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Recommended Citation

Vincent M. Di Lorenzo, *Legislative and Public Policy Debate: Should the Social Viewpoints of Religious Groups Play No Role?*, 1 U. Md. L.J. Race Relig. Gender & Class 489 (2001).

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LEGISLATIVE AND PUBLIC POLICY DEBATE: SHOULD THE SOCIAL VIEWPOINTS OF RELIGIOUS GROUPS PLAY NO ROLE?

VINCENT M. DI LORENZO*

This article explores the willingness of the legal academy to consider the viewpoints of religious groups and leaders in public policy debates. The specific context studied is the debate over corporate social obligations. I found that the legal academy rarely considers the viewpoints of religious groups and leaders in its public policy debate. This article then explores why this is so. The relevance of such viewpoints are examined, as well as, the ambiguity generated by the United States Supreme Court in its opinions interpreting the First Amendment. Neither lack of relevance nor constitutional uncertainty seems to adequately explain the legal academy's treatment of religious-based views.

I. A STUDY OF PUBLIC POLICY DEBATE IN THE LEGAL ACADEMY

For several years, I have been studying efforts to stimulate economic development in low-income communities and the role private corporations should play. This study led me to examine the subject of corporate social responsibility. The banking industry has long been subjected to a legislative obligation to provide credit to low-income communities.¹ Congress has also sought to impose similar obligations on other financial services providers, such as mortgage banks, insurance companies, and investment banks.² Exploring the academic debate over whether social obligations should be legislatively imposed on various members of the financial services industries, I realized that I did not encounter public policy viewpoints of any religious leader or group in the legal literature. Had I missed the references? Or was there nothing relevant that a religious leader or group had to say?

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1. See Community Reinvestment Act of 1977, 12 U.S.C. § 2901-2908 (1977).

2. See, e.g. H.R. 865, 107th Cong. §101 (2001) (proposing nonbank affiliates of bank holding companies that engage in lending or offer banking services be subject to the Community Reinvestment Act of 1977).

I decided to undertake a study of the legal literature. My aim was to determine how often the viewpoints of religious groups and leaders appeared in the published debates of the legal academy concerning corporate social responsibility. My study sample consisted of all articles published in United States law school journals, other than student-authored pieces, during the five-year period, from September 1995 to August 2000.³ I examined all such articles listed in the *Index to Legal Periodicals* during this period under the topic “corporate social responsibility.”

Some of the law journal articles are merely doctrinal in that they examine only what the law permits. They are not intended to examine why the law permits what it does or to explore what the law should be. In other words, the purely doctrinal articles are not intended to discuss justifications for legal doctrine, including possible justifications put forth by religious leaders or groups. Therefore, such articles were excluded from the final sample. This narrowing process provided a study sample of forty-four articles, which discussed the topic of corporate social responsibility and the possible justifications for recognizing or refusing to recognize such responsibility. The Appendix contains a list of the forty-four articles, which formed the final sample. These articles forming the final sample are hereafter referred to as the “Articles.”

Corporate social responsibility is a concept that covers a broad range of topics. In general, authors of the Articles examine issues, such as responsibilities to “stakeholders,” e.g., employees and local communities in which the corporation operates, as well as responsibilities to the larger society, especially in the environmental area. The Articles’ authors also investigate corporate ethical obligations including standards imposed by law and regulations contained in model codes of conduct, and corporate philanthropy as a means to respond to social needs. As discussed above, in all Articles in the sample, the authors had made the decision to examine the justifications for or against permitting or requiring actions by corporations in furtherance of a social obligation.

Only three authors of the forty-four Articles discussed the viewpoints of religious groups or leaders,⁴ either briefly or in passing.

