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Introduction

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INTRODUCTION

Behind the law stand all of the great philosophical questions. Our laws are continually shaped by the metaphysical question of “What is it?” as well as the epistemological pondering of “How do I know?” Scholars also seek to reconcile their differences over the interplay of positivism and theories of natural law. Meanwhile, the pragmatic, practicing lawyer constantly changes the rules of the game merely by working in the client’s best interests.

Teachers, students and practitioners of the law puzzle over the juxtaposition of the academic pursuit of legal philosophy and the more pragmatic day-to-day practice. Often the two seem irreconcilable. However, we at the *Law Journal* believe that legal philosophy does have a place in the context of practice, and with a better understanding of both, we may all become better lawyers in the future.

For these reasons, we are proud to present the fourth issue of Volume 45 of the *Saint Louis University Law Journal*. This issue, unlike the three preceding it, is composed almost exclusively of unsolicited submissions. Though not intended by the Editorial Board, there is, however, a tenuous but definite theme in the articles selected for publication.

Early in the year, Pulitzer Prize winning author, Professor Edwin Yoder submitted *Melville’s Billy Budd and the Trials of Captain Vere*. This essay examines the relationship of natural law to its “sterner” counterpart, military law, in Herman Melville’s great novella, *Billy Budd*. In addition, another seafaring essay from our own professor emeritus, Judge Joseph Simeone, has been included. Judge Simeone’s essay, related to Professor Yoder’s by the sea and sailors, considers modern morality and the value of life using an old English criminal case involving a shipwreck and cannibalism. Literature and morality seldom find their way into law journals, and Professor Yoder’s and Judge Simeone’s contributions are greatly appreciated. Because of the common theme in these two essays, it seemed appropriate to place them together in the issue.

As the year progressed, we received another excellent article involving other academic and philosophical issues. Professor Scott FitzGibbon of Boston College presents a tremendous article relating Aristotle’s *polis* to our own human communities in the corporate world.

The volume then began to move from the philosophical to the more practical. Professor Robert Rubinson of the University of Baltimore addresses a pragmatic issue on every lawyer’s mind: ethics. In his article, he addresses

attorney fact-finding and its role in ethical decision-making. Such a serious issue has clear roots in the philosophical, but Professor Rubinson's article presents it in a pragmatic way appropriate for practitioner and academic alike.

Ms. Joël Van Over, a practitioner of patent law from Washington, D.C., continued this move toward pragmatism with an examination of *Markman* rulings. Because patent law is often neglected by journals and law reviews of general subject matter, the *Law Journal* is pleased to offer this selection. It is our hope that our readers practicing patent law find it to be a strong resource.

Finally, the *Law Journal* is privileged to publish two important speeches given at Saint Louis University School of Law by two distinguished judges. The first is a moving oration by the Honorable Paul J. Kelly, Jr., Circuit Judge for the Tenth Circuit Court of Appeals. Judge Kelly's speech, entitled "Are We Prepared to Offer Effective Assistance of Counsel?" is an important comment on the direction in which the legal profession is moving in rendering its services.

The second speech, delivered by one of the School of Law's own professors, Missouri Supreme Court Justice Michael Wolff, is a profound lecture in which Judge Wolff addresses an issue of importance to both academia and practitioners: communicating ideas. By discussing how lawyers may effectively communicate to appellate judges, Judge Wolff brought together many dangling issues of the academic year and this volume. The *Law Journal* was pleased when Judge Wolff graciously agreed to publish the lecture.

The Staff and Editorial Board of the *Law Journal* believe that this issue continues, and even strengthens, the standards of excellence at Saint Louis University School of Law. It is our hope that the reader will find it useful as an academic and practical resource.

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Volume 45

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