champion presiding.<sup>226</sup> The *Journal* unveiled a new bronze door plaque to memorialize Hugh and Buzzy Clayton.<sup>227</sup> The Clayton family and Senator Thad Cochran were among those who attended the ceremony.<sup>228</sup>

But thereafter in 1999, the *Journal* found itself in the unusual and unenviable position of being scrutinized by the University of Mississippi law faculty. In March of that year, the faculty unanimously passed a resolution recommending that the *Journal* change its membership selection process to make it easier for students with higher grades to become members of the *Journal* and harder for other students.<sup>229</sup> Specifically, the faculty proposed, among other things, the following: (1) the top ten percent of each second-year class automatically receive an invitation to join the *Journal* without participating in any competition or writing a case note; (2) the minimum GPA for students participating in the case note competition be raised; and

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<sup>223</sup> Mississippi Law Journal Association, Inc., Corporate Resolution to Establish the *Mississippi Law Journal* Endowment and to Transfer Funds (Sept. 24, 1993) (on file with the *Mississippi Law Journal*).

<sup>224</sup> *Id.*

<sup>225</sup> Memorandum from Scott R. Hendrix, Editor-in-Chief, *Mississippi Law Journal*, to University of Mississippi School of Law faculty members (Oct. 8, 1996) (on file with the *Mississippi Law Journal*).

<sup>226</sup> *Id.*

<sup>227</sup> *Id.*

<sup>228</sup> *Id.*

<sup>229</sup> Letter from Michael H. Hoffheimer, Professor of Law, University of Mississippi School of Law, to David Shelton, Editor-in-Chief, *Mississippi Law Journal* (Mar. 26, 1999) (on file with the *Mississippi Law Journal*).

(3) the total number of students on the *Journal* be capped at fifty.

<sup>230</sup>

At the time the faculty passed the resolution, it was the *Journal's* practice to invite every law student with a certain minimum GPA to compete in a case note competition, the results of which determined *Journal* membership.<sup>231</sup> With minimal variation, this had been the *Journal's* method of selecting its members since 1956, when the *Journal* first required each potential member to write a case note in addition to having a high scholastic average.<sup>232</sup> The faculty proposal in 1999 actually resembled the method that the *Journal* used in its early years to select members: until 1956, when the case note requirement was first established, students with a high scholastic average were automatically selected for membership, while students with lower grades could become members only by writing an acceptable case note.<sup>233</sup>

While the resolution and the resulting negotiations caused considerable strife between the faculty and *Journal* leaders, it ultimately led the *Journal* to adopt a variation of the faculty resolution that included the following: (1) the top fifteen students of each second-year class would automatically be offered membership on the *Journal*; (2) those fifteen students would still be required to write a case note; (3) all second-year students with a GPA of 2.8 or above would be invited to participate in a case note competition; and (4) there would be no limit on the number of *Journal* members.<sup>234</sup> With little deviation, the *Journal* employs this method today.<sup>235</sup>

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<sup>230</sup> *Id.* The faculty resolution also proposed that the *Journal* allow only one opportunity each year to gain membership on the *Journal* and that the case note competition for students with lower grades be subject to double-blind grading. *Id.*

<sup>231</sup> Memorandum from Trey Bourn, Editor-in-Chief, *Mississippi Law Journal*, to file (Apr. 18, 1999) (on file with the *Mississippi Law Journal*).

<sup>232</sup> *Report of the Editorial Board of the Mississippi Law Journal*, 27 MISS. L.J. 338, 338 (1956).

<sup>233</sup> *Report of the Student Editorial Board of the Mississippi Law Journal*, 20 MISS. L.J. 509, 510 (1949).

<sup>234</sup> Memorandum from Trey Bourn, *supra* note 231.

