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FOREWORD:

CELEBRATING *MISSISSIPPI COLLEGE LAW REVIEW*'S SILVER ANNIVERSARY¹

Jason Fortenberry, Scott Gilbert, and Elizabeth Ganzerla

The *Mississippi College Law Review* began as a modest idea. Its creation was the response to a desire of faculty and students to take “a significant step forward in the legal education at Mississippi College” by founding an organization devoted to publishing scholarly articles focused solely on three limited areas of law.² The fledgling organization quickly evolved. From the original concept in the summer of 1977 until the publication of its first issue a year later, the *Review* grew from an organization of limited scope to an educational entity dedicated to the study of all “practical aspects of law in the Mississippi legal community.”³

The original Editorial Board produced the inaugural issue in July 1978, marking the beginning of a commitment to the Mississippi legal community to provide high-quality coverage of important subjects of Mississippi law.⁴ The first issue included an invitation to legal theorists, educators, scholars, and practitioners throughout the state to submit ideas and comments to the *Review* in order to improve the quality and utility of the journal. For nearly three decades now, that call has been answered by Mississippi's best and brightest. The resulting intellectual, as well as financial, support has transformed the *Mississippi College Law Review* from a modest legal journal into a multifaceted organization striving for continual improvement of the study and practice of law in Mississippi.

The *Review* has served as a forum for legal scholars to present their writings and to help bring about positive change in several areas of Mississippi law. For example, in 1985 the *Review* published an article by Mississippi College School of Law Professor Cecile C. Edwards recommending reforms of Mississippi's business corporation law.⁵ Professor Edwards argued that Mississippi had a body of business law that was non-uniform, outdated, and unusual, which impeded the state's economic development.

1. With this issue, the *Mississippi College Law Review* celebrates the publication of Volume 25, a landmark for the organization and the law school. The first two volumes of the *Review* consisted of four issues each rather than two; each volume spanned two academic years. With Volume 3 the *Review* began the current practice of publishing one volume, generally comprised of two issues, annually. The 2005–06 academic year, therefore, marks the twenty-seventh year for the *Review* and the twenty-fifth volume.

2. Hunter W. Lundy, *Preface*, 1 *Miss. C. L. REV.* vii (1978).

3. *Id.*

4. *Id.*

5. Cecile C. Edwards, *Mississippi Business Corporation Law: A Proposal for Progress*, 6 *Miss. C. L. REV.* 1 (1985).

Because the law was unfamiliar and confusing, corporations routinely declined the opportunity to expand into Mississippi. Professor Edwards observed that provisions in Mississippi's constitution caused many of the problems.⁶ Following the article's publication in the *Review*, Professor Edwards, along with Jackson attorney Dan Hise and others, formed the Business Law Reform Task Force. With Professor Edwards's recommendations in hand, the group approached then-Secretary of State Dick Molpus to sponsor their proposals before the state legislature. The group succeeded in amending some of the problematic statutes and later pushed for a state constitutional amendment that allowed progress in Mississippi business corporation law.⁷ The publication of Professor Edwards's article in the *Mississippi College Law Review* was the catalyst for the changes.

In 1996 and 1997 the *Review* published two articles by Associate Dean Phillip L. McIntosh that critically analyzed the state's attempts at products liability tort reform.⁸ Dean McIntosh recognized that the intent of the legislation was laudable, but questioned the legislation's concept of the liability of retailers and its requirement that retailers named in products liability claims give notice to manufacturers thirty days after filing, rather than thirty days after the retailer's own notice of the lawsuit. The state legislature later amended this aspect of the statute.⁹ These articles have been cited by practitioners in appellate briefs as well as by the Mississippi Court of Appeals.¹⁰

The *Review* keeps the legal community abreast of developing issues and helps practitioners stay on top of changes in the state's legal landscape. For example, in 1982, Mississippi faced a constitutional crisis over separation of powers between the legislative and judicial branches of state government. Mississippi College School of Law Professors William H. Page and Paul B. Herbert engaged in a scholarly debate that generated three articles on the controversy.¹¹ At that time, the state legislature promulgated procedural court rules. Repeated calls from many quarters for change went unheeded by the legislature. This led the Mississippi Supreme Court to act in violation of established practice: in 1981 the court issued an order adopting a version of the Federal Rules of Civil Procedure.¹²

6. *Id.* at 1–2.

7. Interview with Mississippi College School of Law Professor Cecile Edwards in Jackson, Miss. (Oct. 27, 2005).

8. Phillip L. McIntosh, *Tort Reform in Mississippi: An Appraisal of the New Law of Products Liability, Part I*, 16 *MISS. C. L. REV.* 393 (1996); Phillip L. McIntosh, *Tort Reform in Mississippi: An Appraisal of the New Law of Products Liability, Part II*, 17 *MISS. C. L. REV.* 277 (1997).

9. Interview with Phillip L. McIntosh, Associate Dean, Mississippi College School of Law, in Jackson, Miss. (Oct. 31, 2005).

