From the Editor

In the past several years we have witnessed stunning legal change accompanied by burgeoning research interest in law and the family. One of my first projects as editor of the *Review* was to plan an issue that would invite manuscripts to reflect these important developments. Herbert Jacob agreed to act as editor, and the first four articles in this issue, which Jacob discusses in his introduction, are the result.

Each of the articles in the special section offers a new perspective on one of the prominent topics that have dominated the research landscape on law and the family. Three of them concern family break-up: divorce and child support. The fourth analyzes the law's role in restraining male violence in domestic relations. Surprisingly, we see little in these articles to reflect the substantial role of law in, for example, the *creation* of family bonds, the intergenerational transfer of assets, or questions of privacy. Cross-cultural perspectives receive limited attention. Naturally, four articles cannot cover fully any domain as rich in research questions and opportunities as this one, but the other submissions also clustered on the topics of divorce and violence. Thus, both Herb and I have been motivated in our introductions to suggest examples of what does not appear in this issue. I hope that these suggestions will stimulate future submissions on all topics concerning law and the family and that they too will soon appear in regular issues of the *Review*.

Two of the articles in this issue, one in the special section by David Greatbatch and Robert Dingwall, and one other by Kevin Delaney, are case studies. A single mediation session provides primary data reported in the first article. The bankruptcy of a single corporation is the focus in the second. In surveying submissions to the *Review* and the contributions offered by the articles in this issue, I am struck by the important role played by case studies in research on law and society. We often criticize the method because it examines what can be fairly characterized as a limited and inherently unrepresentative range of legal phenomena. Yet case studies achieve a richness of crucial contextual detail that is rarely obtained by research using other more extensive, but less intensive, methodological approaches. I have been thinking lately about the insights and temptations of the case study; in part because case studies can be so rich in their contextual detail; in part because the opportunity to study a particular case often arises precisely because the case is atypical; and in part because I confess that I share with many others an uneasiness about our willingness to be con-

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vinced of the accuracy of broad theoretical propositions based on data from case studies.

As the two examples in this issue of the *Review* demonstrate, the case study is uniquely fitted for some purposes. A sensitive investigator can use a well-chosen case study to vividly display how a legal process or phenomenon *can* operate. Thus, even if the next case does *not* show similar behavior, the lessons of the first case study remain. Greatbatch and Dingwall focus their microscope on a single session between a mediator and a divorcing couple. They show that the mediator, far from neutrally allowing the parties to arrive at a mutually acceptable resolution of their property division, identifies and selectively facilitates a resolution that the mediator appears to view as fair to both parties. Note that Greatbatch and Dingwall do not claim that all, most, or even substantial numbers of mediators use such a strategy in facilitating dispute resolution. While such a study of frequencies would be valuable, the power of their data in this article lies elsewhere: the transcript of this single mediation session shows that such selective facilitation activity does occur, thus dispelling any illusion that mediation necessarily functions as a purely neutral process of dispute resolution.

Moreover, while readers of qualitative case studies often must rely upon the investigator's interpretation of events, Greatbatch and Dingwall provide the reader with the transcript of the mediation session to show how they derived their claims about the mediator's selective facilitation. The basis for their interpretations of what happened in the mediation session is available for public inspection and critique.

The other case study in this issue has an entirely different flavor. Kevin Delaney uses the Johns-Manville bankruptcy to show the limits of a strictly economic analysis of bankruptcy and suggests that a model of legal mobilization might better explain the generation of such bankruptcies. As Delaney suggests, our sociolegal understanding of bankruptcy is still in its earliest stages. At this point, the detailed description of a case study provides the stimulus for theorizing and signposts to guide further research.

The caveat for the case study, as for most research approaches, thus emerges in the conclusions that we draw from it. We know, or should know, from studies of human judgment that the vivid, concrete single instance represented in a case study can dominate our perception of the phenomenon we are trying to understand. In the past twenty years we have learned a great deal about the heuristics, or short cuts, that human decisionmakers use to deal with the complexities of their environment. Often these heuristics are useful; they can also be the source of biased judgments. In particular, the availability heuristic (Kahneman & Tversky, 1973; Tversky & Kahneman, 1974) affects our judgments about the frequency of particular occurrences. When some instances are more accessible than others, they may dominate our perceptions and, as

a result, our judgments about how frequent they are. Do more words in the English language begin with the letter *k* than have the *k* in the third position? Most respondents say that more words start with the letter *k*. In fact, the third position *k*s are more prevalent in the English language. But words with *k* in the first position are more readily retrievable from memory than are those with *k* in the third position, that is, they are more available. This is analognous to the case study that provides a potentially biased sample of information and leads people (both experts and laypersons) to generalize from the single dramatic event or striking example.

The final article in this issue emphasizes the continuing need to search for new ways to examine old questions. Robert Worden reappraises the influences of attitudinal and situational variables on police behavior, expanding the traditional investigation of the decision whether to arrest to include informal police behaviors. He provides both theoretical and empirical evidence that attitudinal and situational factors alone cannot account for officers' behavior. Worden proposes that at least one response to this set of results is to characterize the administrative context for police behavior by looking beyond the self-report of the police chief's emphasis on law enforcement. Thus, the intensive contextual information of the case study reemerges as a crucial element.

One final note: It is a special pleasure to publish Kevin Delaney's article in this issue. The occasion represents a first for the Law and Society Association and the *Review*. Delaney's work on strategic bankruptcy received the Association's graduate student award for 1989, and in addition, makes a substantial contribution to an exciting new area of research.

REFERENCES

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