

Michigan Law Review

Volume 96 | Issue 1

1997

Front Matter

Michigan Law Review

Follow this and additional works at: <https://repository.law.umich.edu/mlr>

Recommended Citation

Michigan Law Review, *Front Matter*, 96 MICH. L. REV. i (1997).
Available at: <https://repository.law.umich.edu/mlr/vol96/iss1/1>

This Front Matter is brought to you for free and open access by the Michigan Law Review at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Law Review by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

Michigan Law Review

VOLUME 96
1997-1998

The University of Michigan
Law School

Michigan Law Review
Ann Arbor, Michigan 48109-1215

Michigan Law Review

Vol. 96, No. 1

October 1997

CONTENTS

ARTICLES

- THE EMPTY CIRCLES OF LIBERAL
JUSTIFICATION *Pierre Schlag* 1
- THE POLITICAL ECONOMY OF
THE BANKRUPTCY REFORM
ACT OF 1978..... *Eric A. Posner* 47

ESSAY

- IGNORANCE OF LAW *IS* AN EXCUSE—
BUT ONLY FOR THE VIRTUOUS *Dan M. Kahan* 127

RECENT BOOKS

- BOOKS RECEIVED 155

Copyright © 1997 by the Michigan Law Review Association. Except where otherwise expressly provided, the author of each article and Note in this issue has granted permission for copies of that article or Note to be made for educational use, provided that (i) copies are distributed at or below cost; (ii) the author and the *Michigan Law Review* are identified; (iii) prior written notice of the use is given to the Michigan Law Review Association; and (iv) proper notice of copyright is affixed to each copy.

The design on the cover is taken from an etching of The University of Michigan Legal Research Building.

Michigan Law Review (ISSN 0026-2234) is published monthly in October, November, December, February, March, May, June, and August. Subscriptions: United States, \$50 per year in advance, eight numbers; Foreign, \$60. Editorial and Business Offices: Hutchins Hall, 625 S. State St., Ann Arbor, Michigan 48109-1215; 313/764-0542 (Editorial); 313/763-5870 (Business); 313/647-5817 (Fax). Periodicals postage paid at Ann Arbor, Michigan, and additional mailing offices. POSTMASTER: send address changes to Michigan Law Review, Hutchins Hall, 625 S. State St., Ann Arbor, Michigan 48109-1215.

Printed at Joe Christensen, Inc., Lincoln, Nebraska 68521.

Recent Volumes: Single Issues \$8, Book Review \$14, and Special Issues \$10, postpaid, at Editorial and Business Offices.

Volumes 1 through 91, as well as single issues in those volumes, are available in printed and microform from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209.

Because back stock of the *Review* is turned over to a dealer, back numbers are available to the *Review* for a short time only. We must therefore ask that subscribers report the nonreceipt of copies within six months of the mailing date.

We gladly consider unsolicited manuscripts for publication. Citations in manuscripts should follow the form prescribed in *The Bluebook: A Uniform System of Citation* (16th ed. 1996) and *The Chicago Manual of Style* (14th ed. 1993). We regret that we can return only those manuscripts for which we receive postage and handling fees of \$3.50 for first-class and \$1.50 for special fourth-class mail.

UNIVERSITY OF MICHIGAN LAW SCHOOL

Fall 1997

Administrative Officers

LEE C. BOLLINGER, B.S., J.D., *President of the University*
NANCY E. CANTOR, B.A., PH.D., *Provost and Executive Vice President for Academic Affairs*
JEFFREY S. LEHMAN, A.B., J.D., M.P.P., *Dean*
CHRISTINA B. WHITMAN, A.B., M.A., J.D., *Associate Dean for Academic Affairs*
SUSAN M. EKLUND, A.B., J.D., *Associate Dean for Student Affairs*
SUELLYN SCARNECCHIA, B.A., J.D., *Associate Dean for Clinical Affairs*
VIRGINIA B. GORDAN, B.A., J.D., *Assistant Dean for International Programs*
DENNIS J. SHIELDS, B.A., J.D., *Assistant Dean and Admissions Officer*
KATHY A. OKUN, M.A., PH.D., *Assistant Dean for Development and Alumni Relations*