10. *Id.*

11. William H. Page, *Constitutionalism and Judicial Rulemaking: Lessons from the Crisis in Mississippi*, 3 *MISS. C. L. REV.* 1 (1982) [hereinafter Page, *Lessons*]; Paul B. Herbert, *Process, Procedure, and Constitutionalism: A Response to Professor Page*, 3 *MISS. C. L. REV.* 45 (1982); William H. Page, *The Legitimacy of Judicial Rulemaking: A Reply to Professor Herbert*, 3 *MISS. C. L. REV.* 59 (1982).

12. Page, *Lessons*, *supra* note 11, at 2–6.

Professor Page wrote an article discussing the matter, taking the view that while the court should make the rules, such rulemaking should be subject to legislative approval.¹³ Professor Herbert responded by arguing that Professor Page and other proponents of his view confused federal and state constitutionalism.¹⁴ Professor Herbert contended that where the legislature refused to act, the court should. Because the justices were elected officials, he argued, their action had the democratic process behind it.¹⁵ These articles by Professor Page and Professor Herbert provided frontline discourse as the debate unfolded. Once again the *Mississippi College Law Review* provided the legal community with vital scholarship and commentary to aid in the formulation of policy.

A few volumes later, in 1994, the *Review* published a report edited by Professor Matthew Steffey entitled *Laying the Groundwork for Court Reform: A Report of the Mississippi's Bar's Commission on Courts in the 21st Century*.¹⁶ This report was the culmination of a special project of the Mississippi Bar that resulted in needed reforms to Mississippi's court system. Previous studies had recommended a restructuring, but the legislature had never acted on those reports. The Commission on Courts in the 21st Century undertook to modernize the state's courts, but recognized that change would occur only if the Commission provided a desirable and workable solution.¹⁷

Professor Steffey became involved in the project, serving as reporter on the situation of appellate courts in the state and later as draftsman and editor of the report on the Commission's findings. The most notable achievement of the Commission was the establishment of Mississippi's Court of Appeals, which the Commission recommended after finding that the Mississippi Supreme Court had one of the highest caseloads in any state with a single appellate court.¹⁸ Additionally, the Commission succeeded in convincing the state legislature that a statewide Administrative Office of the Courts was needed, that trial judges needed additional support in the form of secretaries and law clerks, and that judicial salaries should increase.¹⁹ Though Professor Steffey's report was published after these changes became law, it informed the legal community of the changes and the reasoning behind them.

The *Review's* Symposium Series serves Mississippi's legal practitioners and scholars by providing a forum for discussion and debate on a wide range of legal and social topics. The Series began in the fall of 1983 with the Law and Southern Literature Symposium. For this inaugural symposium, the *Review* teamed up with the newly formed Law and Humanities

13. *Id.* at 43.

14. Herbert, *supra* note 11, at 46.

15. *Id.* at 53-54.

16. Matthew Steffey, *Laying the Groundwork for Court Reform: A Report of the Mississippi Bar's Commission on Courts in the 21st Century*, 14 MISS. C. L. REV. 511 (1994).

17. *Id.* at 515.

18. *Id.* at 519.

19. *Id.* at 518.

Institute to engage the state's legal and literary communities to join in discussion and to foster the "growing interest among legal and literary scholars in the intersection of their fields."²⁰ Symposium participants "explore[d] the insights that novelists, dramatists, and critics bring to the most basic concerns of lawyers: language, justice, morality and human motivation."²¹ Panelists—speakers and authors representing the fields of law, literature, and education from all corners of the United States—offered their views on a variety of topics. Notable was a discussion about William Faulkner's use of the lawyer as a character and his use of Mississippi case law, statutes, and legal themes in his works. A discussion of early laws prohibiting slave literacy explored the consequences for slaves' literary imaginations and the relationship between legal and literary interpretation. The *Mississippi College Law Review* memorialized the event by publishing articles by the symposium participants in a subsequent issue.

Another Symposium facilitated legal change in Mississippi when it examined the state's proposed Tort Reform Bill in 2002. Responding to the call for debate from the legal community, the *Review* gathered legal practitioners from around the state and scholars from around the country to discuss the benefits and drawbacks of the bill. Panel discussion topics ranged from general civil justice reform to the need for tort reform that would be fair to both doctors and patients in the medical liability context. The Symposium also addressed the constitutionality of tort reform itself. The discussions and debates served to inform the state's practitioners about the practical effects of the proposed bill, while providing insight to the legislature about the reaction it could expect from the legal community.

Recently, the *Review* presented a forum for discussion and debate on the proposal to enact a class-action rule in Mississippi. Panels comprised of law professors from around the nation and practitioners and jurists from around Mississippi came together in Jackson to discuss the pros and cons of the proposed rule. Although Mississippi has yet to adopt a class-action rule, the *Review* once again provided Mississippi's legal community with a convenient forum for examining and debating a cutting-edge legal issue.

The Symposium Series issues of the journal have focused on a range of topics including civil rights; Mississippi cases argued before the United States Supreme Court; judicial selection in Mississippi; professional malpractice; labor and employment law; and environmental law. These publications have proven to be invaluable tools for the state's practitioners, professors, scholars, and jurists.

