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SUPREME COURT PREVIEW

What to Expect
From the New Term

Oct. 24-25, 1997

• Williamsburg, Virginia

1997-98 Supreme Court Preview

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CONFERENCE SCHEDULE

Friday, October 24

5:30 pm -- 6:15 pm
Lobby, Law School

Registration

6:15 pm -- 6:20 pm
McGlothlin Moot Court Room

Welcome

6:20 pm -- 7:40 pm
McGlothlin Moot Court Room

MOOT COURT ARGUMENT

Piscataway v. Taxman, No. 96-679

Advocates: Samuel Issacharoff
Suzanna Sherry

Court: Joan Biskupic, Chief Justice
Richard Carelli
Lyle Denniston
Aaron Epstein
Edward Felsenthal
Susan Grover
Tony Mauro
David Savage
Margaret Spencer

7:50 pm -- 8:10 pm
McGlothlin Moot Court Room

**The View from the Solicitor
General's Office**

Walter Dellinger

8:10 pm -- 9:00 pm
McGlothlin Moot Court Room

**The Court and Race Relations:
What Lies Ahead?**

Moderator: Steve Wermiel
Panel: Neal Devins
Sam Issacharoff
David Garrow
Linda Greenhouse
Tracey Maclin

Saturday, October 25
(All Sessions in Room 120)

8:45 am -- 9:45 am

Criminal Law & Procedure:

Moderator: Paul Marcus
Panel: Joan Biskupic
Lyle Denniston
Aaron Epstein
Tracey Maclin

Break

10:00 am -- 11:00 am

First Amendment/Election Law:

Moderator: David Savage
Panel: Lyle Denniston
Mike Gerhardt
Sam Issacharoff
Kay Kindred

Break

11:15 am -- 12:15 pm

Civil Rights:

Moderator: Kathryn Urbonya
Panel: Neal Devins
David Garrow
Linda Greenhouse
Suzanna Sherry

12:15 pm - 2:00 pm

LUNCH BREAK (on your own)
Speakers' Meeting in Room 239

2:00 pm - 3:00 pm

Business, Commerce, and Property

Moderator: Richard Carelli
Panel: Joan Biskupic
Edward Felsenthal
Tony Mauro
Alan Meese

Break

3:15 pm -- 4:15 pm

Federalism: A Court in Search of Itself

Moderator: Steve Wermiel
Panel: Mike Gerhardt
Linda Greenhouse
David Savage
Suzanna Sherry

1997-98 Supreme Court Preview

PANELISTS

JOAN BISKUPIC has been the Supreme Court reporter for *The Washington Post* since 1992. Before joining the *Post*, she was legal affairs writer for *Congressional Quarterly Weekly Report*. In 1991, Ms. Biskupic won the Everett McKinley Dirksen award for distinguished reporting of Congress for her coverage of the Clarence Thomas nomination. She received her B.A. in journalism from Marquette University, her M.A. in English from the University of Oklahoma, and her J.D. from Georgetown University Law Center. She is the co-author with Elder Witt of *Congressional Quarterly's* two-volume encyclopedia *Guide to the U.S. Supreme Court* (3rd. Ed.).

RICHARD CARELLI has worked for the Associated Press since 1969 and has covered the Supreme Court since 1976. He previously worked as a journalist in New York, West Virginia, Ohio, and Florida. Mr. Carelli is a chapter author for *A Year in the Life of the Supreme Court* (Duke University Press, 1995), which won the 1996 ABA Silver Gavel Award. He received his B.S. from Ohio University and his J.D. from George Washington University.

