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Foreword: Recent Developments and Ruminations in Retrospect

From the beginning of our tenure, the Board of Editors for Volume 70 of the *Louisiana Law Review* has maintained two primary goals. The first is to improve the law review's national profile. To further that end, all of the professional articles and student pieces published in the first and third issues of volume 70 relate to national legal topics. The majority of the articles in our second issue, a symposium on punitive damages, are also national in scope. This particular goal is especially significant not only because of the relationship between the law review's national ranking and the LSU Law Center's national ranking, but also because of the influence that law review rankings have over an author's response to an offer of publication.

The second goal is to fulfill our time-honored obligation as Louisiana's flagship legal journal by publishing articles of local importance. Our fourth issue is devoted to accomplishing that very task. We were motivated to completely slate our final issue with Louisiana-focused pieces both by this goal and by the *Louisiana Law Review's* history as a leader in producing outstanding state legal commentary.

Since its first volume, the *Louisiana Law Review* has dedicated its pages to informing Louisiana practitioners about current cases and legislation as well as important aspects of, and perceived problems with, Louisiana's law and legal system. These commentaries were often grouped together either as faculty or student symposiums. The first volume of the *Louisiana Law Review* contained a faculty symposium, titled *The Work of the Louisiana Supreme Court for the 1937–1938 Term*.¹ The faculty symposium issue focused on Louisiana Supreme Court cases from the court's most recent term, and it was included in volumes 1 through 22,² excluding volume 14.³ Initially, from volumes 1

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1. 1 LA. L. REV. 314, No. 2 (1939) (1937–1938 Term).

2. See *id.*; 2 LA. L. REV. 31, No. 1 (1940) (1938–1939 Term); 3 LA. L. REV. 267, No. 2 (1941) (1939–1940 Term); 4 LA. L. REV. 165, No. 2 (1942) (1940–1941 Term); 5 LA. L. REV. 193, No. 2 (1943) (1941–1942 Term); 5 LA. L. REV. 512, No. 4 (1944) (1942–1943 Term); 6 LA. L. REV. 173, No. 2 (1945) (1943–1944 Term); 6 LA. L. REV. 521, No. 4 (1946) (1944–1945 Term); 7 LA. L. REV. 165, No. 2 (1947) (1945–1946 Term); 8 LA. L. REV. 189, No. 2 (1948) (1946–1947 Term); 9 LA. L. REV. 147, No. 2 (1949) (1947–1948 Term); 10 LA. L. REV. 120, No. 2 (1950) (1948–1949 Term); 11 LA. L. REV. 141, No. 2 (1951) (1949–1950 Term); 12 LA. L. REV. 121, No. 2 (1952) (1950–1951 Term); 13 LA. L. REV. 230, No. 2 (1953) (1951–1952 Term); 15 LA. L. REV. 225, No. 2 (1955) (1953–1954 Term); 16 LA. L. REV. 211, No. 2 (1956) (1954–1955

through 5, the faculty symposium on Louisiana Supreme Court jurisprudence took the form of one consolidated article with several professors contributing sections corresponding to their areas of expertise.⁴ But beginning with volume 6, the symposium was broken down into individual pieces authored by the faculty of the law school that either made up an entire issue or the majority of an issue.⁵

Beginning with volume 23 and continuing through volume 40, the symposium's title was changed to *Work of the Louisiana Appellate Courts*, and the focus of the symposium was broadened to include Louisiana circuit court of appeal developments.⁶ During that period, only volumes 25 and 26 divided commentary on

Term); 17 LA. L. REV. 294, No. 2 (1957) (1955-1956 Term); 18 LA. L. REV. 10, No. 1 (1958) (1956-1957 Term); 19 LA. L. REV. 294, No. 2 (1959) (1957-1958 Term); 20 LA. L. REV. 201, No. 2 (1960) (1958-1959); 21 LA. L. REV. 277, No. 2 (1961) (1959-1960 Term); 22 LA. L. REV. 299, No. 2 (1962) (1960-1961).

