

FOUNDING A NEW JOURNAL IN THE AGE OF ELECTRONIC LAW

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All Hail the Founders! As surely as Johannes Gutenberg expanded learning, as dramatically as Chief Justice John Marshall crafted "judicial review" of legislative Acts or Christopher Columbus Langdell fused law lecture with case analysis to create the case method, you at John Marshall Law School have startled observers with your originality. The power of your new idea is too great for anyone to assess all its implications now. Founded as a free-standing law school, uniquely, a century ago, you have thus returned to pioneering at the start of a new century. That the "Founding Fathers" are not faculty but students makes your innovation all the more impressive. Congratulations, one and all!

Congratulations to the student founders, first, but also to the Dean and faculty, and, crucially, to newer, younger professors, the scouts leading the modern-day legal wagon train Westward into the future of new forms of legal education. This very future will, I predict, upset current assumptions, practices and expectations by, among other things, reuniting the study of law with the practice of law, and by promoting life-long legal studies via personal computer. It may as well rescue the current array of law journals from mainly obscure scholarship about minute matters or theoretical constructs little rooted in reality. It may even revive dialog between students and practitioners as a chief method of preparing students for practice, as in the day when a would-be attorney clerked in a law office. Yet none of the academic rigor of 20th Century law teaching need be sacrificed. Rather, the journal will provide direct access to the minds and insights of students, scholars and practitioners equally. Aside from altogether erasing the distinction between scholarship and practice, I can hardly think of a more productive development.

Direct access to legal minds will be matched by direct competition—by students, scholars and practitioners, and between and among them. Like most competitive enterprises, I would expect the value of the product—on-line articles—continually to rise. And the cost is nil and not likely to rise. What an exciting prospect! It could even mean, eventually, that an entire legal education could be obtained at, say, only 10% of today's \$70,000 – \$100,000 cost for three years of residential study under full-time faculty. Who knows exactly what other evolutions may occur!

Of one prediction I am confident, however: on-line specialized journals will proliferate rapidly. They will mostly replace paper journals, much as computers have mostly replaced law books. They will report developments that are current, not those of a year ago. And with the rapidity of case law developments, to say nothing of the flood of legislative, regulatory and executive decisions, the slowness of paper journals will likely doom them, at least for the exposition of the advance in legal thinking and controlling authority.

With just modest luck, the advent of on-line journals in specialized areas of the law will also create innumerable writing opportunities for practicing lawyers and law students as well as for academics. If things so evolve, the greatest single failing I see

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in current legal education—inadequate opportunities to revise and rewrite with detailed feedback from more skilled lawyers—may be erased. And this failing abounds as much in firms now as in schools.

Finally, I expect that as important as speed surely is, specialization will ultimately prove at least as important in the world of proliferating on-line journals that John Marshall Law School today spawns. One reason is that law schools, more than medical schools, for example, or more to the point, law firms, have resisted specialization excessively, in both curriculum and teaching methods. Yet, law offices, governmental and corporate just as much as private firms, specialize extensively. And more so each year, because law, like science, is enlarging so that any one lawyer can only be truly competent in at most a few areas and usually only one. Hence, the tax lawyer, the tort lawyer, the antitrust lawyer, the patent lawyer, the mergers and acquisitions lawyer, the employee rights lawyer, and so on. Yet law students, unlike their undergraduate counterparts, do not (generally) select “majors.” But young associates do, or one is selected for them.

And developing competence in one’s chosen field of law surely includes the ability to write analytically and deeply in it. This is equally so for student and associate. Both need experience in refining their writing and deepening their understanding. For both, the week-to-week routine lacks the needed opportunities to write and revise, rethink and restate, clarify and correct, compare and contrast, etc. Everyone is too busy doing his or her “job.” But for all of us, even judges, the overarching job is to become an even better lawyer in our field, to continue our professional development, starting in law school and continuing throughout law practice. What better vehicle than the specialized, student-run, semi-academic, on-line journal?

Hail then to the Founders, and to the entire staff!