Michigan Law Review

VOLUME 78
1979-80

The University of Michigan
Law School

1980

Michigan Law Review
Ann Arbor, Michigan 48109
CONTENTS

BOOK REVIEWS

GOLDSTEIN, FREUD & SOLNIT: BEFORE THE BEST INTERESTS
of the Child ........................................ Michael S. Wald 645

TRIBE: AMERICAN CONSTITUTIONAL LAW ....... Mark V. Tushnet 694

FLESCH: HOW TO WRITE PLAIN ENGLISH: A BOOK FOR
Lawyers & Consumers ......................... Richard C. Wydick 711

WHITE: PATTERNS OF AMERICAN LEGAL
Thought .......................................... Jay M. Feinman 722

MacCORMICK: LEGAL REASONING AND LEGAL
Theory ........................................ Patricia D. White 737

BURT: TAKING CARE OF STRANGERS: THE RULE OF LAW
in DOCTOR-PATIENT RELATIONS .......... Bernard L. Diamond 743

CHAMBERS: MAKING FATHERS PAY: THE ENFORCEMENT
of CHILD SUPPORT ....................... David C. Baldus 750

SOLZHENITSYN: THE GULAG ARCHIPELAGO 1918-1956: AN
EXPERIMENT IN LITERARY INVESTIGATION
Volume III ...................................... Ira P. Robbins 763

BOOK NOTICES

O'CONNELL: THE LAWSUIT LOTTERY: ONLY THE LAWYERS WIN . 792

Copyright © 1980 by The Michigan Law Review Association
<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>MILLER: THE SUPREME COURT: MYTH AND REALITY</td>
<td>797</td>
</tr>
<tr>
<td>WILKINSON: FROM BROWN TO BAKKE: THE SUPREME COURT AND SCHOOL INTEGRATION: 1954-1978</td>
<td>801</td>
</tr>
<tr>
<td>FEELEY: THE PROCESS IS THE PUNISHMENT: HANDLING CASES IN A LOWER CRIMINAL COURT</td>
<td>805</td>
</tr>
<tr>
<td>BERNS: FOR CAPITAL PUNISHMENT</td>
<td>808</td>
</tr>
<tr>
<td>FREEDMAN: CRISIS AND LEGITIMACY: THE ADMINISTRATIVE PROCESS AND AMERICAN GOVERNMENT</td>
<td>813</td>
</tr>
<tr>
<td>Krippke: THE SEC AND CORPORATE DISCLOSURE: REGULATION IN SEARCH OF A PURPOSE</td>
<td>819</td>
</tr>
<tr>
<td>Henkin: HOW NATIONS BEHAVE</td>
<td>825</td>
</tr>
<tr>
<td>Watson: SOCIETY AND LEGAL CHANGE</td>
<td>829</td>
</tr>
<tr>
<td>Beitz: POLITICAL THEORY AND INTERNATIONAL RELATIONS</td>
<td>834</td>
</tr>
</tbody>
</table>

**BOOKS RECEIVED**

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

Published monthly November, December, January, February, March, May, June, and August at Lincoln, Nebraska. Printed at Joe Christensen, Inc., Lincoln, Nebraska 68521. Second-class postage paid at Ann Arbor, Michigan, and additional mailing offices. (ISSN 0026-2234).

Subscriptions: United States, $20 per year in advance, eight numbers; Foreign, $22.


Back issues and volumes (before Nov. 1979) available 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. It is therefore necessary to ask that subscribers report the nonreceipt of copies within six months of the mailing date.

Editorial and Business Offices:
Michigan Law Review
Hutchins Hall
Ann Arbor, Michigan 48109

We gladly consider unsolicited manuscripts for publication. We regret that we can return only those manuscripts for which we receive postage and handling fees of $3 for first-class and $1 for special fourth-class mail.
ANNOUNCEMENT OF AWARDS AND PRIZES

JASON L. HONIGMAN AWARD FOR 1979-1980
This award has been given to Deborah Dakin and Rodney Dale Martin in recognition of their outstanding contributions as editors of the Michigan Law Review.

HOWARD B. COBLENTZ PRIZE FOR 1979-1980
This prize has been awarded to David William Wiechert in recognition of his contribution as an editor of the Michigan Law Review.