WALTER DELLINGER is a professor of law at Duke Law School. He has recently served as Acting Solicitor General of the United States, Assistant Attorney General, and head of the Office of Legal Counsel. Professor Dellinger received his A.B. from the University of North Carolina at Chapel Hill and his L.L.B. from Yale. He clerked for United States Supreme Court Justice Hugo Black. Professor Dellinger joined the faculty at Duke Law School in 1969, and served as Associate and as Acting Dean of the Law School from 1974 to 1978. From 1970 to 1977 he served as a Reporter and Draftsman for the North Carolina Criminal Code Commission, which produced a modern criminal procedure system, adopted by the General Assembly of North Carolina. He has testified more than twenty-five times on a variety of constitutional issues before congressional committees. He has briefed and argued cases for a variety of clients, including the State of Alaska, Owen-Illinois, Inc., the Virginia Hospital Association and members of Congress. He argued *Wilder v. Virginia Hospital Ass'n* (1990), in which the United States Supreme Court held that hospitals can sue under section 1983 for adequate Medicaid reimbursement. He filed a brief for a number of members of the House and Senate in *Planned Parenthood v. Casey* (1992), and served as co-counsel for the Association of Women Attorneys in *Rust v. Sullivan* (1991).

LYLE DENNISTON, a reporter for *The Baltimore Sun*, Washington Bureau, is considered the dean of American journalists who cover the Supreme Court. He is a regular columnist for the *American Lawyer* magazine. Mr. Denniston is also an Adjunct Professor of law at Georgetown and an adjunct professor of law at American University's Washington College of Law. He received his B.A. from the University of Nebraska and his M.A. in American History and Political Science from Georgetown. Mr. Denniston is the author of *The Reporter and the Law: Techniques of Covering the Courts* (1992) and is a chapter author for *A Year in the Life of the Supreme Court* (Duke University Press, 1995), which won the 1996 ABA Silver Gavel Award.

NEAL DEVINS is Professor of Law and Lecturer in Government at the College of William and Mary School of Law. He received his A.B. from Georgetown and his J.D. from Vanderbilt. He was Assistant General Counsel with the United States Commission on Civil Rights, and Project Director at the Vanderbilt Institute for Public Policy Studies. Professor Devins is author of *Shaping Constitutional Values: Elected Government, the Supreme Court, and the Abortion Debate* (1996), co-author of *Political Dynamics of Constitutional Law* (2d ed. 1996), and editor and contributor for *Public Values, Private Schools* (1989).

DAVISON DOUGLAS is Professor of Law and Director of the Institute of Bill of Rights Law at the College of William and Mary School of Law. He received his A.B. from Princeton University, his Ph.D. in History from Yale University, and his J.D. from Yale Law School. He also has an M.A.R. from Yale University Divinity School. Before joining the William and Mary faculty of law in 1990, he was a partner with a Raleigh, North Carolina law firm, specializing in labor and employment law and civil rights law. He also clerked for Judge Walter R. Mansfield of the United States Court of Appeals for the Second Circuit. Professor Douglas is the author of *Reading, Writing and Race: The Desegregation of the Charlotte Schools* (1995); *The Development of School busing as a Desegregation Remedy* (1994); and *The Public Debate Over Busing and Attempts to Restrict Its Use* (1994).

AARON EPSTEIN is a national correspondent for Knight-Ridder Newspapers covering the Supreme Court and legal issues. Mr. Epstein received his B.A. from Dartmouth and his J.D. from the McGeorge College of Law, University of the Pacific, and attended the University of Missouri School of Journalism. He is a chapter author for *A Year in the Life of the Supreme Court* (Duke University Press, 1995), which won the 1996 ABA Silver Gavel Award. He was a member of *The Philadelphia Inquirer* staff that won the 1980 Pulitzer Prize for Local Reporting for coverage of the Three Mile Island nuclear accident and of the Knight-Ridder team that won a 1988 Polk Award for coverage of the Iran-Contra Affair. He received the 1996 ABA Silver Gavel Award for his Supreme Court reporting.

