

X. LAW AND THE ENVIRONMENT

DE ONIS: THE GREEN CATHEDRAL: SUSTAINABLE DEVELOPMENT
OF AMAZONIA

STEINBERG: NATURE INCORPORATED: INDUSTRIALIZATION
AND THE WATERS OF NEW ENGLAND *Carol M. Rose* 1623

HUNDLEY: THE GREAT THIRST: CALIFORNIANS AND WATER,
1770s-1990s *Joseph L. Sax* 1637



Copyright © 1993 by the Michigan Law Review Association. Except where otherwise expressly indicated, copies of scholarship printed in the *Michigan Law Review* may be made for course use in any public or private institution of learning provided that (1) copies are distributed at or below cost, (2) the author and the *Michigan Law Review* are identified on the copies, and (3) 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, \$36 per year in advance, eight numbers; Foreign, \$40. 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 \$7, Book Review and Special Issues \$13, postpaid, at Editorial and Business Offices.

Back issues and volumes (before November 1984) 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.

We gladly consider unsolicited manuscripts for publication. Citations in manuscripts should follow the form prescribed in *A Uniform System of Citation* (15th 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.

Michigan Law Review



295
7

1993 SURVEY OF BOOKS RELATING TO THE LAW

Guyora Binder
Jonathan A. Bush
Louis R. Cohen
Gregory S. Crespi
Richard Delgado
Daniel A. Farber
Melanie L. Fein
Paul Finkelman
George P. Fletcher
Koichiro Fujikura
John Harrison
John D. Hawke, Jr.
Pierre N. Leval
David Luban
Abner J. Mikva

Martha Minow
Gene R. Nichol
Joseph Raz
Stephen Reinhardt
Bernard Robertson
Carol M. Rose
Peggy Reeves Sanday
Joseph L. Sax
Kathleen M. Sullivan
Peter Tillers
G.A. Vignaux
G. Edward White
Welsh S. White
Christina Whitman
Stephen F. Williams

Martin Zelder

Michigan Law Review

Vol. 91, No. 6

May 1993

*1993 Survey of Books
Relating to the Law*

CONTENTS

I. THE COURTS AND THE CONSTITUTION

- BOBBITT: CONSTITUTIONAL INTERPRETATION *Gene R. Nichol* 1107
- BURT: THE CONSTITUTION IN CONFLICT *Kathleen M. Sullivan* 1121
- GOLDSTEIN: THE INTELLIGIBLE CONSTITUTION . . . *Abner J. Mikva* 1131
- LEWIS: MAKE NO LAW: THE SULLIVAN CASE AND THE FIRST
AMENDMENT *Pierre N. Leval* 1138
- PERRY: DECIDING TO DECIDE: AGENDA SETTING IN THE
UNITED STATES SUPREME COURT
- SAVAGE: TURNING RIGHT: THE MAKING OF THE REHNQUIST
SUPREME COURT *Stephen F. Williams* 1158
- DE GRAZIA: GIRLS LEAN BACK EVERYWHERE: THE LAW OF
OBSCENITY AND THE ASSAULT ON GENIUS 1166
- HENTOFF: FREE SPEECH FOR ME—BUT NOT FOR THEE: HOW
THE AMERICAN LEFT AND RIGHT RELENTLESSLY CENSOR
EACH OTHER 1172

83.877
2-95

II. LAW AND EQUALITY

- BELL: FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE
OF RACISM
- HACKER: TWO NATIONS: BLACK AND WHITE, SEPARATE,
HOSTILE, UNEQUAL *Stephen Reinhardt* 1175
- EPSTEIN: FORBIDDEN GROUNDS: THE CASE AGAINST
EMPLOYMENT DISCRIMINATION LAWS *Richard Delgado* 1183
- JONES: THE DISPOSSESSED: AMERICA'S UNDERCLASSES FROM THE
CIVIL WAR TO THE PRESENT *Martha Minow* 1204
- KULL: THE COLOR-BLIND CONSTITUTION *John Harrison* 1213
- NAGEL: EQUALITY AND PARTIALITY 1242

