Michigan Law Review

CONTENTS

ARTICLES

POLICE-OBTAINED EVIDENCE AND THE
Constitution: Distinguishing
Unconstitutionally Obtained Evidence
from Unconstitutionally Used Evidence
Arnold H. Loewy 907

THE MYTH OF THE DISPOSABLE OPINION:
Unpublished Opinions and Government
Litigants in the United States
Courts of Appeals
Lauren K. Robel 940

RETHINKING ABSOLUTE PRIORITY
After AHLERS
John D. Ayer 963

CORRESPONDENCE

ON THE "AUSCHWITZ LIE"
1026

NOTES

CHANGING THE RULES OF THE GAME:
Pension Plan Terminations and Early
Retirement Benefits
1034

Copyright © 1989 by The Michigan Law Review Association
CONFUSING THE FIFTH AMENDMENT WITH THE
SIXTH: LOWER COURT MISAPPLICATION OF THE
INNIS DEFINITION OF INTERROGATION

BOOK & PERIODICAL INDEX

BOOKS RECEIVED

SUBJECT INDEX of Articles, Comments, Notes, and Recent
Developments Appearing in Leading Law Reviews

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 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 _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., LL.M., J.S.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., L.L.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. CONARD, A.B., LL.B., LL.M., J.S.D.,
LL.D., Henry M. Butzel Professor of Law
LUKE K. COOPER-KREIDER, B.S., J.D.
ROSS W. FLEMING, B.A., LL.B., L.L.D.
FRANK R. KENNEDY, A.B., LL.B., J.S.D.,
Thomas M. Cooley Professor of Law

Robert H. Abrams,* A.B., J.D.
T. Alexander Aleinikoff, B.A., J.D.
LaVerne A. Allen, A.B., M.P.A., 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, B.S., 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. Friar, B.A., Ph.D.
Whitmore Gray, A.B., J.D., LL.D.
Thomas A. Green, B.A., Ph.D., J.D.
Jerald H. Israel, B.B.A., L.L.B.,
Alersen and Allen Foundation Professor of Law
Hessei E. Yntema Professor of Law

Douglas A. Kahn,* B.A., J.D.,
Paul G. Kauper Professor of Law
Yale Kamisar, A.B., LL.B., LL.D.,
Henry King Ransom 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. Lempert,* A.B., J.D., Ph.D.

Rebecca S. Eisenberg, B.A., J.D.
Samuel R. Gross,* A.B., J.D.

Associate Professors of Law
CHARLES W. BORGSTEDT,* A.B., J.D.
HERBERT A. JORDAN,* B.S., J.D.
Cyril Moscow,* B.A., J.D.

Visiting Adjunct

** On Leave

† Clinical