3. See 14 LA. L. REV. Nos. 1-4 (1954-1955). No "Work of the Louisiana Supreme Court Symposium" appears in any issue of this volume.

4. See 1 LA. L. REV. 314, No. 2 (1939) (1937-1938 Term); 2 LA. L. REV. 31, No. 1 (1940) (1938-1939 Term); 3 LA. L. REV. 267, No. 2 (1941) (1939-1940 Term); 4 LA. L. REV. 165, No. 2 (1942) (1940-1941 Term); 5 LA. L. REV. 193, No. 2 (1943) (1941-1942 Term); 5 LA. L. REV. 512, No. 4 (1944) (1942-1943 Term).

5. See 6 LA. L. REV. 521, No. 4 (1946) (1944-1945 Term); 7 LA. L. REV. 165, No. 2 (1947) (1945-1946 Term); 8 LA. L. REV. 189, No. 2 (1948) (1946-1947 Term); 9 LA. L. REV. 147, No. 2 (1949) (1947-1948 Term); 10 LA. L. REV. 120, No. 2 (1950) (1948-1949 Term); 11 LA. L. REV. 141, No. 2 (1951) (1949-1950 Term); 12 LA. L. REV. 121, No. 2 (1952) (1950-1951 Term); 13 LA. L. REV. 230, No. 2 (1953) (1951-1952 Term); 15 LA. L. REV. 225, No. 2 (1955) (1953-1954 Term); 16 LA. L. REV. 211, No. 2 (1956) (1954-1955 Term); 17 LA. L. REV. 294, No. 2 (1957) (1955-1956 Term); 18 LA. L. REV. 10, No. 1 (1958) (1956-1957 Term); 19 LA. L. REV. 294, No. 2 (1959) (1957-1958 Term); 20 LA. L. REV. 201, No. 2 (1960) (1958-1959); 21 LA. L. REV. 277, No. 2 (1961) (1959-1960 Term); 22 LA. L. REV. 299, No. 2 (1962) (1960-1961).

6. See 23 LA. L. REV. 239, No. 2 (1963) (1961-1962 Term); 24 LA. L. REV. 168, No. 2 (1964) (1962-1963 Term); 25 LA. L. REV. 291, No. 2 (1965) (1963-1964 Term); 26 LA. L. REV. 259, No. 3 (1966) (1964-1965 Term); 27 LA. L. REV. 423, No. 3 (1967) (1965-1966 Term); 28 LA. L. REV. 312, No. 3 (1968) (1966-1967 Term); 29 LA. L. REV. 171, No. 2 (1969) (1967-1968 Term); 30 LA. L. REV. 171, No. 2 (1969) (1968-1969 Term); 31 LA. L. REV. 185, No. 2 (1971) (1969-1970 Term); 32 LA. L. REV. 165, No. 2 (1972) (1970-1971 Term); 33 LA. L. REV. 169, No. 2 (1973) (1971-1972 Term); 34 LA. L. REV. 197, No. 2 (1974) (1972-1973 Term); 35 LA. L. REV. 259, No. 2 (1975) (1973-1974 Term); 36 LA. L. REV. 335, No. 2 (1976) (1974-1975 Term); 37 LA. L. REV. 305, No. 2 (1977) (1975-1976 Term); 38 LA. L. REV. 313, No. 2 (1978) (1976-1977 Term); 39 LA. L. REV. 657, No. 3 (1979) (1977-1978 Term); 40 LA. L. REV. 543, No. 3 (1980) (1978-1979 Term).

