CONTENTS

VOLUME 94

Subject Index...................................... iii
Articles................................................... vii
Notes .................................................... ix
Authors.................................................. x
Books Reviewed...................................... xii

Copyright © 1996
By THE MICHIGAN LAW REVIEW ASSOCIATION
# SUBJECT INDEX

(a) after a reference indicates a leading article; (c) correspondence; (n) note; (r) book review.

## ABORTION
Homologizing pregnancy and motherhood: a consideration of abortion — Julia E. Hansberg (a) 371-418

## ADMINISTRATION OF CRIMINAL JUSTICE
See Juries, Racism.

## ADMINISTRATION OF JUSTICE
Whose justice? which victims? — Lynne Henderson (r) 1596-621

## AGE DISCRIMINATION
Prima facie case of age discrimination in reduction-in-force cases, The — Jessica Lind (n) 832-53

## ANTITRUST LAW
Antitrust standing in private merger cases: reconciling private incentives and public enforcement goals — Joseph F. Bradley (a) 1-108

## BANKING
Are credit-card late fees “interest”? delineating the preemptive reach of section 85 of the National Bank Act of 1864 and section 521 of the Depositary Institutions Deregulation and Monetary Control Act of 1980 — Kevin G. Toh (n) 1294-325

## BOOKS
See also Books Reviewed, in this volume index. 1996 survey of books relating to the law 1379-2088
Notes on current books on law and related subjects 242-43, 530-31, 897, 1127-28, 1375-77, 2423-28, 2753-54

## CAPITAL PUNISHMENT
Limits of legal language: decisionmaking in capital cases, The — Jordan M. Steiker (a) 2590-624

## CENSUS
See Voting Rights.

## CIVIL PROCEDURE
Third-party modification of protective orders under rule 26(c) — Patrick S. Kim (n) 854-71

## COMMERCE CLAUSE
“A government of limited and enumerated powers”: in defense of United States v. Lopez — Steven G. Calabresi (a) 752-831
Commerce! — Deborah Jones Merritt (a) 674-751
Enumerated means and unlimited ends — H. Jefferson Powell (a) 651-73
Foreword — Judge Louis H. Pollak 533-53
How to think about the federal commerce power and incidentally rewrite United States v. Lopez — Donald H. Regan (a) 554-614

## CONSTITUTIONAL THEORY
Progress and constitutionalism — Robert F. Nagel (r) 1495-509

## CONTRACTS
Too many theories — Todd D. Rakoff (r) 1799-809

## COPYRIGHT
Copyright Act of 1976 and prejudgment interest, The — Jon M. Powers (n) 1326-45
Rhetoric and reality in copyright law — Stewart E. Sterk (a) 1197-249

## CORPORATE DIRECTORS
Directorial fiduciary duties in a tracking stock equity structure: the need for a duty of fairness — Jeffrey J. Hass (a) 2089-177

## CRIMINAL LAW
Are threats always “violent” crimes? — Jeremy D. Feinstein (n) 1067-97

## CRIMINAL PROCEDURE
See also Double Jeopardy.
Counter-revolution in constitutional criminal procedure? two audiences, two answers — Carol S. Steiker (a) 2466-552
DEMOCRACY
See also Voting Rights.
Policy distortion and democratic debilitation: comparative illumination of the counter-majoritarian difficulty — Mark Tushnet (a) 245-301

DISABILITY DISCRIMINATION
Impact of the Americans with Disabilities Act on state bar examiners' inquiries into the psychological history of bar applicants, The — Carol J. Banta (n) 167-90

DISCRIMINATION
Further evidence of discrimination in new car negotiations and estimates of its cause — Ian Ayres (a) 109-47

DOUBLE JEOPARDY
One bite at the apple: reversals of convictions tainted by prosecutorial misconduct and the ban on double jeopardy — Rick A. Bierschbach (n) 1346-74

DUE PROCESS OF LAW
Affirmative duties, systemic harms, and the Due Process Clause — Barbara E. Armacost (a) 982-1040
Due process review under the Railway Labor Act — Christopher L. Sagers (n) 466-87

ECONOMIC JURISPRUDENCE
See also Legal Positivism.
Overcoming Posner — Gerard V. Bradley (r) 1898-926

EQUAL PROTECTION
See Juries.