<sup>235</sup> The minimum GPA required for competing in the case note competition for membership was changed from 2.8 to 3.2 in 2004 when the law school changed the median for the first-year mandatory grading guidelines from 2.5 to 3.0. RESTATED BYLAWS OF THE MISSISSIPPI LAW JOURNAL, INC. amend. 5. The *Journal* has also since added a Bluebook editing exercise and the completion of an acceptable Mississippi case

Establishment of the *Journal's* endowment with the University of Mississippi Foundation in 1994 prompted speculation whether there was any continued purpose for the Mississippi Law Journal Association, Inc. Since the creation of the association in 1978, the journal was governed by two official entities: the association and the *Journal*. Sometime in the mid-1980s, however, both the board of directors for the Association and the board of trustees for the *Journal* became defunct due to inactivity.<sup>236</sup> This resulted in the *Journal* being operated for many years with no connection to its alumni.<sup>237</sup> This disconnect with *Journal* alumni, combined with independence from the Bar, also meant that the *Journal* was operating year-to-year with minimal continuity and no oversight.<sup>238</sup> To remedy this problem, the *Journal* decided in April of 2000 to merge the association into the *Journal* and create a single board of directors for the *Journal*. This board of directors, which continues to meet annually, is comprised of four *Journal* alumni, three student editors from the *Journal*, and one faculty advisor.<sup>239</sup> The board has the authority to conduct all the business of the *Journal*, including the election of future directors.<sup>240</sup>

The changes made by the *Journal* in the 1980s and 1990s, however, did not prevent it from publishing several notable articles during this period. In the midst of intense debate over public education in Mississippi, the *Journal* published two issues focused on the matter. The Fall 1988 issue was a Symposium on Education, and included a foreword written by Governor Ray Mabus, and an article written by former Governor William F. Winter.<sup>241</sup> The Winter 1993 issue focused on *United States v. Fordice*,<sup>242</sup> the United States Supreme Court decision holding that

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brief. *Membership*, MISSISSIPPI LAW JOURNAL, <http://mississippilawjournal.org/about-us/membership/> (last visited Apr. 15, 2012).

<sup>236</sup> E-mail from Trey Bourn, Jackson, Mississippi attorney and *Journal* editor-in-chief in 1999-2000, to author (Sept. 8, 2010) (on file with author).

<sup>237</sup> *Id.*

<sup>238</sup> *Id.*

<sup>239</sup> RESTATED BYLAWS OF THE MISSISSIPPI LAW JOURNAL, INC. art. IV, § 3 (a)-(c).

<sup>240</sup> *Id.* at § 1.

<sup>241</sup> See Ray Mabus, *Foreword: Symposium on Education*, 58 MISS. L.J. 221, 221-22 (1988); William F. Winter, *Development of Educational Policy in Mississippi*, 58 MISS. L.J. 223 (1988).

<sup>242</sup> 505 U.S. 717 (1992).

the eight public universities in Mississippi had not sufficiently integrated.<sup>243</sup>

Another noteworthy issue during this period was that of Fall 1993, dedicated to the memory of Lucius Quintus Cincinnatus Lamar—Mississippi native, University of Mississippi law professor, and namesake of the law school's buildings from 1911 to 2010.<sup>244</sup> The year 1993 marked the centennial of Lamar's death. Over the course of his illustrious and varied career, Lamar served as ambassador to Russia for the Confederate States of America, a United States Representative and United States Senator, United States Secretary of the Interior, and an Associate Justice on the United States Supreme Court.<sup>245</sup> Much of the scholarship on Lamar has appeared in the pages of the *Journal*, including an article by distinguished University of Virginia law professor, Daniel John Meador.<sup>246</sup>

In 1996, the *Journal* published two articles by Associate Justices of the United States Supreme Court, Justice Clarence Thomas and retired Justice Byron White.<sup>247</sup> In October of 1995, Justice Thomas gave the "James McClure Memorial Lecture in Law" in Fulton Chapel on the University of Mississippi campus and the *Journal* published the lecture in the Spring 1996 issue.<sup>248</sup> Retired Justice White's article was published in a special issue dedicated to Professor Myres McDougal.<sup>249</sup> McDougal, a 1935

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<sup>243</sup> See John Quincy Adams, *Through the Looking Glass and What the Supreme Court Finds There: The Political Setting of United States v. Fordice*, 62 MISS. L.J. 263 (1993); Mary Ann Connell, *The Road to United States v. Fordice: What is the Duty of Public Colleges and Universities in Former De Jure States to Desegregate?*, 62 MISS. L.J. 285 (1993); Robert N. Davis, *The Quest for Equal Education in Mississippi: The Implications of United States v. Fordice*, 62 MISS. L.J. 405 (1993); William J. Dunaway & Russell W. Mills, *United States v. Fordice: A Summary of the Parties' Arguments*, 62 MISS. L.J. 361 (1993).