Louisiana Supreme Court and appellate court cases.⁷ From volumes 41 through 52, the faculty symposium was titled *Developments in the Law*.⁸ Volumes 45, 46, 50, and 52 did not contain the formal title *Developments in the Law*, but the same format of individual pieces by professors, adjuncts, and practitioners in their respective areas of expertise was used despite the absence of the official title.⁹ The Louisiana-focused theme of the faculty symposium remained constant, while the title continued to change. Volumes 53 and 54 called it *Review of Recent Developments*.¹⁰ Volume 55 omitted a formal title, as in volumes 45, 46, 50, and 52, but followed the same format.¹¹ Finally, volumes 56 and 57 called the faculty symposium *Ruminations on the Law*.¹²

In volume 58, the second issue contained three articles titled *Ruminations* followed by a specific subject-related title,¹³ but the entire issue was not devoted to the *Recent Developments* pieces that typified the faculty symposium from years past.¹⁴ In volume 59, the second issue contained only two articles formally labeled

7. See 25 LA. L. REV. 291, No. 2 (1965) (Louisiana appellate court commentary); 25 LA. L. REV. 395, No. 2 (1965) (Louisiana Supreme Court commentary—Public Law); 25 LA. L. REV. 433, No. 2 (1965) (Louisiana Supreme Court commentary—Procedure); 26 LA. L. REV. 259, No. 3 (1966) (Louisiana appellate court commentary); 26 LA. L. REV. 573, No. 3 (1966) (Louisiana Supreme Court commentary—Public Law); 26 LA. L. REV. 581, No. 3 (1966) (Louisiana Supreme Court commentary—Procedure).

8. See 41 LA. L. REV. 313, No. 2 (1981) (1979–1980); 42 LA. L. REV. 327, No. 2 (1982) (1980–1981); 43 LA. L. REV. 265, No. 2 (1983) (1981–1982); 44 LA. L. REV. 223, No. 2 (1984) (1982–1983); 45 LA. L. REV. 179, No. 2 (1985); 46 LA. L. REV. 413, No. 3 (1986); 47 LA. L. REV. 235, No. 2 (1987) (1985–1986); 48 LA. L. REV. 217, No. 2 (1988) (1986–1987); 49 LA. L. REV. 237, No. 2 (1989) (1987–1988); 50 LA. L. REV. 211, No. 2 (1990); 51 LA. L. REV. 217, No. 2 (1991).

9. See 45 LA. L. REV. 179, No. 2 (1985); 46 LA. L. REV. 413, No. 3 (1986); 50 LA. L. REV. 211, No. 2 (1990); 52 LA. L. REV. 493, No. 3 (1992).

10. See 53 LA. L. REV. 771, No. 3 (1993) (1991–1992); 54 LA. L. REV. 599, No. 3 (1994) (1992–1993).

11. See 55 LA. L. REV. 537, No. 3 (1995).

12. See 56 LA. L. REV. 493, No. 3 (1996); 57 LA. L. REV. 379, No. 2 (1997) (1996–1997).

13. Lee Hargrave, *Ruminations: Mandates in the Louisiana Constitution of 1974; How Did They Fare?*, 58 LA. L. REV. 389 (1998); Louis M. Phillips and Tanya Martinez Shively, *Ruminations on Property of the Estate—Does Anyone Know Why a Debtor's Postpetition Earnings, Generated by Her Own Earning Capacity, Are Not Property of the Bankruptcy Estate?*, 58 LA. L. REV. 623 (1998); Michael H. Rubin, *Ruminations on the Louisiana Private Works Act*, 58 LA. L. REV. 569 (1998).

14. See 58 LA. L. REV. 389, No. 2 (1998).

Recent Developments:¹⁵ *Torts: Recent Developments*¹⁶ and *Matrimonial Regimes: Recent Developments*.¹⁷ In volume 60, only one article titled *Recent Developments* appeared:¹⁸ *Matrimonial Regimes: Recent Developments*.¹⁹

Then, in volumes 61 through 63, no *Recent Developments* pieces appeared.²⁰ In volume 64, the second issue contained two articles focused on Louisiana law²¹ and one focused on developing United States Fifth Circuit Court of Appeals admiralty law.²² This grouping, however, appears to be coincidental because the lead article in that issue was on a federal tax issue.²³ In any event, none of the three articles that could have fit the traditional mold was titled *Recent Developments*, *Ruminations*, or anything else that would suggest a conscious effort to produce focused commentary on Louisiana law.