EUTHANASIA
Real ethic of death and dying, The — Norman L. Cantor (r) 1718-38

EVIDENCE
Assessing evidence — Richard D. Friedman (r) 1810-38

FEDERALISM
Constitution's forgotten cover letter: an essay on the new federalism and the original understanding, The — Daniel A. Farber (a) 615-50

David Shapiro's adversary statement on federalism — Patrick E. Higginbotham (r) 1471-78

FEDERAL RULES OF CIVIL PROCEDURE
Structuring multiclaime litigation: should rule 23 be revised? — William W Schwarzer (a) 1250-66

FEDERAL RULES OF EVIDENCE
Conditional probative value and the reconstruction of the Federal Rules of Evidence — Dale A. Nance (c) 419-56
Reply: refining conditional probative value — Richard D. Friedman (c) 457-65

FEDERAL SENTENCING GUIDELINES
When discretion leads to distortion: recognizing pre-arrest sentence-manipulation claims under the federal sentencing guidelines — Jeffrey L. Fisher (n) 2385-421

FIDUCIARY RELATIONSHIPS
See also Corporate Directors.
When it's ok to sell the Monet: a trustee-fiduciary-duty framework for analyzing the deaccessioning of art to meet museum operating expenses — Jennifer L. White (n) 1041-66

FIFTH AMENDMENT PROTECTIONS
Peculiar privilege in historical perspective: the right to remain silent, A — Albert W. Alschuler (a) 2625-72

FIRST AMENDMENT PROTECTIONS
See also Juries.
First Amendment status of commercial speech: why the FCC regulations implementing the Telephone Consumer Protection Act of 1991 are unconstitutional, The — Deborah L. Hamilton (n) 2352-84
Post constitutionalism — Lawrence Lessig (r) 1422-70
Radically subversive speech and the authority of law — Steven D. Smith (a) 348-70

FOURTH AMENDMENT PROTECTIONS
Computers, urinals, and the Fourth Amendment: confessions of a patron saint — Wayne R. LaFave (a) 2553-89

FREEDOM OF RELIGION
Is there a principle of religious liberty? — John H. Garvey (r) 1379-91
INDEX

GAME THEORY
Game theory and the law: ready for prime time? — Stephen W. Salant & Theodore S. Sims (r) 1839-82

IMMIGRATION AND EMIGRATION
Whose alien nation?: two models of constitutional immigration law — Hiroshi Motomura (r) 1927-52

INDIANS/Sovereignty
Context and legitimacy in federal indian law — Philip P. Frickey (r) 1973-92

INTERNATIONAL LEGAL PRACTICE
Children of a lesser god: GDR lawyers in post-socialist Germany — Inga Markovits (a) 2270-308

INTERNATIONAL TRADE
Executive-branch rulemaking and dispute settlement in the world trade organization: a proposal to increase public participation — Aubry D. Smith (n) 1267-93

JUDGES
Dream makers: black judges on justice — Julian Abele Cook, Jr. (r) 1479-94

JUDICIAL REVIEW
Book notice — reviewing Arthur: Words That Bind: Judicial Review and the Grounds of Modern Constitutional Theory 1510-16

JURIES
Jurat delinquency in criminal trials in America 1796-1996 — Nancy J. King (a) 2673-752
True lies: the role of pretext evidence under Batson v. Kentucky in the wake of St. Mary's Honor Center v. Hicks — David A. Sutphen (n) 488-511

JURISPRUDENCE
See also Legal Discourse.
All the company of heaven — Milner S. Ball (r) 2016-23
Gossip and metaphysics: the personal turn in jurisprudential writing — Michael Ansaldi (r) 1517-45
Statutory interpretation and the idea of progress — Daniel A. Farber (t) 1546-70

LABOR LAW
See Due Process of Law.

LAW AND TECHNOLOGY
Computer bulletin board operator liability for users' infringing acts — M. David Dobbins (n) 217-41
Computer media for the legal profession — Eugene Volokh (r) 2058-87
Quest for enabling metaphors for law and lawyering in the information age, The — Pamela Samuelson (r) 2029-57

LAWYERS
See Disability Discrimination, International Legal Practice.