Professors Emeriti of Law

FRANCIS A. ALLEN, A.B., LL.B., J.D., LL.D.,
Edson R. Sunderland Professor of Law
OLIN L. BROWDER, A.B., LL.B., S.J.D.,
James V. Campbell Professor of Law
ALFRED F. CONARD, A.B., LL.B., LL.M., J.S.D., LL.D.,
Henry M. Butzel Professor of Law
LUKE K. COOPERRIDER, B.S., J.D.
SAMUEL D. ESTEP, A.B., J.D.
ROBBEN W. FLEMING, B.A., LL.B., LL.D.
WHITMORE GRAY, A.B., J.D., LL.D.
JEROLD H. ISRAEL, B.B.A., LL.B.,
Alene and Allan F. Smith Professor of Law
CHARLES W. JOINER, A.B., J.D.
FRANK R. KENNEDY, A.B., LL.B., J.S.D.,
Thomas M. Cooley Professor of Law
MARVIN L. NIEHUSS, A.B., LL.B.
WILLIAM J. PIERCE, A.B., J.D.
ROY F. PROFFITT, B.S., J.D., LL.M.
JOHN W. REED, A.B., LL.B., LL.M., JUR.SC.D.,
Thomas M. Cooley Professor of Law
RUSSELL A. SMITH, A.B., J.D.
ERIC STEIN, J.U.D., J.D., DR.H.C.,
Hessel E. Yntema Professor of Law
PETER O. STEINER, A.B., M.A., PH.D.
ANDREW S. WATSON, B.S., M.D., M.S. IN MED.

Professors of Law

LAYMAN E. ALLEN, A.B., M.P.A., LL.B.
JOSE E. ALVAREZ,** A.B., B.A./M.A., J.D.
MICHEL AUJEAN, *D.E.S.
JOHN S. BECKERMAN,* A.B., M.A., PH.D., J.D.
MITCHELL N. BERMAN,* A.B., J.D., M.A.
LEE C. BOLLINGER, B.S., J.D.
DAVID L. CHAMBERS,** A.B., LL.B.,
Wade H. McCree Professor of Law
EDWARD H. COOPER, A.B., LL.B.,
Thomas M. Cooley Professor of Law
DONALD N. DUQUETTE,**† B.A., J.D.
REBECCA S. EISENBERG,** B.A., J.D.
PHOEBE C. ELLSWORTH,** A.B., PH.D.,
Kirkland & Ellis Professor of Law
ARNOLD N. ENKER, * B.A., J.D.
PAULA L. ETTTELBRICK,† B.A., J.D.
MERRITT B. FOX,** B.A., J.D., PH.D.
RICHARD D. FRIEDMAN,** B.A., J.D., D.PHIL.
BRUCE W. FRIER,** B.A., PH.D.,
Henry King Ransom Professor of Law
THOMAS A. GREEN, B.A., PH.D., J.D.,
John Philip Dawson Professor of Law
SAMUEL R. GROSS, A.B., J.D.
DONALD J. HERZOG, A.B., A.M., PH.D.
CAROL K. HOLLENSHEAD,† A.B., J.D.
JOHN H. JACKSON, B.A., J.D.,
Hessel E. Yntema Professor of Law
WILLIAM R. JENTES,† A.B., J.D.
DOUGLAS A. KAHN, B.A., J.D.,
Paul G. Kauper Professor of Law
YALE KAMISAR, A.B., LL.B., LL.D.,
Clarence Darrow Distinguished University Professor of Law
NOBORU KASHIWAGI,* B.A.
THOMAS E. KAUPER, A.B., J.D.,
Henry M. Butzel Professor of Law
ATSUSHI KINAMI,* LL.B., LL.M.
JAMES E. KRIER,** B.S., J.D.,
Earl Warren DeLano Professor of Law
JEFFREY S. LEHMAN, A.B., J.D., M.P.P.
RICHARD O. LEMPert, A.B., J.D., PH.D.,
Francis A. Allen Professor of Law
SAUL LEVMORE,* B.A., PH.D., J.D.
CURTIS L. MACK,† B.A., J.D., LL.M.
CATHARINE A. MACKINNON, B.A., J.D., PH.D.
DEBORAH C. MALAMUD, B.A., J.D.
GERARD MEEHAN,* M.A., M.S.C.
WILLIAM I. MILLER, B.A., PH.D., J.D.
JEFFREY H. MIRO,† B.A., J.D., LL.M.
CYRIL MOSCOW,† B.S., J.D.
DANA M. MUIR,* A.B., M.B.A., J.D.
SHOZO OTA,* B.A., M.A.
SALLYANNE PAYTON, A.B., LL.B.
WILLIAM F. PEDERSEN,* B.A., LL.B.
STEVEN D. PEPE,† B.A., J.D., LL.M.