<sup>244</sup> Michael H. Hoffheimer, *Dedication*, 63 MISS. L.J. 1 (1993).

<sup>245</sup> See Michael H. Hoffheimer, *L.Q.C. Lamar 1825-1893*, 63 MISS. L.J. 5 (1993).

<sup>246</sup> See Michael H. Hoffheimer, *Holmes, L.Q.C. Lamar, and Natural Law*, 58 MISS. L.J. 71 (1988); Michael H. Hoffheimer, *L.Q.C. Lamar 1825-1893*, 63 MISS. L.J. 5 (1993); Daniel J. Meador, *Lamar to Posterity—A Centennial Memoir*, 63 MISS. L.J. 107 (1993).

<sup>247</sup> See Justice Clarence Thomas, U.S. Supreme Court, Keynote Address: James McClure Memorial Lecture in Law, 65 MISS. L.J. 463 (1996), Justice Byron S. White, *Tribute to Myres S. McDougal*, 66 MISS. L.J. 1 (1996).

<sup>248</sup> See Justice Clarence Thomas, U.S. Supreme Court, Keynote Address: James McClure Memorial Lecture in Law (Oct. 19, 1995), in 65 MISS. L.J. 463, 463-75 (1996).

<sup>249</sup> See Justice Byron S. White, *Tribute to Myres S. McDougal*, 66 MISS. L.J. 1, 1-8 (1996).

graduate of the University of Mississippi law school, taught at Yale Law School for over fifty years and was a pioneer in the fields of international law and space law.<sup>250</sup> Justice White was a student of Professor McDougal's at Yale.<sup>251</sup>

In the spring of 1999, the *Journal* became the first to publish the infamous *Dowd Report*, the report that led to baseball player Pete Rose's lifetime ban from Major League Baseball (MLB).<sup>252</sup> The report was the result of MLB's investigation into Rose's baseball betting activities in the 1980s and was prepared by John M. Dowd, Special Counsel to Major League Baseball Commissioner, Bart Giamatti.<sup>253</sup> University of Mississippi law professor Ronald J. Rychlak obtained the report for the *Journal*.<sup>254</sup>

Starting in 2002, the *Journal* began a partnership with the National Center for Justice and the Rule of Law (NCJRL), an entity within the University of Mississippi School of Law.<sup>255</sup> The NCJRL hosts an annual symposium on the Fourth Amendment that includes lectures given by many of the nation's foremost experts on the law governing search and seizure.<sup>256</sup> The *Journal*

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<sup>250</sup> *Id.* at 2.

<sup>251</sup> *Id.*

<sup>252</sup> John M. Dowd et al., *In the Matter of: Peter Edward Rose, Manager, Cincinnati Reds Baseball Club Report to the Commissioner*, 68 MISS. L.J. 911 (1999). In addition to the report itself, the *Journal* published the following: An introduction to the report written by University of Mississippi law professor Ronald J. Rychlak titled *Pete Rose, Bart Giamatti, and the Dowd Report*, 68 MISS. L.J. 889; A statement from Bart Giamatti, Commissioner of Major League Baseball, on Pete Rose and the report, *Statement of Commissioner A. Bartlett Giamatti*, 68 MISS. L.J. 903; and, the actual agreement entered into between Rose and Giamatti banning Rose from Major League Baseball. *Agreement and Resolution, In the Matter of Peter Edward Rose*, 68 MISS. L.J. 907.

<sup>253</sup> See Dowd, *supra* note 252.

<sup>254</sup> The story of how Professor Rychlak obtained *The Dowd Report* for the *Journal* illustrates the proactive attitude that has resulted in many of the *Journal's* most successful articles. After reading an article about Dowd's report in an issue of *Baseball Weekly*, Rychlak suspected that the report had not yet been published. Thereafter, Rychlak contacted Dowd, whom Rychlak had never met, and proposed that the *Journal* publish his report, and Dowd agreed. E-mail from Ronald J. Rychlak, Professor, University of Mississippi School of Law, to author (Feb. 17, 2011) (on file with author).

<sup>255</sup> The *Journal* published the first Fourth Amendment Symposium in the Fall 2002 issue. See generally 72 MISS. L.J. 1 (2002).

