From the Editor

With this issue, the first of Volume 19, the *Law & Society Review* returns to its "low tech" ways. When I became editor of the *Review*, marked up manuscripts were sent to the printer to be set in type and returned as galleys, with inevitable errors to be proofread and corrected. During Volume 17, however, several authors submitted "word-processed" manuscripts accompanied by computer tapes or disks. Often the printer was able to set copy directly from the machine readable source, thus reducing typesetting errors, saving the *Review* money since typesetting charges are lower for machine readable sources, and saving time, or so we thought.

For these reasons we encouraged authors of articles accepted for Volume 18 to prepare their manuscripts on word processors so that tapes or disks could be sent to the printer. It turned out that this was a serious mistake. The most important drawback was that it introduced two additional steps into the production process. Copy-edited manuscripts in their final form had to be returned to authors so that final changes could be incorporated in the machine readable version, and then the manuscript had to be returned to the production editor so that the final version could be checked for accuracy and additional typesetting instructions added. Moreover, it was often the case that the translation programs used by the publisher worked imperfectly, particularly with quantitative data, and manuscripts or portions of them had to be set from hard copy. Any typesetting savings were eaten up by the cost of using Federal Express to mail manuscripts to and from authors, and despite this the production process for the *Review* fell, during Volume 18, several months behind.

Now we have returned to our old-fashioned ways of preparing manuscripts for publication, and I expect we shall be able to get the *Law & Society Review* back on schedule—which means that the last issue in Volume 19 may be expected in about December of 1985. While I think the computer age might still have much to offer the *Review* if we had a full-time secretary to retype manuscripts and send them electronically to

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the publisher, producing the *Review* in "the old-fashioned way" seems at this point the best procedure.

No doubt, there is some lesson for life in the modern age in this experience, but what I find more intriguing is that a return to "low tech" accurately characterizes the articles that appear in this issue. Only one exploits quantitative methods to develop its arguments. To some extent this concentration in one issue of articles that approach problems from non-quantitative perspectives is a mere coincidence, but it also reflects what I believe is a change in the mix of articles that the *Review* has recently received. While I have not systematically counted articles, it is my impression that in the past year we have received relatively fewer articles that are organized around the statistical analysis of data. Relative to the first half of my term as editor, an increased proportion of submissions appear to be taking non-quantitative conceptual, historical, Marxist, and ethnographic approaches. I am not sure why this has happened. It may reflect styles of social science outside North America and the increased flow of manuscripts we are receiving from non-North American sources. It may reflect the diminished funding for social science in the early years of the first Reagan administration and a consequent switch to less costly forms of social research. It may reflect a new interest in broad theorizing that assimilates bodies of more focused quantitative studies. What I hope it does not reflect is a sense that quantitative analyses have an especially difficult time surviving our peer review process. We have turned down borderline submissions that were later published elsewhere, but this is true of qualitative articles as well. The mix of quantitative and qualitative analyses that has and will continue to characterize the *Review* should make it clear that, to the extent we can make it so, it is the quality of the submission and not the way a problem is approached that determines whether it is accepted and neither quantitative nor qualitative work has an especially tough row to hoe. Manuscripts of all types—high tech, low tech, and in-between tech—are welcome.

This issue opens with two articles that take a Marxist perspective on the problems of understanding the legal order. While neither article is quantitative, neither is purely conceptual. Each draws on Marxist theorizing to identify crucial variables that help explain the law's relationship to the ongoing order. In doing so, each article advances Marxist theory while at the same time recognizing that the crucial

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elements in Marxist models are variables whose status and effects are open to empirical investigation.

In the article that opens this issue, "The Ideology of Law: Advances and Problems in Recent Applications of the Concept of Ideology to the Analysis of Law," Alan Hunt argues that the concept *ideology*, which is central to Marxian analyses of law, has no close counterpart in more general sociological attempts to understand law and the legal system. Hunt attempts to clear up the conceptual confusion that arises from different understandings of ideology within Marxism and to suggest different ways in which the concept "ideology" may be profitably seen as a variable that mediates legal and social relations, affecting and being affected by each. In particular, the ideological implications of legal practices will vary both in the ends they point to and in the likelihood that they will advance those ends. It is the task of empirical social science to study this variation and to identify the phenomena that condition the ideological effects of law.