HELEN L. DEROTY MEMORIAL AWARD FOR 1979-1980
This award has been given to Keith Chadester Wetmore, author of the best student contribution to Volume 78 of the Michigan Law Review.

ABRAM N. SEMPLING MEMORIAL AWARD FOR 1979-1980
This award has been given to Kent D. Syverud, Editor-in-Chief of Volume 79 of the Michigan Law Review, in recognition of his superior scholastic record, effective leadership, and outstanding contribution to the Review.

BODMAN-LONGLEY AWARD FOR 1979-1980
This award has been given to David Lee De Bruin, Jeffrey A. Hollingsworth, Scott W. Howe, Douglas Barrack Levene, and Ronald A. Sarachan in recognition of their superior scholastic records and their contributions to the Michigan Law Review in their junior year.

RAYMOND K. DYKEMA AWARD FOR 1979-1980
This award has been given to Joel I. Bennett, Robert W. Fulton, Gwen Thayer Johnson, Randall R. Kaplan, and Alan A. Pemberton for significant contributions to the Michigan Law Review during their junior year and in recognition of qualities that indicate the likelihood of future contributions to the legal profession.

ANNOUNCEMENT OF EDITORIAL BOARD
1980-1981

Editor-in-Chief
KENT D. SYVERUD

Managing Editor
ROBERT W. FULTON

Note Editors
DAVID LEE DE BRUIN
JEFFREY A. HOLLINGSWORTH
GWEN THAYER JOHNSON
RANDALL R. KAPLAN
DOUGLAS BARRACK LEVENE
ALAN A. PEMBERTON

Administrative and Article Editors
JOEL I. BENNETT
SCOTT W. HOWE
RONALD A. SARACHAN

Special Issues Editor
DAVID REX HAZELTON

Research and Development Editors
MARY FRANCES HARKENRIDER
KENNETH C. MENNEMEIER

Senior Editors
BENJAMIN CALKINS
SUE BASZLER GEIERSBACH
DEBORAH E. GREENSPAN
HOWARD N. HENICK
BARBARA SCHOOLTZ KENDZIERSKI
KERRY WILLIAM KIRCHER

Senior Associate Editors
THOMAS E. MAIER
NANCY STONE MARTIN

ADMINISTRATIVE AND ARTICLE EDITORS
JOEL I. BENNETT
SCOTT W. HOWE
RONALD A. SARACHAN

RESEARCH AND DEVELOPMENT EDITORS
MARY FRANCES HARKENRIDER
KENNETH C. MENNEMEIER

SPECIAL ISSUES EDITOR
DAVID REX HAZELTON

NOTE EDITORS
DAVID LEE DE BRUIN
JEFFREY A. HOLLINGSWORTH
GWEN THAYER JOHNSON
RANDALL R. KAPLAN
DOUGLAS BARRACK LEVENE
ALAN A. PEMBERTON

MANAGING EDITOR
ROBERT W. FULTON

EDITOR-IN-CHIEF
KENT D. SYVERUD

Note Editors
DAVID LEE DE BRUIN
JEFFREY A. HOLLINGSWORTH
GWEN THAYER JOHNSON
RANDALL R. KAPLAN
DOUGLAS BARRACK LEVENE
ALAN A. PEMBERTON

Administrative and Article Editors
JOEL I. BENNETT
SCOTT W. HOWE
RONALD A. SARACHAN

Research and Development Editors
MARY FRANCES HARKENRIDER
KENNETH C. MENNEMEIER

Special Issues Editor
DAVID REX HAZELTON

Senior Editors
BENJAMIN CALKINS
SUE BASZLER GEIERSBACH
DEBORAH E. GREENSPAN
HOWARD N. HENICK
BARBARA SCHOOLTZ KENDZIERSKI
KERRY WILLIAM KIRCHER

Senior Associate Editors
THOMAS E. MAIER
NANCY STONE MARTIN
UNIVERSITY OF MICHIGAN LAW SCHOOL

Administrative Officers
HAROLD T. SHAPIRO, B.A., M.A., PH.D., President of the University
ALFRED S. SUSSMAN, A.M., PH.D., Acting Vice President for Academic Affairs
TERRANCE SANDALOW, A.B., J.D., Dean
JAMES J. WHITE, B.A., J.D., Associate Dean
SUSAN M. EKLUND, A.B., J.D., Assistant Dean
ALLAN T. STILLWAGON, A.B., M.A., Assistant Dean and Admissions Officer

Professors Emeriti of Law
WILLIAM W. BISHOP, JR., A.B., J.D.
WILLIAM W. BLUME, A.B., LL.B., S.J.D.
MARVIN L. NIEHUSS, A.B., LL.B.
S. CHESTERFIELD OPPENHEIM, A.B., A.M., J.D., S.J.D.
GEORGE E. PALMER, A.B., J.D., LL.M.
RUSSELL A. SMITH, A.B., J.D.

