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### 1988-89 Supreme Court Preview (Program)

Institute of Bill of Rights Law, William & Mary Law School

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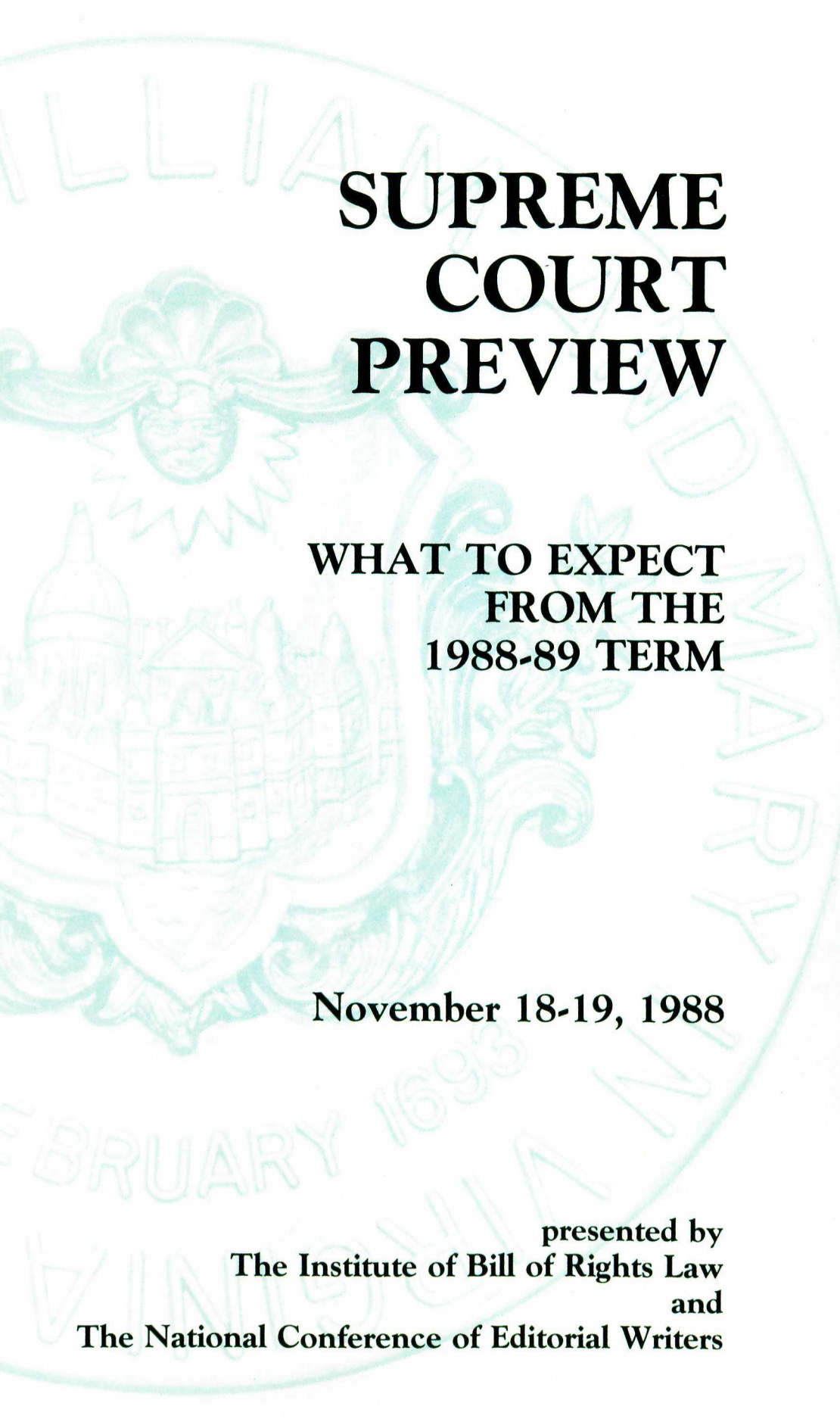
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# **SUPREME COURT PREVIEW**

**WHAT TO EXPECT  
FROM THE  
1988-89 TERM**

**November 18-19, 1988**

**presented by  
The Institute of Bill of Rights Law  
and  
The National Conference of Editorial Writers**

# SUPREME COURT PREVIEW

**Friday,  
November 18**

Law School Patio or Lounge  
8:45 a.m.-9:15 a.m.