LEGAL DISCOURSE
See also Jurisprudence.
Chaotic pseudotext, The — Paul F. Campos (a) 2178-228
Concept of law revisited, The — Leslie Green (t) 1687-717
Cosmological question: a response to Milner S. Ball's All the Company of Heaven, The — Joseph Vining (c) 2024-28
Reading The Legal Process — Anthony J. Sebok (r) 1571-95

LEGAL HISTORY
Cabining the constitutional history of the new deal in time — G. Edward White (r) 1392-421
Revenge for the condemned — Sara Sun Beale & Paul H. Haagen (r) 1622-59

LEGAL POSITIVISM
Positivism and the separation of law and economics — Avery Wiener Katz (a) 2229-269
Searching for positivism — Philip Soper (r) 1739-57

LEGAL THEORY
See also Economic Jurisprudence.
Libertarianism with a twist — Heidi Li Feldman (r) 1883-97

POVERTY
PROBATE LAW AND PRACTICE
Uniform Probate Code extends antilapse-type protection to poorly drafted trusts, The — Lawrence W. Waggoner (a) 2309-51
Uniform Probate Code upends the law of remainders, The — Jesse Dukeminier (a) 148-66

PROPERTY
Stories about property — William W. Fisher III (r) 1776-98

RACISM
Benign neglect of racism in the criminal justice system — Angela J. Davis (r) 1660-86

RAILROADS
See Due Process of Law.

SECURITIES REGULATION
Applicability of section 2462's statute of limitations to SEC enforcement suits in light of the Remedies Act of 1990, The — Catherine E. Maxson (n) 512-29

SIXTH AMENDMENT PROTECTIONS
Petty offenses, serious consequences: multiple petty offenses and the Sixth Amendment right to jury trial — Jeff E. Butler (n)872-96

SOCIAL WELFARE
"Age of [im]possibility": rhetoric, welfare reform, and poverty, An — Lisa A. Crooms (r) 1953-72

STATE ACTION DOCTRINE
Back to the briarpatch: an argument in favor of constitutional meta-analysis in state action determinations — Ronald J. Krotoszynski, Jr. (a) 302-47

STATUTE OF LIMITATIONS
See Securities Regulation.

STOCKS
See Corporate Directors.

TAKINGS
Why is this man a moderate? — Richard A. Epstein (r) 1758-75

TAX
Tax transitions, opportunistic retroactivity, and the benefits of government precommitment — Kyle D. Logue (a) 1129-96

TORT LAW
Turning from tort to administration — Richard A. Nagareda (a) 899-981

VOTING RIGHTS
Vote dilution and the census undercount: a state-by-state remedy — Christopher M. Taylor (n) 1098-126
ARTICLES

Affirmative Duties, Systemic Harms, and the Due Process Clause — Barbara E. Armacost 982-1040


All the Company of Heaven — Milner S. Ball (book review) 2016-23


Assessing Evidence — Richard D. Friedman (book review) 1810-38

Back to the Briarpatch: An Argument in Favor of Constitutional Meta-Analysis in State Action Determinations — Ronald J. Krotoszynski, Jr. 302-47

Benign Neglect of Racism in the Criminal Justice System — Angela J. Davis (book review) 1660-86

Cabining the Constitutional History of the New Deal in Time — G. Edward White (book review) 1392-421

Chaotic Pseudotext, The — Paul F. Campos 2178-228

Children of a Lesser God: GDR Lawyers in Post-Socialist Germany — Inga Markovits 2270-308

Commercell — Deborah Jones Merritt 674-751

Computer Media for the Legal Profession — Eugene Volokh (book review) 2058-87

Computers, Urinals, and the Fourth Amendment: Confessions of a Patron Saint — Wayne R. LaFave 2553-89

Concept of Law Revisited, The — Leslie Green (book review) 1687-717

Conditional Probative Value and the Reconstruction of the Federal Rules of Evidence — Dale A. Nance (correspondence) 419-56


Cosmological Question: A Response to Milner S. Ball’s All the Company of Heaven, The — Joseph Vining (correspondence) 2024-28

Counter-revolution in Constitutional Criminal Procedure? Two Audiences, Two Answers — Carol S. Steiker 2466-552

David Shapiro’s Adversary Statement on Federalism — Patrick E. Higginbotham (book review) 1471-78

Directorial Fiduciary Duties in a Tracking Stock Equity Structure: The Need for a Duty of Fairness — Jeffrey J. Hass 2089-177


Enumerated Means and Unlimited Ends — H. Jefferson Powell 651-73

Foreword — Judge Louis H. Pollak 533-53

Further Evidence of Discrimination in New Car Negotiations and Estimates of Its Cause — Ian Ayres 109-47


Gossip and Metaphysics: The Personal Turn in Jurisprudential Writing — Michael Ansaldi (book review) 1517-45

Homologizing Pregnancy and Motherhood: A Consideration of Abortion — Julia E. Hanigsberg 371-418