3. This was the five-year period covered by volumes 35 to 39 of the *Index to Legal Periodicals*.

4. See generally Edward S. Adams & Karl D. Knutsen, *A Charitable Corporate Giving Justification For the Socially Responsible Investment of Pension Funds: A Populist Argument for the Public Use of Private Wealth*, 80 IOWA L. REV. 211 (1995). See also Timothy L. Fort,

Even this number is an overstatement. One of the three articles was on the topic of corporate philanthropy, where the author mentioned the viewpoints of religious groups only in the portion of the article discussing the historical background of charitable giving.⁵ That left only two of the forty-four Articles in which the authors discussed or otherwise mentioned the viewpoints of religious groups or leaders in the portion of the article exploring possible justifications for corporate social obligations. One of these two articles was written by a professor of philosophy,⁶ leaving only one article in the sample written by a legal academic or other individual with a background in law that discussed or mentioned the viewpoints of religious groups or leaders.⁷

Interestingly, four additional articles briefly mentioned that some viewpoints of corporate actors could be influenced by religious beliefs or values.⁸ Yet the authors neglected to provide any examples of particular beliefs or values. The authors also failed to provide citations to any religious beliefs or values, and did not choose to include such religion-based viewpoints in their discussion of possible justifications for acts of corporate social responsibility. Curiously, thirteen additional articles mentioned moral judgments as a basis for particular corporate social obligations.⁹ Yet out of the thirteen articles,

Corporate Constituency Statutes: A Dialectical Interpretation, 15 J.L. & COM. 257 (1995); Joseph S. Spoerl, *The Social Responsibility of Business*, 42 AM. J. JURIS 277 (1997).

5. See Adams & Knutsen, *supra* note 4, at 227-39 (noting that "charitable giving is an important concept in Judeo-Christian history and culture.").

6. See Spoerl, *supra* note 4, at 277.

7. See Fort, *supra* note 4, at 268-71 (questioning ". . . [I]f religion is to play a role in public life, whose religion will it be?").

8. See Jill E. Fisch, *Questioning Philanthropy From a Corporate Governance Perspective*, 41 N.Y.L. SCH. L. REV. 1091 (1997); Timothy L. Fort, *The Corporation as Mediating Institution: An Efficacious Synthesis of Stakeholder Theory and Corporate Constituency Statutes*, 73 NOTRE DAME L. REV. 173 (1997); Peter D. Hall, *Business Giving and Social Investing in the United States, 1790-1995*, 41 N.Y.L. SCH. L. REV. 789 (1997); David Hess, *Social Reporting: A Reflexive Law Approach to Corporate Social Responsiveness*, 25 J. CORP. L. 41 (1999).

9. See Constance E. Bagley & Karen L Page, *The Devil Made Me Do it: Replacing Corporate Director's Veil of Secrecy with the Mantle of Stewardship*, 36 SAN DIEGO L. REV. 897 (1999); Thomas W. Dunfee, *Corporate Governance in a Market With Morality*, 62 LAW & CONTEMP. PROBS. 129 (1999); Jill E. Fisch, *Questioning Philanthropy From a Corporate Governance Perspective*, 41 N.Y.L. SCH. L. REV. 1091 (1997); Timothy L. Fort, *The Corporation as Mediating Institution: An Efficacious Synthesis of Stakeholder Theory and Corporate Constituency Statutes*, 73 NOTRE DAME L. REV. 173 (1997); David Hess, *Social Reporting: A Reflexive Law Approach to Corporate Social Responsiveness*, 25 J. CORP. L. 41 (1999); Marianne M. Jennings & John Entine, *Business With a Soul: A Reexamination of What Counts in Business Ethics*, 20 HAMLINE J. PUB. L. & POL'Y 1 (1998); Faith S. Kahn, *Pandora's Box: Managerial Discretion and the Problem of Corporate Philanthropy*, 44 UCLA L. REV. 579 (1997); Lawrence E. Mitchell, *The Human Corporation: Some Thoughts on Hume, Smith, and Buffet*, 19 CARDOZO L. REV. 341 (1997); Michelle Sinclair & Joseph

none of the authors cited or discussed any religious group or leader as a source of such moral judgments. When citations were provided, they were solely to secular sources.