Marshall-Wythe Room 119  
9:15 a.m.

## SESSION I

Room 119  
9:30 a.m. - 10:30 a.m.

## REGISTRATION AND COFFEE

**Welcome,** Timothy J. Sullivan  
Dean of the Marshall-Wythe School of Law,  
Executive Director of the Institute of Bill of Rights  
Law, and John Stewart Bryan Professor of  
Jurisprudence, College of William and Mary

## CIVIL RIGHTS AND CIVIL LIBERTIES

### PANEL A: RELIGION AND SPEECH

**THE SCHOLARS:** Walter Dellinger, Suzanna Sherry,  
Neal Devins, Bruce Fein

**THE QUESTIONERS:** Lyle Denniston, Steven  
Mulroy, David Savage

#### THE CASES:

*County of Allegheny v. ACLU* (No. 87-2050); *Chabad v. ACLU* (No. 88-90); *City of Pittsburgh v. ACLU* (No. 88-96) (Religion; creches and menorahs on public property)

*Hernandez v. CIR* (No. 87-963); *Graham v. CIR* (No. 87-1616) (Religion; deductibility of contributions to Church of Scientology)

*Frazee v. Illinois Dept. of Empl. Security* (No. 87-1945) (Religion; rights of person who declines work on Sunday because of religious convictions but not member of established religion)

*Massachusetts v. Oakes* (No. 87-1651) (Speech; child pornography)

*City of Dallas v. Stanglin* (No. 87-1848) (Speech; age restrictions for dance halls)

*Fort Wayne Books v. Indiana* (No. 87-470) (Speech; seizure of adult book store inventory under racketeering law)

10:30 a.m.-10:45 a.m.

COFFEE BREAK



Room 119  
10:45 a.m. - 11:45 a.m.

## **PANEL B: DISCRIMINATION**

**THE SCHOLARS:** Ronald Rotunda, Peter Shane,  
Joan Fitzpatrick, Randall Kennedy

**THE QUESTIONERS:** Anthony Day, Lyle  
Denniston, Steven Mulroy

### **THE CASES:**

*Patterson v. McLean Credit Union* (No. 87-107) (Should the Court reconsider its 1976 decision in *Runyon v. McCary* permitting a post-Civil War civil rights law, 42 USC 1981, to be used for challenging employment discrimination by private entities?)

*Richmond v. J. A. Croson Co.* (No. 87-998) (Affirmative action; ordinance requiring 30% set-aside for minority contractors on city construction projects)

*New York City Board of Estimate v. Morris* (No. 87-1022) (Reapportionment)

*Price Waterhouse v. Hopkins* (No. 87-1167) (Sexual stereotyping)

Phi Beta Kappa Hall,  
Dodge Room, Noon

## **LUNCHEON**

**Address by Nat Hentoff: "THE ROLE OF THE PRESS AS INTERPRETER OF SUPREME COURT DECISIONS"**

## **SESSION II**

## **CRIMINAL PROCEDURE, SEPARATION OF POWERS & ECONOMIC ISSUES**

Room 119  
2:00 p.m.-3:15 p.m.

## **PANEL C: DRUG TESTING, DEATH PENALTY, CRIMINAL PROCEDURE**

**THE SCHOLARS:** Bruce Fein, Joan Fitzpatrick,  
Randall Kennedy, Walter Dellinger

**THE QUESTIONERS:** Linda Greenhouse, Al Kamen,  
Anthony Day

### **THE CASES:**

*Florida v. Riley* (No. 87-764) (Aerial surveillance by police helicopter)

*United States v. Sokolow* (No. 87-1295) (Drug courier profile)

*Brower v. County of Inyo* (No. 87-248) (Use of roadblock to apprehend fleeing felon)

*Wilkins v. Missouri* (No. 87-6026); *Penry v. Lynaugh* (No. 87-6177) (Death penalty cases involving 16 and 17 year-olds, and adult with mental capacity of 7 year-old)

*Consolidated Rail Corp. v. Railway Labor Executive's Assoc.* (No. 88-1); *National Treasury Employees v. Von Raab* (No. 86-1879); *Burnley v. Railway Labor Executive's Assoc.* (No. 87-1555) (Drug testing)

3:15 p.m.-3:30 p.m.

**COFFEE BREAK**

Room 119  
3:30 p.m. - 4:45 p.m.