How To Think About the Federal Commerce Power and Incidentally Rewrite United States v. Lopez — Donald H. Regan 554-614


Juror Delinquency in Criminal Trials in America 1796-1996 — Nancy J. King 2673-752

Libertarianism With a Twist — Heidi Li Feldman (book review) 1883-97

Limits of Legal Language: Decisionmaking in Capital Cases, The — Jordan M. Steiker 2590-624

Overcoming Posner — Gerard V. Bradley (book review) 1898-926

Peculiar Privilege in Historical Perspective: The Right to Remain Silent, A — Albert W. Alschuler 2625-72

Policy Distortion and Democratic Debilitation: Comparative Illumination of the Countermajoritarian Difficulty — Mark Tushnet 245-301
Positivism and the Separation of Law and Economics — Avery Wiener Katz 2229-269
Post Constitutionalism — Lawrence Lessig (book review) 1422-70
Progress and Constitutionalism — Robert F. Nagel (book review) 1495-509
Quest for Enabling Metaphors for Law and Lawyering in the Information Age, The — Pamela Samuelson (book review) 2029-57
Radically Subversive Speech and the Authority of Law — Steven D. Smith 348-70
Reading The Legal Process — Anthony J. Sebok (book review) 1571-95
Real Ethic of Death and Dying, The — Norman L. Cantor (book review) 1718-38
Reply: Refining Conditional Probative Value — Richard D. Friedman (correspondence) 457-65
Revenge for the Condemned — Sara Sun Beale & Paul H. Haagen (book review) 1622-59
Rhetoric and Reality in Copyright Law — Stewart E. Sterk 1197-249
Searching for Positivism — Philip Soper (book review) 1739-57
Statutory Interpretation and the Idea of Progress — Daniel A. Farber (book review) 1546-70
Structuring Multiclaim Litigation: Should Rule 23 Be Revised? — William W Schwarzer 1250-66
Too Many Theories — Todd D. Rakoff (book review) 1799-809
Turning From Tort to Administration — Richard A. Nagareda 899-981
Uniform Probate Code Extends Antilapse-type Protection to Poorly Drafted Trusts, The — Lawrence W. Waggoner 2309-51
Whose Alien Nation?: Two Models of Constitutional Immigration Law — Hiroshi Motomura (book review) 1927-52
Why is This Man a Moderate? — Richard A. Epstein (book review) 1758-75
NOTES

Applicability of Section 2462's Statute of Limitations to SEC Enforcement Suits in Light of the Remedies Act of 1990, The — Catherine E. Maxson 512-29

Are Credit-Card Late Fees "Interest"? Delineating the Preemptive Reach of Section 85 of the National Bank Act of 1864 and Section 521 of the Depositary Institutions Deregulation and Monetary Control Act of 1980 — Kevin G. Toh 1294-325

Are Threats Always "Violent" Crimes? — Jeremy D. Feinstein 1067-97


Copyright Act of 1976 and Prejudgment Interest, The — Jon M. Powers 1326-45

Due Process Review Under the Railway Labor Act — Christopher L. Sagers 466-87

Executive-Branch Rulemaking and Dispute Settlement in the World Trade Organization: A Proposal To Increase Public Participation — Aubry D. Smith 1267-93


Impact of the Americans with Disabilities Act on State Bar Examiners' Inquiries Into the Psychological History of Bar Applicants, The — Carol J. Banta 167-90

One Bite at the Apple: Reversals of Convictions Tainted by Prosecutorial Misconduct and the Ban on Double Jeopardy — Rick A. Bierschbach 1346-74

Petty Offenses, Serious Consequences: Multiple Petty Offenses and the Sixth Amendment Right to Jury Trial — Jeff E. Butler 872-96

Prima Facie Case of Age Discrimination in Reduction-in-Force Cases, The — Jessica Lind 832-53


Third-Party Modification of Protective Orders Under Rule 26(c) — Patrick S. Kim 854-71

True Lies: The Role of Pretext Evidence Under Batson v. Kentucky in the Wake of St. Mary's Honor Center v. Hicks — David A. Sutphen 488-511

Vote Dilution and the Census Undercount: A State-by-State Remedy — Christopher M. Taylor 1098-126


When It's OK To Sell the Monet: A Trustee-Fiduciary-Duty Framework for Analyzing the Deaccessioning of Art To Meet Museum Operating Expenses — Jennifer L. White 1041-66
AUTHORS

ALSCHULER, ALBERT W. — A Peculiar Privilege in Historical Perspective: The Right to Remain Silent 2625-72

