SCHOOL OF LAW
CASE WESTERN RESERVE UNIVERSITY

Canada-United States Law Journal

Volume 13 | Issue

Article 4

January 1988

Preface

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Dean's Preface

This volume of comparative corporation law and economics papers is another emblem of our law school's vitality. The collection's appearance edifies and challenges.

The methodology of the law—how we explain ourselves—thrives upon infusions of insight from nonlaw disciplines. Financial and managerial economics, both theoretical and empirical, have enriched and enlightened—even enabled—advances in legal thinking, particularly as regards institutional arrangements among participants in business organizations. More profoundly, the "theory of decisionmaking under uncertainty" unifies these nonlegal sources and vivifies their shared significance for such traditionally diverse legal subjects as corporations, insurance, agency, and securities regulation.

It is for legal academics (and, with their intellectual leadership, for law students, practitioners, and lawmakers as well) to isolate and grasp the significance of these economic perceptions, so that, in teaching, writing, counseling, and advocacy, the rationales of rules may be evaluated against a complete array of potentially relevant thought. In varying degrees, these papers present the gratifying prospect of seasoned and respected thinkers reaching across national and disciplinary boundaries to compass and absorb insights that might reveal new analytical pathways, or enhance or discredit existing understanding, with respect to five of the most elemental issues of institutional arrangements within firms. Herein we see minds, as Francis Allen put it, "engaged in extraordinary efforts of self-education in areas outside the traditional boundaries of their discipline . . . because of a sober realization that such knowledge and capacities are required if the law is to serve its high social purposes in this era."[1] Herein we observe the lawyer or the economist who welcomes the challenge of becoming, in Ronald Dworkin's terms, "sufficiently at home in other relevant disciplines so that his concepts might provoke new ideas in him."[2] What is more, as explained by Professor Picker in his foreword, the exercise that originally occasioned the production of these papers was structured so as to improve the odds, again using Dworkin's words, "that representatives of each discipline would acquire not only sophistication in the other disciplines, but some facility in integrating their assumptions and methods into a more fluent theory. . . ."[3]

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[1] Allen, *The Prospects of University Law Training*, 29 J. LEGAL EDUC. 127, 135 (1978).

[2] Dworkin, *Legal Research*, DAEDALUS, Spring 1973, at 53, 60.

[3] *Id.* at 64.

Skeptics—those not yet enlightened about the range of insight and input provided by interdisciplinary discourse—have an obligation to wade into this volume and meet its many assertions head on. It is not enough to fall back on ideological analysis or descriptive generalizations, nor to beg the relevance of the broadest possible methodological inquiry. Legal scholarship and writing suffers when law is thought of as a self-contained system derived from inarticulated premises, or when writers manipulate doctrine without attending to the range of intellectual skills that enlighten our evaluation of the doctrine. This institution aspires to more than pessimistic, removed, or sardonic chronicling, in broadbrush, of the state of the debate. Our intent is to put our thinking, in teaching and in writing, in the thick of the interchange, where teachers and students appreciate the detail of the intermediate analyses as well as the overall conclusions derived from relevant nonlaw insights. This is not to surrender our pluralism, nor is it to say that, in being ever serious, we must always be solemn.

Emblements of our aspirations, generously nurtured by the Business Fund and the Gund and McCrea foundations, are in these pages. By this and other similar endeavors of this law school, we are called to further intense and deliberate engagement with other intellectual domains.