EDWARD FELSENTHAL is the Supreme Court reporter for The Wall Street Journal in New York and Washington and was a visiting Page One editor during part of 1996. He received his A.B. from Princeton University in 1988, his J.D. from Harvard Law School in 1992, and his M.A.L.D. from the Fletcher School of Law and Diplomacy in 1992. His articles have appeared in *The Journal of Law and Communication*, the *Fletcher Forum of World Affairs*, and the *Effective Schools Report*. He received a John Peter Zenger Award from the New York Bar Association for his reporting on law and science in 1994.

DAVID GARROW is a Presidential Distinguished Professor at Emory University. He is the author of *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (1994), a comprehensive history of the American reproductive rights struggle. His previous book, *Bearing the Cross: Martin Luther King, Jr. and the Southern Christian Leadership Conference* (1986), won the 1987 Pulitzer Prize in Biography, the seventh annual Robert F. Kennedy Book Award, and two other book prizes. He is also author of *The FBI and Martin Luther King, Jr.* (1981); and *Protest at Selma* (1978); editor of *The Montgomery Bus Boycott and the Women Who Started It: The Memoir of Jo Ann Gibson Robinson* (1987); and co-editor of *The Eyes on the Prize Civil Rights Reader* (1987, 1991). Professor Garrow served as a senior advisor for "Eyes on the Prize," the award-winning PBS television history of the American Black freedom struggle. He graduated from Wesleyan University in 1975, and earned his Ph.D. at Duke University in 1981.

MICHAEL GERHARDT has served as a Special Consultant to both the Clinton White House on judicial selection and to the National Commission on Judicial Discipline and Removal. He was a professor at the Wake Forest University School of Law before serving on the William and Mary faculty of law from 1991 until 1996; Professor Gerhardt visited at Cornell University during the 1994-95 academic term. He received his B.A. from Yale, his M.Sc. in Political Philosophy from the London School of Economics, and his J.D. from the University of Chicago Law School. He is the author of *Constitutional Theory: Arguments and Perspectives* (with Tom Rowe), *The Federal Impeachment Process* (Princeton University Press, 1996), and numerous articles on constitutional law. Most recently, he has served as Dean of Case Western Reserve University School of Law.

LINDA GREENHOUSE has been on the staff of *The New York Times* since 1968. She has covered politics, the New York State Legislature, the United States Congress and, since 1978, the Supreme Court. She received her B.A. from Radcliffe and earned a Masters of Studies in Law from Yale. She has several honorary degrees and is a fellow of the American Academy of Arts and Sciences.

SUSAN GROVER is Associate Professor of Law at the College of William and Mary School of Law. Professor Grover received her A.B. from Hollins and her J.D. from Georgetown. She served as a judicial law clerk to Spottswood W. Robinson, III, of the United States Court of Appeals for the District of Columbia Circuit, and Oliver Gasch, of the United States District Court for the District of Columbia. Professor Grover teaches employment discrimination, civil procedure, women and the law, and disability law. Before joining the William and Mary faculty of law in 1988, she practiced law in Washington, D.C. Professor Grover's articles have appeared in the *Georgia Law Review*, the *University of Illinois Law Review*, the *Kentucky Law Journal* and the *Southern California Review of Law and Women's Studies*.

SAMUEL ISSACHAROFF is the Charles Tilford McCormick Professor of Law at the University of Texas School of Law. He graduated from Yale Law School in 1983 and served as a law clerk to Judge Arlin M. Adams of the Third Circuit in 1983-84. After a fellowship in 1984 working with private prosecutors of the Argentine military governors, he entered law practice. He specialized in complex federal litigation both in private practice and as an attorney with the Lawyers' Committee for Civil Rights Under Law. He joined the faculty of the University of Texas in 1989. He teaches and writes in the areas of civil procedure, civil rights, voting and electoral law, and employment law. In addition to his academic pursuits, he maintains an active hand in litigation. He served as counsel to the University of Texas and the State of Texas in the well-known affirmative action case, *Hopwood v. State of Texas*.

