# In This Issue

This issue of the *Law and History Review* begins a new chapter in the history of the journal. After nine years of truly remarkable leadership and vision, Christopher Tomlins has stepped down as editor. Under his stewardship, *LHR* remained at the forefront of the discipline, expanded to three issues a year, played a leading role in internationalizing the field of legal history, and gracefully entered the electronic age. On behalf of the readership, I would like to express our collective appreciation to Chris, the associate editors, the members of his editorial boards, and the American Bar Foundation for its material support of the *Review* during these extraordinary years. On a more personal note, I am honored to thank Chris publicly for making the transition in editorship into a thoroughly enjoyable tutorial.

The field of legal history has grown dramatically since the *Review* debuted in 1983, with *LHR* leading the charge. The efforts of the previous editors and associates—Lloyd Bonfield, Russell Osgood, Clive Holmes, Stephen Presser, Adam Hirsch, Michael Hoeflich, Bruce Mann, Michael Grossberg, Christopher Tomlins, William Novak, Laura Edwards, and Alfred Brophy—all set the stage for legal history's current Renaissance. As editor, I will continue the tradition of introducing our readership to the most innovative work in the field of legal history, wherever that scholarship is done. My editorial vision is based on the firm conviction that *LHR* must reflect the diversity of the field, broadly defined in terms of period, region, and method, so as not to become too narrowly focused or an artifact of a particular scholarly moment. Like its predecessor, the new editorial board, which embodies this vision, supports this commitment to excellence through diversity.

Before announcing an important change in the administration of *LHR,* a few words about continuity are in order. First, I am delighted to report that our outstanding Associate Editor Alfred Brophy and Christina Dengate, our unparalleled copyeditor, will continue their service. Second, although publishing original scholarship remains our core mission, *LHR* will continue to run forums, such as the one on Liberalism and the Liberal State that is the centerpiece of this issue. Along similar lines, we will publish field reviews, methodological pieces, the occasional research note, and selected plenary addresses from the annual meetings of the American Society for Legal History (ASLH).

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The major immediate change that I am pleased to announce is a landmark technological development. Thanks to the generous support of Dean Richard Morgan of the William S. Boyd School of Law; the skill of the school's director of Information Technology Joshua Brauer; the hard work of Lance Muckey, a graduate student in the UNLV History Department; and the technical assistance provided by *Law & Social Inquiry, LHR* is proud to unveil its new administration system, which will ease the submission, refereeing, and editorial management of manuscripts. I encourage all of our readers to investigate this new system at http://lhr.law.unlv.edu/.

It is fitting that this transitional issue of *LHR* focuses on legal transformation. All three articles raise important questions about who was responsible for instituting meaningful legal changes that challenged established conceptions of legality, whether in tsarist Russia or New Deal America. The subjects in these fascinating histories of lawmaking range from petitioners to the Russian senate and striking autoworkers in Akron, Ohio, to the chief justice of the U.S. Supreme Court. Together, these articles reflect how individuals, associations, and state actors in very different contexts tried to legitimate (or, in the case of Chief Justice Hughes, limit) innovative practices.

Our first article, by Natasha Assa, examines how local government (*zemstvos*) petitions to the Imperial Ruling Senate from 1866 to 1916 compelled tsarist officialdom to uphold nascent provincial development programs amid mounting bureaucratic backlash and eventual counter-reforms in the provinces. The senate's verdicts that favored *zemstvos* initiatives vis-à-vis continuous government prohibitions were instrumental in gradually changing the nature of tsarist authority in the provinces from strictly bureaucratic to legal and public. This process helped to establish the foundations for the emergence of the public sphere and the rule of law. The senate's intervention in local politics produced further debate on its role as either a supreme supervisory organ of government or a supreme administrative court. Was the senate applying and interpreting the imperial law in *zemstvos* cases or was it forecasting and orchestrating the social consequences of government actions? In the course of five decades, both of these approaches contributed to overcoming increasingly prohibitive government regulations. Lack of clarity on the nature of the senate's justice among both senators and government officials created a potential deadlock between tsarist government and the judiciary. In turn, this delayed and ultimately derailed the prospects for a meaningful senate reform.

In our second article, Jim Pope reconstructs how the sit-down movement in the United States, beginning in the mid-1930s, opened up new possibilities for mass production workers to make and enforce law. The article recounts part of the legal history of the sit-down strike movement in the

United States, focusing on the claim that the sit-downers were engaged in legal practice. It finds strong evidence that many were, and in five distinct forms. First, the sit-down made it possible for mass production workers to legislate and enforce unilateral rules directly regulating relations of production—for example, restrictions on the pace of work. Second, sit-downers legislated, adjudicated, and enforced rules governing life in the facilities that they had seized. Third, sit-downers formulated and exercised a legal right of workers to stage a sit-down strike at their place of work. Fourth, sit-downers engaged in self-enforcement of the National Labor Relations Act and the United States Constitution, thereby pressuring the Supreme Court to uphold the Act in April of 1937. Finally, workers used sit-downs to enforce collective bargaining agreements. Courts rejected the strikers' claims to legality and treated the sit-down as a lawless form of mob violence. After a protracted struggle, the courts' position prevailed, and the now-familiar regime of bureaucratized collective bargaining gradually replaced shop-floor lawmaking.

Our third article, by James Henretta, serves as the foundation for this issue's forum on Liberalism and the Liberal State. The article analyzes the evolution of liberal ideology in the United States from 1870 to 1940 through a close examination of the public life of Charles Evans Hughes—corporate lawyer; Progressive Era reformer, governor, and associate justice of the Supreme Court; presidential candidate in 1916; and chief justice (1930–1941). Focusing on Hughes's jurisprudence during both court tenures, Henretta argues that the resolution of the constitutional crisis of 1937 represented an important break not only from laissez-faire constitutionalism but also from progressive-era liberalism. In making this argument, the article draws attention to a parallel but more rapid ideological transition in Britain, where the pre–World War I New Liberalism was eclipsed by rise of the Labour Party and its program of national economic planning and social welfare. It also offers a perspective on the recent rich constitutional scholarship on the 1930s and on Hughes's career. Raised as a good-government Mugwump, the advocate in his mature years of a "regulatory" American version of British New Liberalism, Hughes ended his public life reluctantly supporting the "statist, social welfare" liberalism of the New Deal, a system that for many leading Progressives represented the antithesis of the liberal ideal. That irony constitutes the Strange Death of Liberal America. In separate comments, Daniel Rodgers, William Forbath, William Novak, and Risa Goluboff all respond to Henretta's claims about the so-called death of liberal America. The author's response rounds out the forum.

As always, this issue concludes with a comprehensive selection of book reviews. As always, too, we encourage readers to explore and contribute to the ASLH's electronic discussion list, H-Law. Readers are also encour-

aged to investigate the *LHR* on the web, at www.historycooperative.org, where they may read and search every issue published since January 1999 (Volume 17, No. 1), including this one. In addition, the *LHR*'s web site, at www.press.uillinois.edu/journals/lhr.html, enables readers to browse the contents of forthcoming issues, including abstracts, and, in almost all cases, full-text PDF "pre-prints" of articles.

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