ANSALDI, MICHAEL — Gossip and Metaphysics: The Personal Turn in Jurisprudential Writing (book review) 1517-45

ARMACOST, BARBARA E. — Affirmative Duties, Systemic Harms, and the Due Process Clause 982-1040

AYRES, IAN — Further Evidence of Discrimination in New Car Negotiations and Estimates of Its Cause 109-47

BALL, MILNER S. — All the Company of Heaven (book review) 2016-23

BEALE, SARA SUN & HAAGEN, PAUL H. — Revenge for the Condemned (book review) 1622-59

BRADLEY, GERARD V. — Overcoming Posner (book review) 1898-926


CAMPOS, PAUL F. — The Chaotic Pseudotext 2178-228

CANTOR, NORMAN L. — The Real Ethic of Death and Dying (book review) 1718-38

COOK, JR., JULIAN ABELE — Dream Makers: Black Judges on Justice (book review) 1479-94

CROOMS, LISA A. — An "Age of [Im]Possibility": Rhetoric, Welfare Reform, and Poverty (book review) 1953-72

DAVIS, ANGELA J. — Benign Neglect of Racism in the Criminal Justice System (book review) 1660-86

DUKEMINIER, JESSE — The Uniform Probate Code Upends the Law of Remainders 148-66

EPSTEIN, RICHARD A. — Why is This Man a Moderate? (book review) 1758-75


FARBER, DANIEL A. — Statutory Interpretation and the Idea of Progress (book review) 1546-70

FELDMAN, HEIDI LI — Libertarianism With a Twist (book review) 1883-97

FISHER III, WILLIAM W. — Stories About Property (book review) 1776-98


FRIEDMAN, RICHARD D. — Assessing Evidence (book review) 1810-38

FRIEDMAN, RICHARD D. — Reply: Refining Conditional Probative Value (correspondence) 457-65


GREEN, LESLIE — The Concept of Law Revisited (book review) 1687-717

HANIGSBERG, JULIA E. — Homologizing Pregnancy and Motherhood: A Consideration of Abortion 371-418

HASS, JEFFREY J. — Directorial Fiduciary Duties in a Tracking Stock Equity Structure: The Need for a Duty of Fairness 2089-177


HIGGINbotham, Patrick E. — David Shapiro's Adversary Statement on Federalism (book review) 1471-78

KATZ, AVERY Wiener — Positivism and the Separation of Law and Economics 2229-269

KING, NANCY J. — Juror Delinquency in Criminal Trials in America 1796-1996 2673-752

KROTSOSZYSKl, JR., RONALD J. — Back to the Briarpatch: An Argument in Favor of Constitutional Meta-Analysis in State Action Determinations 302-47

LaFAVE, WAYNE R. — Computers, Urinals, and the Fourth Amendment: Confessions of a Patron Saint 2533-89

LESSIG, LAWRENCE — Post Constitutionalism (book review) 1422-70


MARKOVITS, INGA — Children of a Lesser God: GDR Lawyers in Post-Socialist Germany 2270-308

MERRITT, DEBORAH JONES — Commercial 674-751
MOROMURA, HIROSHI — Whose Alien Nation?: Two Models of Constitutional Immigration Law (book review) 1927-52

NAGAREDA, RICHARD A. — Turning From Tort to Administration 899-981

NAGEL, ROBERT F. — Progress and Constitutionalism (book review) 1495-509

NANCE, DALE A. — Conditional Probative Value and the Reconstruction of the Federal Rules of Evidence (correspondence) 419-56

POLLAK, LOUIS H. — Foreword 533-53

POWELL, H. JEFFERSON — Enumerated Means and Unlimited Ends 651-73

RAKKOFF, TODD D. — Too Many Theories (book review) 1799-809

REGAN, DONALD H. — How To Think About the Federal Commerce Power and Incidentally Rewrite United States v. Lopez 554-614


SAMPSON, PAMELA — The Quest for Enabling Metaphors for Law and Lawyering in the Information Age (book review) 2029-57

SCHWARZER, WILLIAM W. — Structuring Multiclaim Litigation: Should Rule 23 Be Revised? 1250-66

SEBOK, ANTHONY J. — Reading The Legal Process (book review) 1571-95

SMITH, STEVEN D. — Radically Subversive Speech and the Authority of Law 348-70

SOPER, PHILIP — Searching for Positivism (book review) 1739-57

STEIKER, CAROL S. — Counter-revolution in Constitutional Criminal Procedure? Two Audiences, Two Answers 2466-552

