

CONTENTS

PAGE

REMARKS

ON TEACHERS AND JUDGES: INVESTITURE REMARKS	<i>Justice W. Scott Bales</i>	867
--	-------------------------------	-----

ARTICLES

SEX, LIES, AND THE DUTY TO DISCLOSE	<i>Michelle Oberman</i>	871
-------------------------------------	-------------------------	-----

In recent decades, the law has recognized the injustice and inefficiency perpetrated as a result of the traditional doctrine of *caveat emptor*, and has come to enforce limited duties to disclose material information. This is true except in the context of agreements made between those involved in intimate relationships. In spite of compelling evidence of the injustice and inefficiency generated by nondisclosure in the context of negotiating agreements between intimates, the law generally imposes no duty to disclose. This Article illustrates this point with examples drawn from three settings that typify bargaining between intimates. It concludes that the effect of permitting nondisclosure in agreements between intimates is unjust both at the individual and societal level, and argues in favor of subjecting these agreements to contemporary rules favoring disclosure of material information.

THE SCIENCE FICTION OF CORPORATE CRIMINAL LIABILITY: CONTAINING THE MACHINE THROUGH THE CORPORATE DEATH PENALTY	<i>Mary Kreiner Ramirez</i>	933
--	-----------------------------	-----

Corporate crime imposes costly externalities upon our economy and has harmed investor confidence leading to an unnecessarily high cost of capital. Management that tolerates and even fosters a criminal culture is largely beyond the reach of the law because of the difficulty of convicting individuals absent evidence beyond a reasonable doubt that they acted with *mens rea*. The Corporate Death Penalty Act would impose a three-strikes standard on corporations to address recidivism. Although the Act would rarely apply, it would shield innocent shareholders and employees from costs associated with the sanction of dissolution, through the appointment of a trustee, focused on divorcing management that is demonstrably promiscuous regarding crime from the assets of the corporation.

NOTES

PUTTING THE "ALIEN" BACK INTO ALIENAGE JURISDICTION: ALIENAGE JURISDICTION AND "STATELESS" PERSONS AND CORPORATIONS AFTER <i>TRAFFIC STREAM</i>	<i>Robert Bernheim</i>	1003
CLEARLY NOT ESTABLISHED: DECISIONAL LAW AND THE QUALIFIED IMMUNITY DOCTRINE	<i>Michael S. Catlett</i>	1031

CASE NOTES

<i>ARIZONA STATE DEMOCRATIC PARTY V. STATE</i>	<i>Kathleen Brody</i>	1065
<i>STATE V. MARTINEZ</i>	<i>Bernard Kornberg</i>	1073
<i>PHELPS V. FIREBIRD RACEWAY, INC.</i>	<i>Kristin L. Wright</i>	1081