<sup>256</sup> See *Forthcoming Judicial Conferences and Webinars*, NAT'L CTR. FOR JUSTICE AND THE RULE OF LAW, [http://www.olemiss.edu/depts/ncjr/FourthAmendment/fai\\_judicialforthcoming.html](http://www.olemiss.edu/depts/ncjr/FourthAmendment/fai_judicialforthcoming.html) (last visited Apr. 30, 2012).

dedicates one issue each year to publishing articles stemming from the symposium.

For many years before 2006, it became common for the *Journal* to operate without a profit.<sup>257</sup> Copying and postmarking the weekly briefing service represented one of the *Journal's* biggest expenses. To curb this expense, the *Journal* began distributing the briefing service by e-mail only in the fall of 2007.<sup>258</sup> Although the transition meant that a handful of subscribers without e-mail addresses could no longer receive the service, the *Journal* saved a substantial amount of money as a result. The *Journal* is solvent as a result of the revenue from this e-mail-only briefing service delivery. Continuing its efforts to reduce financial strain, the *Journal* reached out to *Journal* alumni for donations in 2007.<sup>259</sup> This fundraising effort resulted in the creation of the "Friends of the Mississippi Law Journal" list now published in each issue of the *Journal*.<sup>260</sup>

The *Journal's* transition to an e-mail-only briefing service in 2006 was not its only recent move towards the Internet. In 2009, the *Journal* launched an Internet companion to its print issues called the "Mississippi Law Journal *Online*."<sup>261</sup> The internet site features short essays written by University of Mississippi faculty members and Mississippi practitioners, responses to articles printed in the *Journal*, and articles written by University of Mississippi law students.<sup>262</sup>

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<sup>257</sup> E-mail from Joshua Kyle, New York, NY attorney and *Journal* editor-in-chief in 2006-2007, to author (Dec. 9, 2010) (on file with author).

<sup>258</sup> Letter from Joshua S. Kyle, Editor-in-Chief, *Mississippi Law Journal*, to briefing service subscribers (Jan. 29, 2007) (on file with the *Mississippi Law Journal*).

<sup>259</sup> Letter from Alysson Mills, Editor-in-Chief, *Mississippi Law Journal*, to *Mississippi Law Journal* alumni (June 2007) (on file with the *Mississippi Law Journal*).

<sup>260</sup> *Friends of the Mississippi Law Journal* was first published in the Fall 2007 issue. See generally 77 MISS. L.J. (2007).

<sup>261</sup> The online publication was first called *MISSing Sources*. The name was changed to *Supra*, The Online Companion to the *Mississippi Law Journal* in 2011. Press Release, *Mississippi Law Journal*, News: The Online Journal Takes on a New Name (Sept. 7, 2011) (on file with the *Mississippi Law Journal*).

<sup>262</sup> See *About Supra*, MISSISSIPPI LAW JOURNAL, <http://mississippilawjournal.org/supra/about-supra/> (last visited Apr. 15, 2012).

## CONCLUSION: ROBERT C. KHAYAT LAW CENTER

In January of 2011, the University of Mississippi School of Law began classes in its new building, the Robert C. Khayat Law Center.<sup>263</sup> The *Journal's* new office is on the second floor of the building, adjacent to the Moot Court Board's office. The *Journal's* new office is its sixth in its ninety years of history, stretching back to the founding of its predecessor, the *Mississippi Law Review*.

In 2012, as it prepares to complete its eighty-first volume, the *Journal* is an independent and autonomous entity, receiving no funds from the university and with no official connection to the state bar association. And now with an online companion and an e-mail only briefing service, the *Journal* operates in ways unimaginable to its founders. These developments aside, those early student leaders still have much to say to the *Journal* leaders of today. As Joseph M. Howorth so eloquently remarked in closing the first volume of the *Mississippi Law Review*:

The maiden volume of this publication has been successful. But, will the Law Students be content with this small success? I hope not! And I trust that in their young hearts a fire of enthusiasm will glow which will burst into flames of activity that will make the *Mississippi Law Review* the peer of its realm."<sup>264</sup>

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<sup>263</sup> See generally 81 MISS. L.J. 1 (2011).

<sup>264</sup> 1 MISS. L. REV. 90 (1923).