Overall, the findings of this study confirm that the legal academy does not discuss the viewpoints of religious groups or leaders in its debates over justifications for or against legal recognition of corporate social obligations. The published literature discusses many possible justifications for various corporate social obligations, including viewpoints with which the authors disagree. Thus, possible disagreement with the viewpoints of religious groups and leaders or possible failure to find such viewpoints persuasive does not explain the results. It appears such viewpoints are either overlooked or deliberately ignored.

I wish to make it clear that I am not pointing the finger at others. One of the Articles was my own.¹⁰ I developed the concept of a “social enterprise,” which was first suggested by Robert Dahl, the Yale political scientist.¹¹ In exploring possible justifications for legislatively imposed corporate social obligations for that article, it had not occurred to me to examine the viewpoints of religious groups or leaders.

II. YOU SPEAK, BUT DO YOU HAVE SOMETHING TO SAY?

One explanation for the failure of the legal academy to discuss the viewpoints of religious groups and leaders on the topic of corporate social responsibility was that such sources do not provide relevant information. This explanation seemed unlikely, but relevance could not be assumed. I explored this issue by investigating an

Galaskiewicz, *Corporate-Nonprofit Partnerships: Varieties and Covariates*, 41 N.Y.L. SCH. L. REV. 1059 (1997); Lewis D. Solomon, *Reflections of the Future of Business Organizations*, 20 CARDOZO L. REV. 1213 (1999); Linda Sugin, *Theories of the Corporation and the Tax Treatment of Corporate Philanthropy*, 41 N.Y.L. SCH. L. REV. 835 (1997); David B. Wilkins, *Do Clients Have Ethical Obligations to Lawyers? Some Lessons From the Diversity Wars*, 11 GEO. J. LEGAL ETHICS 855 (1998); W.A. Wines & M.S. Buchanan & D.J. Smith, *The Critical Need for Law Reform to Regulate the Abusive Practices of Transnational Corporations: The Illustrative Case of Boise Cascade Corporation in Mexico's Costa Grande and Elsewhere*, 26 DENV. J. INT'L L. & POL'Y 453 (1998).

10. See generally Vincent M. Di Lorenzo, *Equal Economic Opportunity: Corporate Social Responsibility in the New Millennium*, 71 U. COLO. L. REV. 51 (2000).

11. See Robert A. Dahl, *A Prelude to Corporate Reform*, 1 BUS. & SOC'Y REV. 17 (1972) (defining “social enterprise as an entity whose existence and decisions can be justified only insofar as they serve public or social purposes”).

example of a religious group's viewpoint that was probably relevant to the public policy debate on corporate social responsibility.

In 1986, the National Conference of Catholic Bishops wrote a letter entitled "Economic Justice for All,"¹² and later, wrote a companion letter entitled "A Decade After 'Economic Justice For All' in 1995."¹³ These two "letters" are hereafter collectively referred to as the Document. A quick review of the Document demonstrates its relevance to the public policy debate. Relevance can be measured in various ways. One measure is the standard of whether the source provides new ideas or a different perspective. The comparison would be to the ideas and perspectives in the sources that were discussed in the Articles, which formed the study sample. Judged by this standard, the Document provided a different perspective on various issues.

The Document posits for example, that:

- The economy exists to serve the human person, not the other way around.
- Economic life should be shaped by moral principles and ethical norms.
- Economic choices should be measured by whether they enhance or threaten human life, human dignity, and human rights
- The moral measure of any economy is how the weakest are faring.¹⁴

The Conference of Bishops also puts forth the view that, "the measure of our economy is not only what it produces, but also how it touches human life, whether it protects or undermines the dignity of the human person, and how it promotes the common good."¹⁵

This viewpoint leads to conclusions regarding the obligations of all owners of capital to others, whether the owners are corporations or individuals. Specifically,

12. See *Economic Justice For All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy*, in TENTH ANNIVERSARY EDITION OF ECONOMIC JUSTICE FOR ALL 13,13-137 (United States Catholic Conference, Inc. 1997) [hereinafter *Economic Justice For All*].

