From the Editor

New Editors Join the Staff

This issue marks an important step in my tenure as editor because four colleagues join me as members of the editorial staff of the *Review*. They are Associate Editors John Hagan, David Engel, and Nancy Reichman, and Review Essays Editor Barbara Yngvesson. The new editors bring extensive research experience and a broad range of interests in the law and society field. Our collaboration will add interdisciplinary breadth to editing the *Review* and will permit more attention both to reviewing manuscripts and to planning and outreach.

The work of editing *Law & Society Review* has grown as the field has expanded. Not only is the flow of manuscripts increasing, averaging between 20 and 25 new submissions each month since June 1992, but the articles being submitted represent work in an increasing number of disciplines, theoretical perspectives, and research traditions. Peer reviewers provide excellent advice about improving each manuscript, but developmental review by the editor is also expected and offers both encouragement and direction to an author. In addition, at the urging of many colleagues I have attempted to place more emphasis on outreach to attract new authors both in North America and in other parts of the world and to attract articles on new subjects. Also, at the urging of many, I have looked for ways to increase interest in the *Review* by incorporating emerging perspectives and current discussion about new work and thought in the law and society field.

As previous editors have discovered, the core work of editing consumes most of the effort and allows less time than is needed for development and outreach. Not only has the range of tasks grown too great for one person to pursue effectively, but the interdisciplinary nature of the field also strongly suggests that there is a need to draw on the collective experience and perspectives of a group of editors.

My goal is for the editorial team to collaborate on the decisions that matter most to authors and readers. We met as a group for the first time in late October to discuss plans for the future of the *Review*. Our discussions included manuscript review practices, plans for mini-symposium and symposium issues, and methods for presenting new ideas and research to

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readers. For example, we decided at our first meeting to place more emphasis on articles written in a way that can be easily understood and appreciated by a broad, interdisciplinary audience both by sending manuscripts to a wider range of peer reviewers and through editorial direction. Editorial decisions about many submitted manuscripts will be collaborative; the associate editors will play a major role in decisions about some manuscripts and will assume full responsibility for developmental review of those manuscripts after the initial decision.

We will plan outreach and development of innovative material for the *Review* as a group. At our October meeting we decided that the development of mini-symposium proposals and other new types of material will be shared by the editor and associate editors. The Review Essays Editor, with the help of the rest of the team, will create opportunities to integrate the Review Essays section and peer-reviewed articles in particular issues. Over the next year, we plan to consider new kinds of material, including essays, comments on published articles, and edited transcripts of interviews with notable scholars. We hope that each of these new features will increase the interest in and usefulness of the ideas that are the foundations for research.

The team concept fits well with the course I have attempted to establish for the *Review*—offering outreach to new authors and a wide range of material to readers. The work the new editorial team members has taken on is, thus far, more than advisory and consultative. For them and for me the team is a partnership. Their commitment to sharing the work of the *Review* is an important step forward.

In This Issue

This issue of the *Review* offers readers articles that challenge some existing ways of thinking about three different fields of law and society research. In the first, a fine-grained examination of turnpike incorporation in 18th-century New York, two economic historians challenge existing explanations of the emergence of the business corporation. In the second, the authors break with many in the field of jury research by contending that jurors are "active" interpreters and decisionmakers. The three articles which conclude this issue present research on litigation that captures a move toward contextualization of each stage of the litigation process.

In their article on the turnpike movement in New York, Dan Klein and John Majewski examine the problematic origins of the American corporation in the late 18th century. Perhaps the most pervasive problem of early private, for-profit corporations was their lack of profitability. While some historians have viewed this paradox as evidence of a contemporary consensus

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about the "public" purposes of the "private" corporation, others have argued that 18th-century political and economic culture was a terrain of struggle. Still others have attempted to link the success of the corporate form to the growth of a powerful commercial class. As economic historians, the authors' affinity for economic theory leads them to attempt to explain the "micro-foundations" of the early corporation in terms of the logic of investment. Their theoretical perspective leads them to ask important questions about the nature of the interests of investors that go to the heart of the debate about post-Revolutionary American culture. They offer rich historical detail about the context informing the thought and actions of those who invested in the turnpikes or fought against them. We are provided with an original interpretation of the development of the early corporation informed by economic theory and based on a careful reading of the evidence on turnpikes.

In the second article in this issue, Shari Diamond and Jonathan Casper argue for adoption of a new perspective for thinking about jurors' decisions. They note that in previous research jurors have usually been viewed as passive recipients of information. In contrast, the authors argue on the basis of their own research that jurors should be viewed as "active" because they attempt to understand information by adjusting their frame of reference in response to the complexity, source, and coherence of evidence. In addition, Kalven and Zeisel's classic studies of criminal juries (1966) concluded that studying jury deliberations was unlikely to add to the understanding obtained by aggregating individual jurors' decisions. Diamond and Casper argue that their evidence points in precisely the opposite direction, suggesting that jury deliberations may be particularly important in civil trials where greater flexibility in fashioning outcomes may offer more room to compromise. Viewing jurors as active interpreters suggests to the authors the importance of renewing research efforts to study jury deliberations.

Three articles are about the evolution of a litigated case. They examine how litigation develops as a sequence of actions influenced by decisions or circumstances at earlier stages in the litigation. Herb Jacob writes about the effect of the initial legal or nonlegal orientation of litigants on subsequent perceptions and decisions in divorce litigation. Wayne Welsh examines the evolution of prison litigation as a function of characteristics of litigants, attorneys, judges and of the interaction among these participants. Richard Lempert and Karl Monsma examine the effects of representation by counsel on the outcomes of housing eviction board litigation.

These studies of litigation process bring to light the importance of intermediate stages that occur between making a legal

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claim and the final outcome or decision. They remind us of the often ignored reality that the litigant's efforts to negotiate a settlement or to employ an ideologically committed attorney, or an attorney's decision to raise particular issues, or a judge's determination to hold a hearing or make a ruling take place as part of continuing interaction between processes "in" court and the society "outside." Thus, this move has an interesting theoretical consequence. The more carefully research examines the intermediate stages of litigation, the more interrelated a court and its environment appear to be.

Herb Jacob demonstrates that the influence of participants' initial nonlegal orientation carries through the later decisions and actions in a divorce case. He argues that for many divorce litigants, the norms that seem most appropriate, and that thus may guide negotiations for settlements, do not take shape in the "shadow of the law," as Mnookin and Kornhauser (1979) suggested, but rather are nonlegal in origin.

Wayne Welsh reports interesting evidence of community-court interaction in prison litigation. His findings reveal the cumulative effects of such factors as plaintiffs' geographic location, the organization of the attorney's practice, the political role of the court in a particular community, and the differences between state and federal court judges. Welsh's research suggests questions ripe for study using methods that permit closer examination of the context of decisions by participants in trials and that facilitate a better understanding of community-court interaction over the life of particular cases.

Richard Lempert and Karl Monsma offer the most careful piece of research available about the influence of legal counsel on the outcome of litigation. The authors' care and creativity in developing the implications of their data provides a model for further research relying on statistical inference to explore the role of counsel in litigation. Among other important issues for future research suggested by their findings are conceptualization and measurement of successful representation, exploration of the degree to which the benefits of representation are limited by lawyers' selection of particular clients to represent and particular issues to raise, and the impact of different styles of representation by lawyers.

Frank Munger

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