Michigan Law Review
Vol. 87, No. 4 February 1989

CONTENTS

ARTICLES

REGULATING JUDICIAL MISCONDUCT AND DIVINING "GOOD BEHAVIOR" FOR FEDERAL JUDGES .................Harry T. Edwards 765

DECONSTRUCTING GENDER ...................... Joan C. Williams 797

CORRESPONDENCE

MISSING THE POINT ABOUT STATE TAKEOVER STATUTES ....................Lyman Johnson and David Millon 846

LEGISLATIVE INACTION AND THE PATTERSON CASE ..................... Earl M. Maltz 858

NOTES

CLEARING THE MIXED-MOTIVE SMOKESCREEN: AN APPROACH TO DISPARATE TREATMENT UNDER TITLE VII ....................... 863

Copyright © 1989 by The Michigan Law Review Association
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 October, November, December, February, April, May, June, and August. Subscriptions: United States, $35 per year in advance, eight numbers; Foreign, $38. Editorial and Business Offices: Hutchins Hall, Ann Arbor, Michigan 48109-1215. Second-class postage paid at Ann Arbor, Michigan, and additional mailing offices. POSTMASTER: send address changes to Michigan Law Review, Hutchins Hall, Ann Arbor, Michigan 48109-1215.

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

Recent Volumes: Single Issues $6, Book Review and Special Issues $12, postpaid, at Editorial and Business Offices.


Because back stock of the Review is turned over to a dealer, back numbers are available to the Review for a short time only. It is therefore necessary to ask that subscribers report 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 A Uniform System of Citation (14th ed.). 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

Administrative Officers
JAMES J. DUDERSTADT, M.S., Ph.D., President of the University
CHARLES M. VEST, M.S., Ph.D., Provost and Vice President for Academic Affairs
LEE C. BOLLINGER, B.S., J.D., Dean
EDWARD H. COOPER, A.B., LL.B., Associate Dean for Academic Affairs
SUSAN M. EKLUND, A.B., J.D., Associate Dean for Student Affairs and Operations
BEVERLEY J. POOLEY, B.A., LL.B., L.L.M., S.J.D., Associate Dean for the Law Library
VIRGINIA B. GORDON, B.A., J.D., Assistant Dean for Student Affairs
JONATHAN D. LOWE, B.A., J.D., Assistant Dean for Law School Relations
ALLAN T. STILLWAGON, A.B., M.A., Assistant Dean and Admissions Officer

Professors Emeriti of Law
FRANCIS A. ALLEN, A.B., LL.B., J.D., LL.D.,
Edson R. Sunderland Professor of Law
OLIN L. BROWDER, Jr., A.B., LL.B., S.J.D.,
James V. Campbell Professor of Law
ALFRED P. COUGARD, A.B., LL.B., L.L.M., S.J.D.,
LL.D., Henry M. Butzel Professor of Law
LUKE K. COPERKINDER, B.S., J.D.
ROBEN W. FLEMING, B.A., LL.B., L.L.D.
FRANK R. KENNEDY, A.B., LL.B., J.D.,
Thomas M. Cooley Professor of Law

Robert H. Abrams,* A.B., J.D.
T. Alexander Aleinikoff, B.A., J.D.
Latman E. Allen, A.B., M.P., LL.B.
Lee C. Bollinger, B.S., J.D.
Michael H. Bradley, M.B.A., Ph.D.
David G. Nelson,* B.A., J.D.
David L. Chambers, A.B., LL.B.
Edward H. Cooper, A.B., LL.B.,
Thomas M. Cooley Professor of Law
Roger A. Cunningham, S.B., J.D.,
James V. Campbell Professor of Law
Donald N. Duquette,** B.A., J.D.
Harry T. Edwards,** B.S., J.D.
Phoebe C. Ellsworth, A.B., Ph.D.
Samuel D. Estey,** A.B., 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.
Whitmore Gray, A.B., J.D., LL.D.
Jerold H. Israel, B.B.A., J.D.,
Hessel E. Yntema Professor of Law
Douglas A. Kahn,** B.A., J.D.,
Paul G. Kauper Professor of Law
Yale Kamisar, A.B., LL.B., J.D.
Henry King Ramsey Professor of Law
Thomas E. Kauper,* A.B., J.D.,
Henry M. Butzel Professor of Law
JAMES E. KRIER, B.S., J.D.,
Earl Warren DeLano Professor of Law
Richard O. Lemper,** A.B., J.D., Ph.D.