13. See *A Decade After "Economic Justice For All": Continuing Principles, Changing Context, New Challenges*, in TENTH ANNIVERSARY EDITION OF ECONOMIC JUSTICE FOR ALL 3, 3-12 (United States Catholic Conference, Inc. 1997) [hereinafter *A Decade After "Economic Justice For All"*].

14. *Id.* at 6.

15. *Id.* at 4.

Property owners, managers, and investors of financial capital must all contribute to creating a more just society. Securing economic justice depends heavily on the leadership of men and women in business and on wise investment by private enterprises.¹⁶

The Conference of Bishops' viewpoint also leads to obligations flowing, curiously enough, from the recognition of the importance of private ownership in United States society. Rather than arguing that private ownership leads to autonomy, the Document presents another view:

[P]rivate ownership ... is an important element in a just economic policy. It enlarges our capacity for creativity and initiative. Small and medium - sized farms, businesses, and entrepreneurial enterprises are among the most creative and efficient sectors of our economy. They should be highly valued by the people of the United States, as are land ownership and home ownership. Widespread distribution of property can help avoid excessive concentration of economic and political power. For these reasons ownership should be made possible for a broad sector of our population.¹⁷

In addition, the Document presents a different view of the role of private efforts relative to the role of government. It is a view that flows from the concept of *subsidiarity* found in Catholic Social Teaching.¹⁸ Namely,

[G]overnment should undertake only those initiatives which exceed the capacity of individuals or private groups acting independently. Government should not replace or destroy smaller communities and individual initiative. Rather it should help them to contribute more effectively to social well-being and supplement

16. See *Economic Justice For All*, *supra* note 12, at 53.

17. *Id.* at 53-4.

18. See THOMAS MASSARO, *LIVING JUSTICE* 128-132 (2000) (explaining “[t]he term *subsidiarity* comes from the Latin word for *assistance* . . . [I]t refers to the way various levels of society should relate to and assist one another to bring about the best outcomes for all people”).

their activity when the demands of justice exceed their capacities.¹⁹

This is a view that does not relegate the role of caring for others to government alone or to government primarily. Moreover, government has another important role to play beyond supplementing private efforts.

Businesses have a right to an institutional framework that does not penalize enterprises that act responsibly. Governments must provide regulations and a system of taxation which encourage firms to preserve the environment, employ disadvantaged workers, and create jobs in depressed areas. Managers and stockholders should not be torn between their responsibilities to their organizations and their responsibilities toward society as a whole.²⁰

There are other examples of new ideas or different perspectives contained in the Document. The Document mentions the concept of private ownership of property being subject to a "social mortgage,"²¹ and the concept that owners of firms are accountable to owners of human capital [workers] or social capital [communities] from which they have benefited.²²

One need not agree with or endorse these positions in order to discuss them. There were many viewpoints discussed in the Articles with which the individual authors disagreed. Yet such viewpoints were discussed as long as they contributed to the debate, while the viewpoints of religious groups or leaders were not included.

As discussed previously, relevance in public policy debate can be defined in a manner other than the introduction of new ideas or

19. See *Economic Justice For All*, *supra* note 12, at 56.

20. *Id.* at 54.

21. *Id.* at 54. See also MASSARO, *supra* note 18, at 137 (concluding the holding of property is conditioned on fulfilling social obligations to others, requiring owners to not disregard the needs of the less fortunate, use their property in ways that harm them, or exclude them from full participation in society). See also Peter W. Salsich, Jr., *Toward a Property Ethic of Stewardship*, in *PROPERTY AND VALUES: ALTERNATIVES TO PUBLIC AND PRIVATE OWNERSHIP* 21-22 (Charles Geisler ed., 2000) (describing the Judeo-Christian concept of stewardship is that civil title to land is not absolute. "With title comes to care for the land and use it for the betterment of the landowner, the landowner's community, and future generations.").