STEIKER, JORDAN M. — The Limits of Legal Language: Decisionmaking in Capital Cases 2590-624

STERK, STEWART E. — Rhetoric and Reality in Copyright Law 1197-249

TUSHNET, MARK — Policy Distortion and Democratic Debilitation: Comparative Illumination of the Countermajoritarian Difficulty 245-301

VINING, JOSEPH — The Cosmological Question: A Response to Milner S. Ball’s All the Company of Heaven (correspondence) 2024-28

VOLOKH, EUGENE — Computer Media for the Legal Profession (book review) 2058-87

WAGGONER, LAWRENCE W. — The Uniform Probate Code Extends Antilapse-type Protection to Poorly Drafted Trusts 2309-51

WHITE, G. EDWARD — Cabining the Constitutional History of the New Deal in Time (book review) 1392-421
BOOKS REVIEWED

AITKEN: Statistics and the Evaluation of Evidence for Forensic Scientists (Richard D. Friedman) 1810-38

ARThUR: Words That Bind: Judicial Review and the Grounds of Modern Constitutional Theory (student review) 1510-16

BAIRD, GERTNER, & PICKER: Game Theory and the Law (Stephen W. Salant & Theodore S. Sims) 1839-82


BRIMELOW: Alien Nation: Common Sense About America’s Immigration Disaster (Hiroshi Motomura) 1927-52

CHOPER: Securing Religious Liberty: Principles for Judicial Interpretation of the Religion Clauses (John H. Garvey) 1379-91

DUXBURY: Patterns of American Jurisprudence (Michael Ansaldi) 1517-45

EPSTEIN: Simple Rules for a Complex World (Heidi Li Feldman) 1883-97

ESKRIDGE: Dynamic Statutory Interpretation (Daniel A. Farber) 1546-70

FISCHEL: Regulatory Takings: Law, Economics, and Politics (Richard A. Epstein) 1758-75

FLETCHER: With Justice for Some: Victims’ Rights in Criminal Trials (Lynne Henderson) 1596-621

GATRELL: The Hanging Tree: Execution and the English People 1770-1868 (Sara Sun Beale & Paul H. Haagen) 1622-59

HANDLER: The Poverty of Welfare Reform (Lisa A. Crooms) 1953-72

HART: The Concept of Law (Leslie Green) 1687-717

HART & SACKS: The Legal Process: Basic Problems in the Making and Application of Law (Anthony J. Sebok) 1571-95

KATSCH: Law in a Digital World (Pamela Samuelson) 2029-57

LEUCHTENBURG: The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt (G. Edward White) 1392-421


POMMERSHEIM: Braid of Feathers: American Indian Law and Contemporary Tribal Life (Philip P. Frickey) 1973-92

POSNER: Overcoming Law (Gerard V. Bradley) 1898-926

POST: Constitutional Domains: Democracy, Community, Management (Lawrence Lessig) 1422-70

RANK: Living on the Edge: The Realities of Welfare in America (Lisa A. Crooms) 1953-72

ROBERTSON & VIGNAUX: Interpreting Evidence: Evaluating Forensic Science in the Courtroom (Richard D. Friedman) 1810-38


SCHLEGEL: American Legal Realism and Empirical Social Science (Michael Ansaldi) 1517-45

SCHUM: Evidential Foundations of Probabilistic Reasoning (Richard D. Friedman) 1810-38

SHAPIRO: Federalism: A Dialogue (Patrick E. Higginbotham) 1471-78

SINGER: Rethinking Life and Death (Norman L. Cantor) 1718-38

SMITH: Foreordained Failure: The Quest for a Constitutional Principle of Religious Freedom (John H. Garvey) 1379-91

TONRY: Malign Neglect: Race, Crime, and Punishment in America (Angela J. Davis) 1660-86

TREBILCOCK: The Limits of Freedom of Contract (Todd D. Rakoff) 1799-809

Vining: From Newton’s Sleep (Milner S. Ball) 2016-23

WALUCHOW: Inclusive Legal Positivism (Philip Soper) 1739-57

WASHINGTON: Black Judges on Justice (Julian Abele Cook, Jr.) 1479-94

WEST: Progressive Constitutionalism: Reconstructing the Fourteenth Amendment (Robert F. Nagel) 1495-509

WILLIAMS: The Rooster’s Egg: On the Persistence of Prejudice (student review) 2009-15