KAY KINDRED is Assistant Professor of Law at the College of William and Mary School of Law, and a member of the adjunct faculty of the College's School of Education. From 1989 to 1996, she also held the position of Deputy Director of the Institute of Bill of Rights Law at William and Mary, and in that capacity served as the Institute's principal administrator. Professor Kindred received her A.B. from Duke University and her J.D. from Columbia University Law School. She teaches education law, family law, children's rights, and civil rights. She is the author of articles in recent issues of the *Arizona Law Review* and the *Ohio State Law Journal*, and is a contributing author in three recently published books, *Corporate Misconduct* (Greenwood Press, 1995) and *A Year in the Life of the Supreme Court* (Duke University Press, 1995), which won the 1996 ABA Silver Gavel Award, and *Evaluating Teaching: A Guide to Current Thinking and Best Practice* (Corwin Press, 1997).

TRACEY MACLIN is Professor of Law at Boston University. He teaches constitutional law and criminal procedure. Last Term, Professor Maclin wrote an amicus brief for the American Civil Liberties Union and the National Association of Criminal Defense Lawyers in *Richards v. Wisconsin*. He has also written several other amicus briefs involving search and seizure questions that were argued before the Supreme Court. Professor Maclin received his B.A. from Tufts University and his J.D. from Columbia University. Before entering law teaching, Professor Maclin clerked for Chief Judge Boyce F. Martin, Jr. of the United States Court of Appeals for the Sixth Circuit and practiced with the firm of Cahill, Gordon and Reindel in New York. He has also served on the law faculties of the University of Kentucky, Cornell Law School and Harvard Law School.

PAUL MARCUS is the Acting Dean and Haynes Professor of Law at The College of William and Mary School of Law. He teaches criminal law and copyright law. Professor Marcus received his A.B. and J.D. from U.C.L.A. and served as law clerk to the United States Court of Appeals for the District of Columbia Circuit. He taught at the University of Illinois College of Law, and from 1983 to 1988, he served as Dean of the University of Arizona School of Law. He practiced law in Los Angeles, California. His publications include, among others, *The Law of Entrapment*, (1996); *Criminal Law: Cases and Materials* (1995); *Criminal Procedure: Cases and Materials* (4th Ed., 1997); *Copyright and Other Aspects of Law Pertaining to Literary, Musical and Artistic Works* (5th Ed., 1997); *The Prosecution and Defense of Criminal Conspiracy Cases* (4th Ed., 1996), and *Drug Testing in the Workplace: A Substance Abuse Testing Act* (1991).

TONY MAURO has covered the Supreme Court since 1980 for the Gannett News Service and also for *USA TODAY* since its creation in 1982. Since 1987, he has also written a column on the Supreme Court for *Legal Times* and *The American Lawyer* newspapers. He is on the executive committee of the Reporters Committee for Freedom of the Press and serves on the Conference of Lawyers and Representatives of the Media, and the Freedom of Information Committee of the Society of Professional Journalists. Mr. Mauro is a chapter author for *A Year in the Life of the Supreme Court* (Duke University Press, 1995), which won the 1996 ABA Silver Gavel Award, and for *Reason and Passion*, a 1997 book on Justice William Brennan, Jr. He received his B.A. from Rutgers University and his M.A. in journalism from Columbia University. Before coming to Washington, he worked for newspapers in Massachusetts and New Jersey.

ALAN MEESE is an Assistant Professor of Law at the College of William and Mary School of Law. Professor Meese received his A.B. from the College of William and Mary and his J.D. from the University of Chicago. Before joining the William and Mary faculty, he was an associate in the antitrust department at Skadden, Arps, Slate, Meagher and Flom in Washington, D.C. Previously, he served as a law clerk, first to Judge Frank Easterbrook of Appeals for the Seventh Circuit and then to Justice Antonin Scalia of the Supreme Court of the United States. He is the author of articles on the first amendment rights of corporations and the law and economics of the attorney client privilege. His most recent article, on the antitrust implications of franchise tying contracts, appears in the *Michigan Law Review* this fall.