Professors of Law
FRANCIS A. ALLEN, A.B., LL.B., J.D.,
Edson R. Sunderland Professor of Law
LAYMAN E. ALLEN, A.B., M.P.A., LL.B.
VINE A. BLASI, B.A., J.D.
LEE C. BOLLINGER, B.S., J.D.
OLIN L. BROWDER, JR., A.B., LL.B., S.J.D., James V. Campbell Professor of Law
DAVID L. CHAMBERS, A.B., LL.B.
ALFRED F. CONARD, A.B., LL.B., LL.M., J.S.D., LL.D., Henry M. Butzel Professor of Law
EDWARD H. COOPER, A.B., LL.B.
LUKE K. COOPER RIDE, B.S., J.D.
ROGER A. CUNNINGHAM, S.B., J.D.
SAMUEL D. ESTER, A.B., J.D.
WHITMORE GRAY, A.B., J.D.
THOMAS A. GREEN, B.A., PH.D., J.D.
ROBERT J. HARRIS, B.A., LL.B.
GERALD L. HAY, B.A., B.B.A., J.D.
JEROLD H. ISRAEL, B.B.A., LL.B.
JOHN H. JACKSON, B.A., J.D.
DOUGLAS A. KAHN, B.A., LL.B., LL.D., Henry King Ransom Professor of Law
THOMAS E. KAUPER, A.B., J.D.
FRANK R. KENNEDY, A.B., LL.B., LL.M., J.S.D., Thomas M. Cooley Professor of Law
RICHARD H. LAUWAARS, LL.M., S.J.D.
RICHARD O. LEMPERT, A.B., J.D., PH.D.

Associate Professors of Law
WILLIAM J. ADAMS, A.B., A.M., PH.D.
SALLYANNE PAYTON, A.B., LL.B.

Assistant Professors of Law
WILLIAM N. BURNHAM, A.B., A.M., PH.D.
DONALD N. DUQUETTE, B.A., J.D.

Visiting Professors
WILLIAM W. BISHOP, JR., B.S., A.B., J.D.
FRANK R. KENNEDY, A.B., LL.B., PH.D.
PETER K. WESTEN, B.A., J.D.
JAMES J. WHITE, B.A., J.D.
L. HART WRIGHT, A.B., J.D., LL.M., Paul G. Kauper Professor of Law

Lecturers in Law
MICHAEL C. MORGAN, B.A., J.D.
CYRIL MOSKOV, A.B., J.D.
RICHARD D. ROHR, A.B., J.D.
EDWARD R. STEIN, B.A., J.D.
ROBERT M. VERCRUYSSE, B.A., J.D.
DENIS E. WALSH, A.B., M.D.
ENVOI/DEDICATION

This, the second annual Michigan Law Review Survey of Books Relating to the Law, is not exhaustive. We found that the volume of legal literature resists thorough treatment within the confines of a single issue. We therefore confess to a compromise, a sacrifice of scholarly breadth at the altar of analytic depth. Perhaps not surprisingly, we believe the sacrifice to have been quite astute: these essays all enrich important (if sometimes discordant) dialogues about vital legal topics.

And yet we appreciate that compromises should not be accepted too glibly. Thus, this issue includes a counterpoint. We have chosen to dedicate this slender collection to a person whose career has known no compromise between breadth and depth. His achievements as lawyer, scholar, and teacher are virtually unparalleled by those of his youthful age. Recently, he has expanded and deepened his career once again, commencing service on the United States Court of Appeals for the District of Columbia Circuit. Those of us who knew and studied with him at Michigan will miss his presence. All of us will continue to follow and admire his contributions to the profession of justice. With warmest wishes, we dedicate these pages to

Harry T. Edwards