Volume 65, like volumes 61 through 63, did not have any *Recent Developments* articles.²⁴ Issue 2 of volume 66 was devoted to articles on Louisiana law, aside from one article about Dean Paul M. Hebert.²⁵ Still, neither the *Recent Developments* title nor anything similar was used in any of the articles' titles.²⁶ Volume 67, like volume 60, contained a single *Recent Developments* article, *Matrimonial Regimes: Recent Developments*.²⁷ Issue 2 of volume 68 was devoted to Katrina-specific articles as opposed to a

15. See 59 LA. L. REV. Nos. 1-4 (1998-1999).

16. William Crawford, *Torts: Recent Developments*, 59 LA. L. REV. 415 (1999).

17. Kenneth Rigby, *Matrimonial Regimes: Recent Developments*, 59 LA. L. REV. 465 (1999).

18. See 60 LA. L. REV. Nos. 1-4 (1999-2000).

19. Kenneth Rigby, *Matrimonial Regimes: Recent Developments*, 60 LA. L. REV. 405 (2000).

20. See 61 LA. L. REV. Nos. 1-4 (2001-2002); 62 LA. L. REV. Nos. 1-4 (2002-2003); 63 LA. L. REV. Nos. 1-4 (2003-2004).

21. Kenneth Murchison, *Local Government Law*, 64 LA. L. REV. 275 (2004); John Randall Trahan, *Successions & Donations*, 64 LA. L. REV. 315 (2004).

22. Dean Sutherland, *Significant Development in Maritime Personal Injury Law*, 64 LA. L. REV. 299 (2004).

23. Susan Kalinka, *Highlights of the 2003 Jobs and Growth Tax Relief Reconciliation Act: Economic Stimulus or Long-Term Disaster?*, 64 LA. L. REV. 219 (2004).

24. See 65 LA. L. REV. Nos. 1-4 (2005-2006).

25. See 66 LA. L. REV. 313, No. 2 (2006); see also Alberto L. Zuppi, *Slave Labor in Nuremberg's I.G. Farben Case: The Lonely Voice of Paul M. Hebert*, 66 LA. L. REV. 495 (2006).

26. See 66 LA. L. REV. 313, No. 2 (2006).

27. Kenneth M. Rigby, *Matrimonial Regimes: Recent Developments*, 67 LA. L. REV. 289 (2006).

general Louisiana law theme.²⁸ Still, that issue had the focus and format that issue 4 of volume 70 adopts: Louisiana-specific law review articles authored by professionals and students. Volume 69 did not contain a purely Louisiana focused issue or any *Recent Developments* articles.²⁹

In addition to articles and entire issues devoted to recent jurisprudential developments, the law review has also published legislative symposiums. In issue 1 of volume 1, Dean Paul M. Hebert and his research assistant, Carlos E. Lazarus, authored an article, titled *The Louisiana Legislation of 1938*,³⁰ which took a similar form to *The Work of the Louisiana Supreme Court* article that also appeared in the first volume.³¹ Yet, unlike the Louisiana Supreme Court faculty symposium, the Louisiana legislation piece did not reappear in the *Louisiana Law Review* until volume 15, in which the entire first issue was devoted to a faculty symposium, titled *Survey of 1954 Louisiana Legislation*.³² This type of legislative survey authored by the faculty continued in volumes 17, 19, 21, 25, and 35, appearing under various titles.³³

Then, from volumes 37 through 39, a student symposium on legislative developments was published, titled *Work of the Louisiana Legislature*, which focused on the regular session from the preceding year.³⁴ This student symposium was never revived in its precise form. In issue 2 of volume 40, two individual student articles appeared on selected legislation.³⁵ Beyond volume 40, any commentary on recent legislation appeared in the faculty symposiums of subsequent volumes under their various titles—*Developments in the Law*, *Review of Recent Developments*, and *Ruminations on the Law*.³⁶

28. 68 LA. L. REV. 331, No. 2 (2007).

