EDITORIAL

New journals are invariably introduced with an Editor's Note attempting to justify the publication of yet another journal. *Legal Theory* is no different. Because the dominance of the student-edited law review in the United States has produced a relative paucity of peer-reviewed professional journals, the introduction of a new one need meet a somewhat lesser burden of justification. To us, the absence of any peer-reviewed journal open to the full range of perspectives on legal theory is more than sufficient to satisfy this burden. Although there are a few journals here and abroad devoted to legal theory from the perspective of philosophy, several that concentrate on economics, and a handful that are devoted to one or another disciplinary perspective on law and its processes, none attempts to cross the disciplinary boundaries while at the same time retaining the focus on serious scholarly exploration of the nature of law and the analysis and explanation of its characteristic processes.

Establishing a new journal ordinarily involves questions of procedures that are at least as hard as those of substance. The latter can work themselves out over time, partially determined by the nature of submissions and the changing winds of academic fashion. The former, however, require immediate and hard-edged decisions, but the fact that we have been required to make them does not increase our certainty in their correctness. Still, we have at the outset decided that we will employ double-blind review, meaning that those submissions we collectively determine to surpass a threshold of possible publication will be submitted with names and institutional identifications removed to referees who are specialists in the field of submission, and that the referees' reports, with the name of the referee removed, will be given to the authors regardless of the outcome. Although blind reviewing itself has flaws—foremost being an occasionally false pretense of anonymity when the style of writing or the substance of the argument unmistakably identifies the author to other specialists—we believe it superior to any of the alternatives, most of which involve an excess risk of underappreciating good work by younger or less well-known people, and a consequent excess risk of overappreciating mediocre or redundant work by well-established or well-known people.

Other decisions are of the same variety. Unlike some journals, we invite not only commentary on articles previously published in this jour-

https://doi.org/10.1017/S1352325200000033 Published online by Cambridge University Press

nal, but also on articles published elsewhere, and on arguments contained in published books. This approach too has risks, primarily the risk of imposing on too many readers the burden of reading responses to things they have not read. Still, the benefits of fostering an active and engaged scholarly discussion are well worth the risks, especially against the background of much of legal scholarship being far less engaged with and attentive to the work of other scholars than is common in economics, philosophy, and many other disciplines. For all of its footnotes, traditional American legal scholarship has deemed it relatively unimportant directly to engage the precise arguments of others. This phenomenon builds on itself, so that the aspiring scholar comes quickly to recognize that a new theory of constitutionalism is more likely to be rewarded than an article directly engaging another scholar's argument. We are trying to break the cycle, and in the process foster the idea that scholarly inquiry is a cooperative enterprise among members of a community.

Although we thus encourage works that engage the works of others, for the time being we will not publish book reviews. Of all our "procedural" decisions, this is the one most likely to change over time. We believe that many books in legal theory that are aimed at relatively narrow professional audiences are under-reviewed in existing journals, and that a place where most of the recently published books on legal theory could receive a brief review or notice would be a service to the scholarly community. But we are sensitive to the pitfalls of spreading ourselves too thin at the beginning, and sensitive as well to the administrative complexity required to run a serious book review section. We hope in the future to overcome this, but for the time being we will not have book reviews in the strict sense, although we repeat that we encourage the type of engagement with the arguments in a book that might in some journals be called a "review essay."

We have been gratified with the number and quality of submissions for our first several issues. As a question of decision theory, we are uncertain whether it is better to announce that our acceptance rate is now running under ten per cent, or better to keep this figure secret. Obviously we have elected the former course, believing that what the numbers imply about the demand for *Legal Theory* and the seriousness of this venture is worth running the risk of possibly discouraging some potential contributors. We know that a policy of requiring exclusive submission, coupled with a relatively low acceptance rate, means that those who submit articles to us have a right to expect a prompt decision. We cannot do this without the active cooperation of our referees, and so far the willingness of many scholars to provide detailed and prompt reports has been a source of

considerable satisfaction. We hope that this thankless participation in the enterprise will continue, for without it we cannot hope to fulfill our promise to those who submit articles, and the broader promise that we hope for *Legal Theory*.

Lawrence A. Alexander
Jules L. Coleman
Frederick Schauer

https://doi.org/10.1017/S1352325200000033 Published online by Cambridge University Press

Legal Theory is proud to present a discussion inspired by the following paper by Hilary Putnam. "Are Moral and Legal Values Made or Discovered?" was first presented at the AALS Jurisprudence section panel, "On Truth and Justification in Law," in Orlando, Florida on January 7, 1994. Here, Brian Leiter and Jules Coleman offer commentary on the paper, and Hilary Putnam responds to their critiques.