Alan Stone's article, "The Place of Law in the Marxian Structure-Superstructure Archetype," like other recent Neo-Marxist writing is concerned with the apparent lack of correspondence between many of the actions and decisions of the legal system and the apparent interests of the capitalist order that one might expect the legal order to support. In particular, if the law is superstructure determined by the economic base, much of the legal action in basically capitalist countries is on the surface difficult to comprehend. These apparent contradictions have led many Marxian analysts to advance either a simplistic and unsustainable version of instrumental Marxism or to abandon the structure-superstructure formulation and with it much of the basis for a true Marxian perspective on law. Stone's solution is to suggest that law exists at many levels, some of which have more substantial implications for the viability of capitalism than others. At one extreme, a particular court decision that finds for a worker suing a capitalist has virtually no implications for the viability of capitalist domination. At the other extreme, "essential legal relations" like property are so closely linked to the capitalist system that the concepts embodying these relations help define the economic structure. Thus, to attack the essential legal relations that predominate under capitalism is to call into question the legitimacy of capitalist domination. In developing his argument, Stone calls our attention to an

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important dimension along which law is hypothesized to vary and suggests a new area for empirical investigation.

The third article, "The Foundations of Parole in California" by Sheldon L. Messinger, John E. Berecochea, David Rauma, and Richard A. Berk, investigates the development of parole in California. It is a study not just of legal change but also of the transformation of a legal change. In California, the authors tell us, parole developed and was originally used to relieve the governor of the burden of processing clemency petitions from prisoners justly claiming that their sentences were "excessive." Later, parole became a means to control the prison population and had to be justified in terms of rehabilitation and the supervision provided prisoners on parole. It is clear from this article that, at least in California, parole was not originally part of the rehabilitative agenda of the social reformers of the late nineteenth and early twentieth centuries. Instead it was a device invented and transformed by government officials to deal with the pressures of increased caseloads and was sold to the public first in terms of fairness and equality and later in terms of rehabilitation.

John Sutton's article, "The Juvenile Court and Social Welfare: Dynamics of Progressive Reform," also seeks an historical understanding of what is commonly thought of as a Progressive Era reform, in this case the spread of the juvenile court movement. As Messinger and his coauthors found with respect to parole, Sutton finds that the roots of the juvenile court movement and important aspects of the reform package that is commonly associated with the juvenile court in many states pre-existed the advent of the "child-saving" reformers. The spread of the juvenile court appears, however, to be linked to the Progressive movement in that the juvenile court was adopted first in states that appeared most receptive to Progressive institutional reforms and then spread to other states. Overall, the juvenile court appeared to involve the "ceremonial" consolidation of a number of changes that had occurred in the way children were treated by the law.

The issue concludes with a research note, "The Catalytic Effect of a Federal Court Decision on a State Legislature" by Kathryn Moss, which describes the reaction in Texas to a federal district court decision that mandated changes in that state's civil commitment laws. Moss' work contrasts with most judicial impact research because it focuses not on a celebrated Supreme Court decision breaking new ground but on a more mundane district court decision which had a relatively modest

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legal mandate consistent with established precedent. Moreover, the district court's decision did not depend for its effects on the court's institutional capacity to ensure compliance but was instead important because it stimulated legislative reform. Moss traces the political role of the court's stance in catalyzing reform and the other factors that were important in securing the reform. Her description of what occurred suggests that a unique set of circumstances interacted with the decision to promote reform, yet one suspects that legislative reform in response to low visibility judicial decisions is more common than the attention that has so far been focused on such matters would suggest. It may be that most judicial decisions that mandate modest changes in state procedures find their own unique legislative circumstances which ensure that the mandate is carried out.

Richard Lempert
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