22. See *Economic Justice For All*, *supra* note 12, at 53.

different perspectives. Relevance may be found to exist due to a difference in perspective that enriches the public policy debate. Relevance may also be found to exist because a particular view is shared by a large constituency. Some of the arguments made in the Document are also made as part of the viewpoints of secular sources. Yet, the similar arguments are only parts of a larger perspective. As a whole, the viewpoints found in secular sources are not identical to the viewpoints found in the Document. Moreover, as to the arguments that overlap, without attempting to uncover who put forth a particular viewpoint first, relevance in public policy debate is also measured by representation of a larger constituency.

In my study of the corporate social responsibility literature I found that the most-widely discussed perspective was that of Milton Friedman. Friedman stated the sole obligation of corporate entities was to maximize profits, and any other use of corporate resources was a waste of corporate assets.²³ Why was this source so frequently cited and discussed in the Articles? I do not think the answer lies in the status Friedman enjoys in the economic community. I think the answer lies in the belief on the part of authors of these articles that this was a view shared by many, i.e., that Friedman was voicing the view of a larger constituency. For that reason, Friedman's viewpoint needed to be considered. Relevance viewed from this perspective takes on special significance for the views of religious groups and leaders. Such views similarly reflect the views of a larger constituency.

III. YOU SPEAK, BUT CAN I LISTEN?

A possible explanation for the failure of the legal academy to discuss the views of religious groups or leaders in the debate over corporate social obligations is that it is thought to be constitutionally impermissible to consider such viewpoints when the debate involves possible rules of law. In other words, the First Amendment constrains the debate or, perhaps, there is a belief that it does. This explanation is plausible, but it seems to offer an incomplete explanation for the actions of the legal academy.

First, the rulings of the United States Supreme Court have generated uncertainty rather than certainty on this issue. Commentators universally agree that the First Amendment's right to

23. Milton Friedman, *The Social Responsibility of Business is to Increase its Profits*, N.Y. TIMES MAG. Sept. 13, 1970, at 32.

free speech permits religious groups and leaders to present their views to government decision makers, such as the Congress.²⁴ It would be a hollow right of free speech in the political arena if religious groups and leaders could speak, but decision makers were absolutely forbidden to listen to their positions, i.e., if legislators were forbidden from basing any decision, even in part, on religious views. The Supreme Court has sustained legislative enactments, even when a state legislature cited religious viewpoints as a primary justification for the enactment.²⁵ Yet it has also ruled such enactments unconstitutional when based solely on religious viewpoints.²⁶ Between the extremes of no secular purpose and solely a secular purpose, the Court has suggested a legislative enactment can be sustained if supported by both secular and religious purposes when purpose is defined as motivation.²⁷

I do not wish to engage in debate over whether and to what extent religious viewpoints may form the basis for legislative decisions or other rules of law. It is sufficient to say that there is uncertainty. Turning to the viewpoints of constitutional scholars, there is a difference of opinion on the distinct issue of the wisdom of relying on religious viewpoints. Some opine that religious viewpoints should never form the sole basis for legislative decisions.²⁸ Others urge that

24. See STEPHEN L. CARTER, *THE CULTURE OF DISBELIEF* 106 (1993). See also *id.* at 255 (discussing the view of Professor Laurence Tribe, who generally favors a separation of church and state but who notes “[t]he participation of religious groups in political dialogue has never been constitutional anathema in the United States . . .”).

25. *E.g.*, *Bowers v. Hardwick*, 478 U.S. 186, 211 (1986) (Court noting Petitioner’s reliance on the “Old and New Testaments and the writings of St. Thomas Aquinas to show that ‘traditional Judeo-Christian values proscribe [sodomy].’”).

