

# ARIZONA LAW REVIEW

---

VOLUME 17

1975

NUMBER 4

---

## CONTENTS

*Page*

### *Articles*

#### DEVELOPMENT OF CRIMINAL JURISDICTION OVER INDIAN LANDS: THE HISTORICAL PERSPECTIVE

*Robert N. Clinton* 951

As the first of a three-part series reviewing the complexities of criminal jurisdiction over Indians and Indian lands, this Article surveys the historical development of such jurisdiction. To provide an understanding of the complex interrelationships between the sources of jurisdictional law the author examines the early treaty arrangements, subsequent congressional legislation superseding the treaty provisions, and early Supreme Court decisions which shaped the contours of criminal jurisdiction over Indian lands.

#### ENTERING JUDGMENT ON A PLEA OF NOLO CONTENDERE: A REEXAMINATION OF *North Carolina v. Alford* AND SOME THOUGHTS ON THE RELATIONSHIP BETWEEN PROOF AND PUNISHMENT

*Neil H. Cogan* 992

The author reviews the English common law evolution of the plea of nolo contendere to illustrate the historical concern for certainty of proof in the context of plea offerings. A discussion of *North Carolina v. Alford* against this common law background reaches the conclusion that this concern has been substantially diluted.

### *Notes*

#### ARIZONA PIT MINE SAFETY INSPECTIONS: AN ANALYSIS OF LEGAL INCENTIVES

*John H. Harrington* 1024

Each year many miners in the Arizona pit mine industry are injured or killed because hazards are not discovered and corrected. The writer examines the safety inspection program of each member of the industry with special emphasis on the law's role in shaping such programs. Changes in existing state and federal safety laws are suggested which would provide proper legal incentives for the kind of safety inspections necessary to reduce the high death and injury rate.

**A CASE OF NEGLECT: PARENTS PATRIAE VERSUS  
DUE PROCESS IN CHILD NEGLECT  
PROCEEDINGS** *Beverly J. Singleman* 1055

Parental interest in the custody of minor children has long been deemed a fundamental right invoking constitutional protections. Such a right, however, is not unconditional but may be forfeited upon a finding of neglect. This Note discusses the procedures involved in child neglect proceedings, analyzing the requirements necessary to afford both parents and children procedural due process.

**PROTECTION FOLLOWING COMMITMENT: ENFORCING  
THE RIGHTS OF PERSONS CONFINED IN ARIZONA  
MENTAL HEALTH FACILITIES** *Mary E. White* 1090

Under the Arizona Mental Health Services Act, institutionalized mental patients are granted a number of statutory rights. The writer examines obstacles to enforcement of these rights and explores possible avenues of legal relief for violations of such rights.

**EQUITABLE APPORTIONMENT OF FEDERAL ESTATE TAX  
IN ARIZONA** *Susan G. Winternmute* 1135

The Uniform Probate Code was adopted in Arizona absent the provision requiring equitable apportionment. This Note explores the subject of allocation of federal estate tax and the alternative methods available for such allocation. Arizona law is analyzed, and the writer proposes a model statute for apportionment.

*Book Review*

**KOZOLCHYK & TORREALBA: CURSO DE DERECHO  
MERCANTIL, VOLUME 1** *Saul Litvinoff* 1167

**INDEX—VOLUME 17** 1175