III. SOURCES OF AUTHORITY

- BALL: THE WORD AND THE LAW *David Luban* 1247
- FLETCHER: LOYALTY: AN ESSAY ON THE MORALITY OF
RELATIONSHIPS *Christina Whitman* 1266
- OSBORNE & GAEBLER: REINVENTING GOVERNMENT:
HOW THE ENTREPRENEURIAL SPIRIT IS TRANSFORMING
THE PUBLIC SECTOR
- ROSE-ACKERMAN: RETHINKING THE PROGRESSIVE AGENDA:
THE REFORM OF THE AMERICAN REGULATORY
STATE *Daniel A. Farber* 1278
- SCHEFFLER: HUMAN MORALITY *Joseph Raz* 1297

IV. LEGAL HISTORY

- HORWITZ: THE TRANSFORMATION OF AMERICAN LAW, 1870-1960:
THE CRISIS OF LEGAL ORTHODOXY *G. Edward White* 1315
- NEELY: THE FATE OF LIBERTY: ABRAHAM LINCOLN AND CIVIL
LIBERTIES.....*Paul Finkelman* 1353
- STEINFELD: THE INVENTION OF FREE LABOR: THE EMPLOYMENT
RELATION IN ENGLISH AND AMERICAN LAW AND CULTURE,
1350-1870 *Jonathan A. Bush* 1382

V. CRIME AND PUNISHMENT

- BENEDICT: VIRGIN OR VAMP: HOW THE PRESS COVERS SEX
CRIMES *Peggy Reeves Sanday* 1414
- MORRIS: THE BROTHEL BOY AND OTHER PARABLES OF
THE LAW*George P. Fletcher* 1422
- PATERNOSTER: CAPITAL PUNISHMENT IN
AMERICA *Welsh S. White* 1429

VI. PROBLEMS OF PROOF

- ANDERSON & TWINING: ANALYSIS OF EVIDENCE: HOW TO DO
THINGS WITH FACTS BASED ON WIGMORE'S SCIENCE OF
JUDICIAL PROOF..... *Bernard Robertson* 1442
and G.A. Vignaux
- SHAPIRO: "BEYOND REASONABLE DOUBT" AND "PROBABLE
CAUSE": HISTORICAL PERSPECTIVES ON THE ANGLO-AMERICAN
LAW OF EVIDENCE *Peter Tillers* 1465

VII. INTERNATIONAL AND COMPARATIVE LAW AND POLITICS

- ARATO & COHEN: CIVIL SOCIETY AND POLITICAL THEORY
FUKUYAMA: THE END OF HISTORY AND THE
LAST MAN *Guyora Binder* 1491
- HALEY: AUTHORITY WITHOUT POWER: LAW AND THE JAPANESE
PARADOX *Koichiro Fujikura* 1529
- JACOBSON: APPLE OF GOLD: CONSTITUTIONALISM IN ISRAEL
AND THE UNITED STATES 1545
- MENDES: ANTITRUST IN A WORLD OF INTERRELATED ECONOMIES:
THE INTERPLAY BETWEEN ANTITRUST AND TRADE POLICIES IN
THE US AND THE EEC 1552

VIII. COMMERCE, ECONOMICS, AND LAW

- BARNES & STOUT: CASES AND MATERIALS ON LAW AND
ECONOMICS *Gregory S. Crespi* 1560
- MACEY & MILLER: BANKING LAW AND
REGULATION *John D. Hawke, Jr.* 1578
and Melanie L. Fein
- POSNER: SEX AND REASON *Martin Zelder* 1584

IX. LIVES IN THE LAW

- YARBROUGH: JOHN MARSHALL HARLAN: GREAT DISSENTER OF
THE WARREN COURT *Louis R. Cohen* 1609
- SLOANE: HOFFA 1614
- WEDDINGTON: A QUESTION OF CHOICE 1618