The *Mississippi College Law Review* has periodically recognized and honored those who have dedicated their careers to improving the state of the law in Mississippi. In 1978, the *Review* dedicated its inaugural issue to Judge E. A. Turnage for his service as a county attorney, state legislator,

20. William H. Page & Richard H. Weisberg, *Foreword: The Law and Southern Literature*, 4 *Miss. C. L. Rev.* 165 (1984).

21. *Id.*

mayor of Monticello, Mississippi, and former judge of the Thirteenth Chancery Court District.²²

A portion of the twelfth volume of the *Review*, published in 1992, was dedicated in honor of the career of United States Court of Appeals for the Fifth Circuit Chief Judge Charles Clark upon his retirement from the bench. Born in Tennessee, Judge Clark was educated in Mississippi and practiced law in the state as a member of the Mississippi Bar.²³ In 1961 he began serving as Special Assistant to the Attorney General of Mississippi.²⁴ In 1969, he was appointed to the Fifth Circuit, where he served until 1991, when he announced his retirement and return to the private practice of law.²⁵ For his lifelong commitment to the legal community of the state and the nation, the *Review* paid homage to the vibrant career of this esteemed lawyer and jurist. Included in the dedication were tributes from such distinguished figures as Chief Justice William H. Rehnquist, Justice Byron R. White, and Justice Antonin Scalia of the United States Supreme Court as well as praise from Judge John R. Brown, Judge Rhesa Barksdale, and Chief Judge Henry A. Politz of the Fifth Circuit Court of Appeals.

Many alumni of the *Review* have gone on to distinguished careers. They range from judges to scholars, from successful politicians to highly respected local practitioners. Several continue to contribute scholarly writing to the *Review* as well as generous financial support to the law school.

One of the law school's most generous benefactors is Hunter W. Lundy. Lundy was the Editor-in-Chief of the first volume of the *Review*, published in 1978. His practice is based in Lake Charles, Louisiana, where he practices First Amendment, personal injury, products liability, toxic torts, environmental, and maritime law. Lundy has remained dedicated to the betterment of the law school and has consistently answered the call of his alma mater.

Judge Sharion Aycock, Co-Editor-in-Chief in 1979–80, serves Mississippi's First Judicial District as a Circuit Court Judge. Prior to becoming a judge, Aycock practiced in real estate, probate, and estate law.

William E. Chapman III is a Circuit Judge in the Twentieth Judicial District of Mississippi. He served as Managing Editor of the *Review* in 1980–81. Prior to becoming a judge, Chapman served on the Executive Committee at the law firm of Daniel, Coker, Horton and Bell; as Assistant District Attorney in the Twentieth Judicial District; and as head of the Securities Division at the Secretary of State's office.

Rankin County Court Judge Kent McDaniel was Research Editor for the 1984–85 volume and later served as the First Assistant United States Attorney for the Southern District of Mississippi. He is currently an adjunct professor at the law school, where he teaches Trial Practice and is consistently a student favorite.

22. Neville Patterson, *Dedication*, 1 MISS. C. L. REV. ix (1978).

23. *Biography*, 12 MISS. C. L. REV. 337 (1992).

24. *Id.*

25. *Id.*

Another *Review* alumnus, Thomas Broome, is also a County Court Judge in Rankin County, presiding over the Youth Court. Judge Broome was a Senior Staff Member of the *Review* during the 1984–85 school year.

Former Production Editor Mark C. Baker built a successful practice in central Mississippi, serving as the city attorney and prosecutor for the City of Brandon as well as practicing civil, insurance, municipal, trusts, estates, worker's compensation, construction, and real estate law. Baker currently represents Mississippi's Seventy-Fourth District as a member of the state House of Representatives. Baker is a 1987 graduate of the law school.

Another *Mississippi College Law Review* alumnus to distinguish himself is 1986–87 Articles Editor Mark C. Roy. He received an LL.M. from Nottingham University in England, where he also served as a professor, teaching the Queen's criminal law. He recently returned from American Samoa, where he worked for the attorney general's office and served as the CEO of the only utility company on the island.

Closer to home, James W. Craig has distinguished himself as a partner at the firm of Phelps Dunbar in Jackson, Mississippi. Craig has repeatedly demonstrated the leadership ability that made him a natural choice for Editor-in-Chief in 1984–85. He has served as the co-chair of the American Bar Association's Section on Litigation Task Force on Death Penalty Representation and as the Commissioner of the Mississippi Public Defender Commission.

Stanley Buckley, a Senior Staff Member in 1990–91, recently became Senior Pastor of First Baptist Church in Jackson, the largest church in Mississippi.

The *Mississippi College Law Review* has grown from its modest beginnings. It has consistently served as a barometer for the legal climate in Mississippi. Its publications have predicted changes in the law, both statutory and judicial, while at other times serving as the catalyst for those changes through the stimulation of scholarly discourse. Twenty-five years is but a start. This first quarter-century has laid a foundation on which the next generations of Mississippi College School of Law students will build, as they continue the quest for excellence, for knowledge, and for the best in legal scholarship.