## **PANEL D: OTHER CIVIL RIGHTS ISSUES; SEPARATION OF POWERS**

**THE SCHOLARS:** Peter Shane, Suzanna Sherry,  
Ronald Rotunda, Neal Devins

**THE QUESTIONERS:** Al Kamen, David Savage,  
Linda Greenhouse

### **THE CASES:**

*DeShaney v. Winnebago County* (No. 87-154) (Does agency's allegedly reckless failure to protect child from abuse by father constitute deprivation of constitutionally protected liberty interest?)

*Will v. Michigan State Police* (No. 87-1207) (Civil rights liabilities and immunities in damages lawsuit against state and state officials)

*National Collegiate Athletic Association v. Tarkanian* (No. 87-1061) (Do the actions of the NCAA in connection with disciplinary action against basketball coach at state university constitute "state action" for purposes of civil rights laws?)

*Michael H. v. Gerald D.* (No. 87-746); *McNamara v. San Diego County of Social Services* (No. 87-5840) (Rights of fathers in child custody cases)

*Carlucci v. Doe* (No. 87-751) (Dismissal of employee as security risk for alleged homosexual activity)

*United States v. Mistretta* (No. 87-1904) (Separation of powers; constitutionality of U.S. Sentencing Commission guidelines)

*Duquesne Light Co. v. Barasch* (No. 87-1160) (Takings of property; nuclear power regulation)

### **RECEPTION**

### **COFFEE**

National Center for State Courts  
5:00 p.m. - 6:00 p.m.

**Saturday,  
November 19**

Law School Patio or Lounge  
9:00 a.m. - 9:30 a.m.

## **SESSION III:**

Room 119  
9:30 a.m. - noon

## **THE COURT'S FUTURE DIRECTION**

**THE COMPANY:** Anthony Day, Walter Dellinger, Neal Devins, Lyle Denniston, Bruce Fein, Joan Fitzpatrick, Linda Greenhouse, Nat Hentoff, Al Kamen, Randall Kennedy, Steven Mulroy, Ronald Rotunda, David Savage, Peter Shane, Suzanna Sherry, Rodney Smolla

**THE CHORUS:** An exploration of the evolving voting patterns and roles of the Justices, the overall direction of the Court, and what to expect in terms of new appointments from the new administration.



# WHAT TO EXPECT FROM THE 1988-89 TERM

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## PANELISTS

**Anthony Day**, *Los Angeles Times*

**Walter E. Dellinger, III**, Professor of Law, Duke University

**Neal E. Devins**, Professor of Law, College of William and Mary

**Lyle W. Denniston**, Washington Bureau, *Baltimore Sun*

**Bruce E. Fein**, President, Bruce Fein & Associates; General  
Counsel, Federal Communications Commission, 1983-84

**Joan M. Fitzpatrick**, Professor of Law, University of Washington

**Linda Greenhouse**, Washington Bureau, *The New York Times*

**Nat Hentoff**, *The Village Voice*

**Al Kamen**, *The Washington Post*

**Randall L. Kennedy**, Professor of Law, Harvard University

**Steven Mulroy**, William and Mary Law Student Journalist, *The  
Advocate*

**Ronald D. Rotunda**, Professor of Law, University of Illinois

**David G. Savage**, Washington Bureau, *Los Angeles Times*

**Peter M. Shane**, Professor of Law, University of Iowa

**Suzanna Sherry**, Professor of Law, University of Minnesota

**Moderator: Rodney A. Smolla**, James Gould Cutler Professor of  
Constitutional Law and Director, Institute of Bill of Rights  
Law, College of William and Mary

The **Institute of Bill of Rights Law** was established at William and Mary in 1982 to support research and education on the Constitution and Bill of Rights. One of the principal missions of the Institute is to facilitate interaction between the professions of law and journalism.

The **National Conference of Editorial Writers** was founded in 1947 by a group of editorial writers who had participated in the first seminar for editorial writing sponsored by the American Press Institute. NCEW is "dedicated to stimulating the conscience and quality of the editorial page."



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**Timothy J. Sullivan**, Executive Director, Institute of Bill of Rights Law, Dean and John Stewart Bryan Professor of Jurisprudence, Marshall-Wythe School of Law, College of William and Mary.

**Wallace Terry**, Author, Journalist, and Film Producer, Alexandria, Virginia.

**William W. Van Alstyne**, William and Thomas Perkins Professor of Law, Duke University.