RICHARD H. PILDES,** A.B., J.D.,
*Roy F. and Jean Humphrey Proffitt
 Research Professor of Law*
 BEVERLY J. POOLEY, B.A., LL.B., LL.M.,
 S.J.D.
 DONALD H. REGAN, A.B., LL.B., B.PHIL.,
 Ph.D.,
William W. Bishop, Jr. Professor of Law
 JEROME H. REICHMAN,* B.A., J.D.
 MATHIAS W. REIMANN,** DR. IUR., LL.M.
 PAUL D. REINGOLD,†† B.A., J.D.
 JULIE ROIN,* B.A., J.D.
 THEODORE J. ST. ANTOINE,** A.B., J.D.,
*James E. and Sarah A. Degan
 Professor of Law*
 TERRANCE SANDALOW, A.B., J.D.,
Edson R. Sunderland Professor of Law
 SUELLYN SCARNECCHIA,†† B.A., J.D.
 JANE S. SCHACTER,* A.B., J.D.
 CARL E. SCHNEIDER, A.B., J.D.

STANLEY S. SCHWARTZ,† B.A., J.D.
 BRUNO E. SIMMA,* DOCTOR OF LAWS, J.D.
 A.W. BRIAN SIMPSON,** B.A., M.A., D.C.L.,
*Charles F. and Edith J. Clyne Professor
 of Law*
 PHILIP SOPER, B.A., M.A., J.D., Ph.D.,
James V. Campbell Professor of Law
 JOSEPH VINING, B.A., M.A., J.D.,
Harry Burns Hutchins Professor of Law
 LAWRENCE W. WAGGONER, B.B.A., J.D.,
 D.PHIL.,
Lewis M. Simes Professor of Law
 PETER K. WESTEN, B.A., J.D.,
Frank G. Millard Professor of Law
 JAMES BOYD WHITE, A.B., A.M., LL.B.,
L. Hart Wright Professor of Law
 JAMES J. WHITE, B.A., J.D.,
Robert A. Sullivan Professor of Law
 CHRISTINA B. WHITMAN, A.B., M.A., J.D.

Assistant Professors of Law

P.E. BENNETT,†† B.S., M.A., J.D.
 ERIC A. BILSKY,†† B.A., M.A., J.D.
 RENEE BIRNBAUM,†† B.A., J.D.
 JULIET M. BRODIE,* †† A.B., J.D.
 HOWARD J. BROMBERG,†† B.A., J.D.,
 J.S.M.
 LORRAY S.C. BROWN,†† B.A., J.D.
 SHERMAN J. CLARK, B.S., J.D.
 LORI L. COHEN,† †† B.A., J.D.
 STEVEN P. CROLEY, A.B., J.D., M.A.
 THOMAS B. DARNTON,* †† B.A., J.D.
 CAMERON DAVIS,† †† B.A., J.D.
 JEFFREY D. DILLMAN,† †† B.A., J.D.
 MARK P. FANCHER,*†† B.S., J.D.
 HEIDI L. FELDMAN,** B.A., J.D., Ph.D.
 PHILIP M. FROST,† B.A., J.D.
 PETER J. HAMMER, B.S., B.A., J.D., Ph.D.

MICHAEL A. HELLER, A.B., J.D.
 RODERICK M. HILLS, JR.,** B.A., J.D.
 KIMBERLY A. JAMES,†† A.B., J.D.
 LANCE R. JONES,†† A.B., J.D.
 NEIL S. KAGAN,† †† B.S., M.S., J.S.
 ROCHELLE E. LENTO,†† B.A., J.D.
 KYLE D. LOGUE, B.A., J.D.
 ANDREA D. LYON,†† B.A., J.D.
 RONALD J. MANN, B.A., J.D.
 NICHOLAS J. RINE,†† B.A., J.D.
 LAURA A. ROSE DAY,† †† B.S., J.D.
 ANNE N. SCHROTH,†† B.A., J.D.
 THOMAS H. SEYMOUR,†† B.A., M.A., J.D.
 CAROLYN R. SPENCER,†† A.B., J.D.
 RONALD E. STEINBERG,†† B.A., J.D.
 GRACE C. TONNER,†† B.A., J.D.
 MELISSA K. WORDEN,†† B.A., J.D.

Instructors in Law

MARGARET A. LEARY,† B.A., M.A., J.D.