29. See 69 LA. L. REV. Nos. 1–4 (2008–2009).

30. Paul M. Hebert & Carlos E. Lazarus, *The Louisiana Legislation of 1938*, 1 LA. L. REV. 80 (1938).

31. 1 LA. L. REV. 314, No. 2 (1939) (1937–1938 Term).

32. See 15 LA. L. REV. 1, No. 1 (1954).

33. See 17 LA. L. REV. 17, No. 1 (1956); 19 LA. L. REV. 52, No. 1 (1958); 21 LA. L. REV. 1, No. 1 (1960); 25 LA. L. REV. 13, No. 1 (1964); 35 LA. L. REV. 597, No. 3 (1975).

34. See 37 LA. L. REV. 89, No. 1 (1976) (Work of the Louisiana Legislature 1976 Regular Session—Student Symposium); 38 LA. L. REV. 51, No. 1 (1977) (Work of the Louisiana Legislature 1977 Regular Session—Student Symposium); 39 LA. L. REV. 101, No. 1 (1978) (Work of the Louisiana Legislature 1978 Regular Session—Student Symposium).

35. *Criminal Law Selected Legislation of 1979 Regular Session—A Student Commentary*, 40 LA. L. REV. 437 (1980); *Civil Law Selected Legislation of 1979 Regular Session—A Student Commentary*, 40 LA. L. REV. 457 (1980).

36. See, e.g., 41 LA. L. REV. 313, No. 2 (1981) (1979–1980); 53 LA. L. REV. 771, No. 3 (1993) (1991–1992); 57 LA. L. REV. 379, No. 2 (1997) (1996–1997).

This focused approach, however, was recently abandoned with the exception of issue 2 of volume 68, which was devoted to articles on the legal ramifications of Hurricane Katrina.³⁷ With our fourth issue, the volume 70 Board of Editors has endeavored to revive the *Louisiana Law Review's* historical practice of producing scholarly commentary on state legal subjects and organizing that commentary in a single issue. Issue 4 of volume 70 is the embodiment of that endeavor. The entirety of the issue is devoted to Louisiana law. The slate of authors includes faculty,³⁸ students,³⁹ adjuncts,⁴⁰ and practitioners.⁴¹ Additionally, the issue features an article by a Justice of our state's supreme court⁴² and a piece co-authored by one of our former distinguished faculty members.⁴³ The articles address both significant legal developments and lingering problems in our law. We hope that the commentary produced by this diverse group of individuals will be of use to practitioners, scholars, and students alike in their understanding of Louisiana law and its unique legal system.

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37. 68 LA. L. REV. 331, No. 2 (2007).

38. Professors Frank L. Maraist and Bill Corbett.

39. Members of LSU Law's Class of 2010: Casey E. Faucon, Irina Fox, Christopher Odinet, Gina Palermo, and Elizabeth Spurgeon.

40. H. Alston Johnson, adjunct professor and partner in the Baton Rouge office of Phelps Dunbar.

41. Sally Brown Richardson, LSU Law Class of 2009, law clerk to the Honorable Eugene W. Davis of the United States Fifth Circuit Court of Appeals, and 2010 associate with the Washington, D.C., office of Skadden, Arps, Slate, Meagher & Flom.

42. Justice Greg Guidry, LSU Law Class of 1985 and member of the *Louisiana Law Review*.

43. Thomas C. Galligan, Jr., Dr. Dale E. Bennett Professor of Law, 1986–1998, and current president of Colby-Sawyer College, New Hampshire.