

American
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research journal

Volume 1976
Number 1

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Preface to the *Journal*

This is the first issue of a journal that will publish much of the research product of the American Bar Foundation. Over the years the Foundation has produced a large amount of useful research, some of which was first published in academic law reviews and then reprinted as "Research Contributions of the American Bar Foundation." In May 1975 the Board of Directors of the Foundation decided that a journal would be a desirable vehicle for presenting the article-length research product of the institution to make the product both generally accessible and permanently identified as American Bar Foundation work.

The *Journal* will publish chiefly three types of research reports: (1) reports of research projects that have been carried out at Foundation headquarters; (2) reports of research being conducted elsewhere under the Foundation's aegis; and (3) the writings of affiliated scholars engaged in research under contract with the Foundation or on other work sponsored by the Foundation.

Any scholarly publication worthy of the name will treat controversial matters. The American Bar Foundation has only one policy position—to encourage its researchers to explore fully and freely the subjects of their research and to report their findings honestly and responsibly. The Foundation itself takes no position on issues, though its researchers are free to do so as they reach conclusions responsibly based on careful research. The views expressed by authors are their own, not those of any persons they have consulted nor of any institution, including any grantor which may have supported the project reported.

There will often—perhaps usually—be responsible views differing from those of the authors. Subject to strict limits of length and quality, the *Journal* will be available for reasoned and scholarly brief replies to articles published here or otherwise under the imprimatur of the American Bar Foundation. But as a serious scholarly journal, it will publish only those responses that meet the standards which that implies, both in substance and in writing style. Whether those standards have been satisfied rests in the sole judgment of the editor, the Executive Director of the American Bar Foundation. The *Journal* will not publish dissenting views in the style of a "Letters to the Editor" page.

This issue of the *Journal* begins with a provocative discussion challenging the traditional wisdom about investment by fiduciaries. John H. Langbein and Richard A. Posner, of the University of Chicago law faculty, undertook this task for the Foundation as contract research. The issue continues with an article by Jonathan M. Landers, University of Kansas School of Law, currently a visiting scholar at the Foundation and visiting professor at the University of Chicago, and Cathleen

Chandler, of the Texas bar. It treats difficult questions about application of the Truth in Lending Act to variable-rate loans. The next issue will contain another article by Mr. Landers on the scope of the Act.

Richard A. Epstein, University of Chicago law faculty, explores perceptively the difficult problems of medical malpractice liability, also done as research under contract with the Foundation. Mr. Epstein's piece will be followed in the next issue of the *Journal* by an economist's perspective on medical malpractice liability.

The fourth article provides a case study of the jury selection process in a highly publicized trial. The authors are Hans Zeisel, professor emeritus at the University of Chicago and consultant to the Foundation, and Shari Seidman Diamond, assistant professor of criminal justice and psychology at the University of Illinois at Chicago Circle. Broad generalizations cannot be derived from a single instance, but their study illuminates problems and suggests avenues for further exploration.

The article by James A. Sprowl, of the Foundation staff, on the LEXIS system for computerized retrieval of legal documents, will prove educational for most lawyers. A shorter piece by Mr. Sprowl describing the West Publishing Company system will appear soon in *Jurimetrics Journal*. The pair of articles will introduce lawyers to the way these computerized retrieval systems operate.

Olavi Maru, librarian for the American Bar Foundation, undertakes a first excursion in the law into "citation analysis," a field of study used successfully in other disciplines to illuminate the impact of ideas and their means of transmission. The information in Mr. Maru's piece will especially interest the legal academic community, whose published product is the essential subject matter of the article.

The final article is part of the Foundation's Judicial Class Action project under the general supervision of ABF Affiliated Scholar G. W. Foster, Jr., of the University of Wisconsin Law School. Charles W. Wolfram, of the University of Minnesota Law School, describes in detail the amazingly intricate antibiotics class actions. It is a case study, and easy generalizations are not forthcoming, but the article does illuminate the complexity of class actions and suggests avenues for further exploration. Subsequent articles from the class action study by other authors will appear in successive issues of the *Journal*. The remaining studies will be more quantitative and analytical, focusing mainly on antitrust and securities class actions in selected federal judicial districts.

The American Bar Foundation presents this first issue of the *American Bar Foundation Research Journal* with pride. We believe it contains a useful and informative collection of articles on diverse subjects.

Spencer L. Kimball
Editor