Rebecca S. Eisenberg, B.A., J.D.
Samuel R. Gross,** A.B., J.D.
Clare D. Cunningham,** B.A., J.D.
Lisa E. Daunno,** A.B., J.D.
Marie R. Devaney, B.A., M.A., J.D.
David J. Herrington,** B.A., J.D.
Avery Katz, B.A., M.A., J.D., Ph.D.
Leo Katz, B.A., M.A., J.D.
Jeffrey S. Lehman, A.B., J.D., M.P.P.

Mathias L. Niebusch, A.B., LL.B.
George F. Palmer, A.B., J.D., L.L.M.
Roy F. Proffitt, B.S., J.D., L.L.M.
John W. Reed, A.B., LL.B., L.L.M., Jurs.C.D.,
Thomas M. Cooley Professor of Law
Allan F. Smith, A.B., LL.B., LL.M., S.J.D.
Russell A. Smith, A.B., J.D.
Eric Stein, J.U.D., J.D., H.C., Dr.H.C.,
Hessel E. Yntema Professor of Law

Richard A. Matasar,* B.A., J.D.
Menachem Manuiner,* A.B., LL.B., L.L.M.
William L. Miller, B.A., Ph.D., J.D.
Sallyanne Fontyn, A.B., LL.B.
John L. Peschel,* B.A., J.D.
William J. Pierce, A.B., J.D.
Beverley J. Pooley, B.A., LL.B., L.L.M., S.J.D.
Donald H. Regan, A.B., LL.B., B.Phil., Ph.D.
Theodore J. St. Antoine, A.B., J.D.,
James E. and Sarah A. Beguin Professor of Law
Terrance Sandalow,* B.A., J.D.,
Edson R. Sunderland Professor of Law
Frederick F. Schauer, A.B., M.B.A., J.D.
Carl E. Schneider, A.B., J.D.
Joel Seligman, A.B., J.D.
Bruno Simma,** J.D.
A. W. Brian Simpson, B.A., M.A., D.C.L.,
Charles F. and Edith J. Cline Professor of Law
Philip Soper, B.A., M.A., J.D., Ph.D.
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. Sime Professor of Law
Andrew S. Watson, B.S., M.D., M.S. in Med.
Joseph Weller, B.A., LL.B., Ph.D., L.L.M.
Peter K. Westen, B.A., J.D.
James Boyd White, A.B., A.M., LL.B.,
L. Hart Wright Professor of Law
James I. White,** B.A., J.D.,
Robert A. Sullivan Professor of Law
Patricia D. White,* B.A., J.D., M.A.
Christina B. Whitman, B.A., M.A., J.D.

Associate Professors of Law
Jessica D. Litman, B.A., M.F.A., J.D.
Mathias W. Reimann,** Dr.H.C., L.L.M.

Assistant Professors of Law
Richard H. Pilides, A.B., J.D.
Paul D. Reingold,** B.A., J.D.
Sue Lynn Scarneccia,** B.A., J.D.
Kim L. Scheppele,* M.A., Ph.D.
Jeanne L. Schroeder,* A.B., J.D.
Kend D. Syverud, B.S.P.S., J.D., M.A.
Mark C. Van Putten,** B.A., J.D.

Instructor in Law
Mary F. White,* B.A., J.D.

Lecturers in Law
Steven D. Peppe,* B.A., J.D.
Edward R. Stein,** B.A., J.D.

Charles W. Borgdorf,** A.B., J.D.
Herbert A. Jordan,** B.G.S., J.D.
Cyril Moscow,* B.A., J.D.

* Visiting  † Adjunct
** On Leave  ‡ Clinical