26. See *Edwards v. Aguillard*, 482 U.S. 578, 585 (1987) (holding Louisiana’s Creationism Act in violation of the Establishment Clause of the First Amendment because it lacked a clear secular purpose). See also *Wallace v. Jaffree*, 472 U.S. 38, 48-9 (1985) (holding Alabama’s law that authorized a one-minute-of silence period in public schools unconstitutional).

27. See *Wallace*, 472 U.S. at 55-6.

28. See MICHAEL J. PERRY, *RELIGION IN POLITICS: CONSTITUTIONAL AND MORAL PERSPECTIVES* 6, 9-38 (1997) (arguing “neither citizens nor even legislators violate the nonestablishment norm by presenting religious arguments in public political debate, but a that political choice would violate the norm if no plausible secular argument supported it). More recently Michael Perry has seemingly modified his position. *Cf.* Michael J. Perry, *Institute of Bill of Rights Symposium: Religion in the Public Square: Why Political Reliance on Religiously Grounded Morality Does Not Violate The Establishment Clause*, 42 WM & MARY L. REV. 663, 670-72 (2001) (stating “the nonestablishment norm forbids government to privilege one or more churches. It does not forbid legislators (or other policymakers), even when they happen to constitute a legislative majority, to make a political choice disfavoring conduct on the basis of a religiously grounded belief that the conduct is immoral; that is, it does not forbid them to base the political choice on a moral belief just in virtue of the fact that, for them, that belief is religiously grounded).

religious viewpoints should form the basis, in whole or in part, for legislative decisions generally or for some legislative decisions.²⁹

It is possible that this uncertainty generated by the United State Supreme Court, and this difference of opinion regarding the wisdom of using or relying on religious viewpoints, explains the decision of legal academics to almost completely ignore the viewpoints of religious groups and leaders in their writings. This does not, however, seem to offer a complete explanation. In other areas of the law, uncertainty or difference of opinion has not stopped all consideration by legal academics. Moreover, what is troubling is that in the corporate social responsibility debate, what has been silenced is the entire message based solely on the source.

IV. KILLING THE MESSAGE BECAUSE OF THE MESSENGER

The Court's decisions questioning, on First Amendment grounds, the freedom of Congress or state legislatures to rely on religious viewpoints in making legislative decisions involve religious viewpoints. The academic difference of opinion regarding the wisdom of introducing religious arguments into a political debate similarly relates to religious viewpoints. However, not every viewpoint put forth by a religious group or leader is a religious viewpoint.

Some principles found in the Document, for example, present religious beliefs. The obligation of all members of society to the poor and vulnerable, for example, was based on the teaching of the Scriptures.³⁰ However, many views and perspectives found in the Document do not present religious beliefs. The difficulty is, of course, in defining what constitutes a religious belief. Many participants in the academic debate over the wisdom of introducing religious viewpoints in public policy debate have chosen not to define the phrase. Michael Perry defined a "religious" viewpoint as a belief in

29. CARTER, *supra* note 24, at 111-12 (concluding "[t]he idea that religious motivation renders a statute suspect was never anything but a tortured and unsatisfactory reading of the First Amendment"); *See generally* KENT GREENAWALT, RELIGIOUS CONVICTIONS AND POLITICAL CHOICE 247 (1988) (recommending that people should not try to implement positions derived from religious beliefs that are clearly contrary to positions people would reach based on shared premises and commonly accessible reasons). *See also id.* (deducing "[i]t is proper to rely on religious convictions to define which entities deserve protection and to resolve difficult questions involving uncertain facts and conflicts of values.").

30. *See Economic Justice For All*, *supra* note 12, at 16-17.

God or a belief in the will of God.³¹ The viewpoint becomes non-debatable, because it is an article of faith.