DAVID SAVAGE has been the Supreme Court correspondent in Washington for the *Los Angeles Times* since 1986. Before that assignment, he was an education writer for the *Times* in Los Angeles. He has also covered Congress and the Supreme Court for a Washington weekly newspaper. He earned his B.A. in political science from the University of North Carolina at Chapel Hill and his M.S. from Northwestern University. He is the author of *Turning Right: The Making of the Rehnquist Court* (1992) and a chapter author for *A Year in the Life of the Supreme Court* (Duke University Press, 1995), which won the 1996 ABA Silver Gavel Award.

SUZANNA SHERRY is the Earl R. Larson Professor of Civil Rights and Civil Liberties Law at the University of Minnesota Law School. Professor Sherry received her A.B. degree from Middlebury College and her J.D. degree from the University of Chicago Law School. She served as a judicial law clerk to the Honorable John C. Godbold of the United States Court of Appeals for the Fifth Circuit. She is the author of *Beyond All Reason: The Radical Assault on Truth in American Law* (1997) (with Daniel A. Farber); *Federal Courts: Cases, Comments, and Questions* (1994) (with Martin Redish and Gene Nichol); and *A History of the American Constitution* (1990) (with Daniel A. Farber).

HON. MARGARET SPENCER serves in the General District Court for the City of Richmond. Judge Spencer received her B.A. from Howard University in 1969 and her J.D. from the University of Virginia in 1972. She was a member of the law faculty at William and Mary from 1988 to 1994. Before that time she was Assistant Attorney General for the Commonwealth of Virginia, Senior Appellate Attorney with the Civil Rights Division of the U.S. Department of Justice, and an Assistant United States Attorney. Currently a member of the Virginia Criminal Justice Services Board, Judge Spencer formerly served on the Virginia Board of Corrections and on the State Commission on Sentencing and Parole Reform. She is a member of the American Law Institute, and the Faculty of the National Judicial College in Reno, Nevada. She is also Adjunct Professor at the law schools at William and Mary and the University of Richmond. Her publications include *Sentencing Drug Offenders: The Incarceration Addiction in Villanova Law Review*, *Prosecutorial Immunity: The Response to Prenatal Drug Use in Connecticut Law Review*, and *Corporate Misconduct* (Greenwood Publishing, 1995).

KATHRYN URBONYA has extensively written, studied, and lectured throughout the nation on the use of excessive force by governmental officials under the Fourth, Eighth, and Fourteenth Amendments. As a Professor of Law at William and Mary, she teaches constitutional law, criminal procedure, and civil rights. In addition, she was appointed by Mayor Andrew Young of Atlanta to serve on the Civilian Review Board, which investigated claims of police misconduct by suspects and detainees. Before teaching, she was a law clerk for Justice Gerald W. VandeWalle of the North Dakota Supreme Court and Federal District Judge G. Ernest Tidwell in Atlanta.

STEPHEN WERMIEL is a fellow at the Woodrow Wilson Center for Scholars in Washington, D.C., on leave from Georgia State University Law School where he has been an associate professor since 1992. For twelve years, he was the Supreme Court correspondent for *The Wall Street Journal* and spent a year as the Lee Distinguished Visiting Professor of Law at the College of William and Mary. As a Wilson Fellow, he is working on the authorized biography of the late Supreme Court Justice William J. Brennan, Jr. He received his B.A. in political science from Tufts University and his J.D. from American University. He is a chapter author for *A Year in the Life of the Supreme Court* (Duke University Press, 1995), which won the ABA Silver Gavel Award. Other articles have appeared in the inaugural issue of the *William and Mary Bill of Rights Journal*, *Constitutional Commentary*, *Law and Contemporary Problems*, *Northwestern University Law Review*, *Rutgers Women's Rights Law Journal* and *Georgia State University Law Review*.

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