† Adjunct

†† Clinical

* Visiting

** On Leave

Michigan Law Review

Vol. 96, No. 1

October 1997

EDITORIAL BOARD

Editor-in-Chief

TODD S. AAGAARD, *of California*

Managing Editor

ELANA TYRANGIEL, *of Maryland*

Book Review Editors

SCOTT D. POMFRET, *of Massachusetts*
E. MICHAEL ROSSMAN, *of Ohio*

Executive Article Editor

ROBERT J. LUNDMAN, *of Ohio*

Executive Note Editor

SHARAD S. KHANDLWAL, *of Texas*

Executive Editors

ERIN C. HAIROPOULOS, *of California*
USMAN MOHAMMAD, *of North Carolina*
MIREILLE A. RAOUL, *of Illinois*

Article Editors

MATTHEW A. HAMERMESH, *of Michigan*
MARY T. MITCHELL, *of Vermont*
TYLER B. ROBINSON, *of Massachusetts*
BRADLEY B. ROUNSAVILLE, *of Mississippi*

Note Editors

MICHAEL T. CAHILL, *of New Jersey*
JAMES E. MYERS, JR., *of Georgia*
ILENE J. STRAUSS, *of New York*
ROBERT C. WEISZ, *of New York*
ANDREW W. WORSECK, *of Missouri*

Contributing Editors

ANTHONY S. BAISH, *of Iowa*
ELIN M. BRENNER, *of Ohio*
TUNG M. CHAN, *of Michigan*
CHRISTINE L. COONEY, *of Minnesota*
SCOTT L. DARLING, *of California*
*MICHAEL B. FISCH, *of Washington, D.C.*
GILLIAN N. FLORY, *of New York*
ANDREA R. FREUDENBERGER, *of Maryland*
MARK R. GORDON, *of Michigan*
JOHN J. GRIGGS, *of Maryland*
STEPHAN E. KLEIN, *of Maryland*
BRENT D. KNIGHT, *of Michigan*
RYAN C. LARRENAGA, *of Massachusetts*
DANIEL E. LAYTIN, *of Illinois*

ELISA S. LEE, *of Michigan*
JOSHUA LIPTON, *of Pennsylvania*
JOELLE C. LUEDTKE, *of Illinois*
ANN L. MCGUIRE, *of California*
SUSAN E. MORTENSEN, *of Wyoming*
*TODD R. PLOTNER, *of Illinois*
BRIAN P. RIGONAN, *of Michigan*
KEVIN V. RUDDY, *of Massachusetts*
JASON D. SANDERS, *of New York*
BRIAN A. SELVAN, *of California*
SHARAN K. SURI, *of Michigan*
PHILLANDAS T. THOMPSON, *of Mississippi*
BRYAN R. WALTERS, *of Michigan*
AMY J. YANOFF, *of Maryland*

Associate Editors

JAMES S. BIRGE, *of Indiana*
WILLIAM F. BROCKMAN, *of Michigan*
HEATHER V. BURROR, *of California*
HUIYA H. CHEN, *of California*
DALLAE CHIN, *of Illinois*
ADAM B. COX, *of Michigan*
ABHAY DHIR, *of Texas*
PARKER ERKMANN, *of Alaska*
MARCI R. ETTER, *of New Jersey*
SCOTT J. FENSTER, *of Maryland*
JENNY L. FLOYD, *of Kentucky*
CHARLOTTE GIBSON, *of Michigan*
MATTHEW I. HALL, *of Michigan*
TROY J. HICKMAN, *of Washington*
MORENIKE S. KASSIM, *of Washington, DC*
KRISTA L. LENART, *of Michigan*
DANIEL S. LIBERMAN, *of Pennsylvania*
WENDY M. MARANTZ, *of California*
BENJAMIN MEANS, *of Maryland*
ELIZABETH W. MILNIKEL, *of Illinois*
CHRISTOPHER M. NEWMAN, *of Michigan*

HYUN J. PARK, *of New York*
EMILY K. PASTER, *of Washington, DC*
NADA M. PAYNE, *of New York*
ROSEMARY B. QUIGLEY, *of Massachusetts*
ELLIOT M. REGENSTEIN, *of New York*
DANA A. ROACH, *of Michigan*
RYAN T. ROUTH, *of Ohio*
CAROLYN C. RUSSELL, *of South Carolina*
WILLIAM PAUL SCHUCK, *of California*
CHRISTOPHER SERKIN, *of Vermont*
LARA M. SHALOV, *of New York*
WILLIAM R. SHERMAN, *of Ohio*
JAMES A. SHIMOTA, *of Michigan*
JEFFREY S. SILVER, *of Massachusetts*
AARON D. SINGER, *of Michigan*
DAVID D. TAWIL, *of New Jersey*
SCOTT T. VARHOLAK, *of Pennsylvania*
ALEXANDER C. WEXLER, *of Illinois*
KRISTIN B. WILHELM, *of Georgia*
MATTHEW D. ZINN, *of California*

BUSINESS MANAGER
Dorothy A. Kelly

EDITORIAL ASSISTANT
Deborah M. Hartranft

* *Article Review Board*