When applying Perry's definition, there is a great deal contained in the Document that is not presented as being God's will. There are positions in the Document that are not articles of faith but are issues subject to debate. The role of government versus private parties in meeting social needs, for example, is not founded on the will of God.³² The benefits of creativity and initiative resulting from private ownership and the resulting desire to expand opportunities for private ownership is similarly not presented as God's will.³³ Both concepts are possible vehicles that present approaches to help realize the goals of the Document. Both are debatable perspectives. Neither are articles of faith.

In summary, constitutional uncertainty would not seem to have the power to almost completely foreclose academic consideration of the viewpoints of religious groups and leaders. Moreover, there is constitutional certainty regarding the viewpoints of such sources, which are not religious in nature. Yet all such viewpoints have been overlooked or ignored.

The most plausible explanation, in whole or in part, for the findings in this study can arguably be found in another arena. In the related sphere of the role of religion in science, the prevailing models in the scientific community for the relationship between religion and science are either a model of conflict or a model of separation.³⁴ In the former, religion and science are at war, with each trying to eliminate the other.³⁵ In the latter, there is a wall erected between science and religion, with neither field speaking with or listening to the other.³⁶ It seems the legal academy has also chosen to create a wall of separation.

Another model has been suggested for the scientific community that can prove more useful. It is a model of dialogue.³⁷ In this model, it is recognized that science or law can benefit from the viewpoints of religious groups or leaders. This is certainly true, for example, when such groups or leaders are addressing social issues on

31. See PERRY, *supra* note 28, at 31.

32. See *supra* notes 18-19 and accompanying text (explaining the principle of subsidiarity).

33. See *supra* note 17 and accompanying text (discussing private ownership and how that can adversely affect the demands of the common good).

34. See IAN G. BARBOUR, RELIGION AND SCIENCE: HISTORICAL AND CONTEMPORARY ISSUES 77-89 (1997).

35. *Id.* at 77.

36. *Id.* at 84.

37. *Id.* at 90-105.

the basis of social viewpoints. The perspectives presented are both novel and representative of a broad constituency. As a result, they can enrich the academic and public policy debate.

APPENDIX

Articles in the Study Sample Indexed in the *Index to Legal Periodicals* under the topic “Corporate Social Responsibility”

VOLUME 35

Edward S. Adams & Karl D. Knutsen, *A Charitable Corporate Giving Justification For the Socially Responsible Investment of Pension Funds: A Populist Argument for the Public Use of Private Wealth*, 80 IOWA L. REV. 211 (1995).

Timothy L. Fort, *Corporate Constituency Statutes: A Dialectical Interpretation*, 15 J.L. & COM. 257 (1995).

VOLUME 36

Douglass Cassell, *Corporate Initiatives: A Second Human Rights Revolution*, 19 FORDHAM INT'L L.J. 1963 (1996).

Richard Grossman, *Revoking the Corporation*, 11 J. ENVTL. L. & LITIG. 141 (1996).

Faith S. Kahn, *Pandora's Box: Managerial Discretion and the Problem of Corporate Philanthropy*, 44 UCLA L. REV. 579 (1997).

VOLUME 37

Rikki Abzug & Natalie J. Webb, *Rational and Extra-Rational Motivations for Corporate Giving: Complementing Economic Theory With Organization Science*, 41 N.Y.L. SCH. L. REV. 1035 (1997).

Jayne W. Barnard, *Corporate Philanthropy, Executive Pet Charities, and the Agency Problem*, 41 N.Y.L. SCH. L. REV. 1147 (1997).

Jill E. Fisch, *Questioning Philanthropy From a Corporate Governance Perspective*, 41 N.Y.L. SCH. L. REV. 1091 (1997).

Timothy L. Fort, *The Corporation as Mediating Institution: An Efficacious Synthesis of Stakeholder Theory and Corporate Constituency Statutes*, 73 NOTRE DAME L. REV. 173 (1997).

