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In October 2000, Justice Sandra Day O'Connor visited Arizona to dedicate two new federal courthouses: the Sandra Day O'Connor United States Federal Courthouse in Phoenix and the E. Anton DeConcini United States Federal Courthouse in Tucson. The *Arizona Law Review* presents a compilation of Justice O'Connor's comments given at the dedication ceremonies.

Articles

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Presidents influence law and policy through the appointment of federal judges. Presidents who wish to fix the courts to adopt certain positions need to know what individual factors affect subsequent judicial behavior. This Article offers an extensive and systematic examination of what we know about the relative effect of personal attributes, social background, and policy preferences on judicial decision-making. This Article hypothesizes that circuit judges who served as full-time professors behave differently from their colleagues in meaningful ways. First, academics on the circuit court bench adopt more extreme ideological stances. Second, academics on the bench seek to be more influential by writing more majority, concurring, and dissenting opinions and by publishing majority opinions with greater frequency. Third, academics on the bench attain greater influence by advancing progressive and innovative legal theories in their decisions. Thus, presidents who appoint academics to the appellate bench may achieve longer and more pervasive influence on the law.

DEATH BY LETHAL INJUNCTION:

NATIONAL EMERGENCY STRIKES
UNDER THE TAFT-HARTLEY ACT
AND THE MORIBUND RIGHT

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The Taft-Hartley Act gives the President and federal courts power to enjoin strikes that pose a threat to national health or safety. This Article shows that Taft-Hartley injunctions lowered public support for unions by portraying them as selfish economic actors who were harmful to the nation and altered the balance of bargaining power in critical strikes. Although the last Taft-Hartley injunction issued in 1978, this

public policy remains relevant in two respects. When major strikes affect the nation, presidents respond to public pressure by threatening to invoke this power. In addition, the Article questions current theory that President Reagan's use of the striker replacement doctrine is responsible for the current strike decline by arguing President Carter's use of the Act caused the first decline. By showing the Act was intended to impair the right to strike, the Article shows the presidency plays a complex role in the dying right to strike.

Essay

ON DISPENSING INJUSTICE.....*Judge Rudolf J. Gerber* 135

Written by an Arizona judge of twenty-two years trial and appellate experience, this Essay argues that present-day judging in this state involves some injustices in the criminal area, such as "one size fits all" mandatory sentences; law-breaking, trial-diminishing plea agreements; abandoning culpability assessment via mental state in the felony-murder rule; misplaced priorities and severities in the drug war; and wholly counterproductive cost and deterrence issues regarding imprisonment and the death penalty. These practices lead to internal contradictions and inconsistencies. The Essay concludes that, because of their dominant political concerns, legislators are incapable of fashioning a truly just criminal justice system and that others should take over its management.

Notes

UNDERSTANDING THE ENDANGERED SPECIES

ACT: A CASE STUDY OF THE CACTUS
FERRUGINOUS PYGMY-OWL IN ARIZONA....*Christopher Basilevac* 173

Controversy, confusion, and frustration have surrounded the Endangered Species Act in Arizona. Many have criticized and questioned the rationales, protections, prohibitions, and exemptions of the ESA, as well as the manner in which the ESA has been implemented and enforced. Nowhere have these criticisms been more warranted than with respect to the endangered cactus ferruginous pygmy-owl. In order to address these concerns, this Note examines the ESA as applied to the pygmy-owl.

REPRODUCTIVE ABILITY FOR SALE, DO I
HEAR \$200?:PRIVATE CASH-FOR-
CONTRACEPTION AGREEMENTS AS AN
ALTERNATIVE TO MATERNAL
SUBSTANCE ABUSE

Jennifer Mott Johnson 205

To combat maternal substance abuse during pregnancy, a private organization, Children Requiring a Caring Community ("C.R.A.C.K.") offers a cash-for-contraception contract. To prevent the birth of substance-exposed infants, C.R.A.C.K. presents a monetary incentive to drug addicts if they will be medically sterilized or begin using long-term birth control. This Note highlights concerns with C.R.A.C.K. by analyzing the cash-for-contraception agreement and comparing it to other regulated private contracts such as surrogacy and human organ sales. Balancing the problems of maternal substance abuse, frequently futile state responses, and the parties' constitutional rights illustrates that the program may be a viable solution.