Peter D. Hall, *Business Giving and Social Investing in the United States, 1790-1995*, 41 N.Y.L. SCH. L. REV. 789 (1997).

Faith S. Kahn, *Legislatures, Courts, and the SEC: Reflections on Silence and Power in Corporate and Securities Law*, 41 N.Y.L. SCH. L. REV. 1107 (1997).

Nancy J. Knauer, *Reinventing Government: The Promise of Institutional Choice and Government Created Charitable Organizations*, 41 N.Y.L. SCH. L. REV. 945 (1997).

Daniel E. Lazarof, *Promoting Corporate Democracy and Social Responsibility: The Need to Reform the Federal Proxy Rules on Shareholder Proposals*, 50 RUTGERS L. REV. 33 (1997).

Barbara B. Lindsay, *The Charitable Contributor Under the I.R.C.*, 41 N.Y.L. SCH. L. REV. 825 (1997).

David Millon, *Default Rules, Wealth Distribution, and Corporate Law Reform: Employment At Will Versus Job Security*, 146 U. PA. L. REV. 975 (1998).

Lawrence E. Mitchell, *The Human Corporation: Some Thoughts on Hume, Smith, and Buffet*, 19 CARDOZO L. REV. 341 (1997).

Michelle Sinclair & Joseph Galaskiewicz, *Corporate-Nonprofit Partnerships: Varieties and Covariates*, 41 N.Y.L. SCH. L. REV. 1059 (1997).

Hayden W. Smith, *If Not Corporate Philanthropy, Than What?*, 41 N.Y.L. SCH. L. REV. 757 (1997).

Linda Sugin, *Theories of the Corporation and the Tax Treatment of Corporate Philanthropy*, 41 N.Y.L. SCH. L. REV. 835 (1997).

Cynthia A. Williams, *Corporate Compliance With the Law in the Era of Efficiency*, 76 N.C. L. REV. 1265 (1998).

VOLUME 38

Margaret M. Blair, *Corporate Disclosure*, 48 CATH. U. L. REV. 7 (1998).

Margaret M. Blair, *A Contractarian Defense of Corporate Philanthropy*, 28 STETSON L. REV. 27 (1998).

Melvin A. Eisenberg, *Corporate Conduct That Does Not Maximize Shareholder Gain: Legal Conduct, Ethical Conduct, the Penumbra Effect, Reciprocity, the Prisoner's Dilemma, Sheep's Clothing, Social Conduct, and Disclosure*, 28 STETSON L. REV. 1 (1998).

James A. Fanto, *Investor Education, Securities Disclosure, and the Creation and Enforcement of Corporate Governance and Firm Norms*, 48 CATH. U. L. REV. 15 (1998).

Lynda J. Oswald, *Shareholders v. Stakeholders: Evaluating Corporate Constituency Statutes Under the Takings Clause*, 24 J. CORP. L. 1 (1998).

Joseph S. Spoerl, *The Social Responsibility of Business*, 42 AM. J. JURIS. 277 (1997).

Cheryl L. Wade, *For-Profit Corporations That Perform Public Functions: Politics, Profit, and Poverty*, 51 RUTGERS L. REV. 323 (1999).

David B. Wilkins, *Do Clients Have Ethical Obligations to Lawyers? Some Lessons From the Diversity Wars*, 11 GEO. J. LEGAL ETHICS 855 (1998).

Cynthia A. Williams, *The Securities and Exchange Commission and Corporate Social Transparency*, 112 HARV. L. REV. 1197 (1999).

William A. Wines, Mark A. Buchanan & Donald J. Smith, *The Critical Need for Law Reform to Regulate the Abusive Practices of Transnational Corporations: The Illustrative Case of Boise Cascade Corporation in Mexico's Costa Grande and Elsewhere*, 26 DENV. J. INT'L L. & POL'Y 453 (1998).

VOLUME 39

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