William & Mary Law School

William & Mary Law School Scholarship Repository

Supreme Court Preview

Conferences, Events, and Lectures

10-22-2004

2004-2005 Supreme Court Preview: Contents

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

Follow this and additional works at: https://scholarship.law.wm.edu/preview

Repository Citation

Institute of Bill of Rights Law, William & Mary Law School, "2004-2005 Supreme Court Preview: Contents" (2004). *Supreme Court Preview*. 191.

https://scholarship.law.wm.edu/preview/191

Copyright c 2004 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.

https://scholarship.law.wm.edu/preview

SUPREME COURT PREVIEW

What to Expect From the New Term

October 22 & 23, 2004

2004-2005 Supreme Court Preview

INSTITUTE OF BILL OF RIGHTS LAW

THE INSTITUTE OF BILL OF RIGHTS LAW was established at William & Mary in 1982 to support research and education on the Constitution and the Bill of Rights. One of the principal missions of the Institute is to facilitate interaction between the professions of law and journalism. Through a discussion of key cases on the Supreme Court's docket at the start of each term, the annual SUPREME COURT PREVIEW provides in-depth education for journalists on the underlying issues in order to enhance press coverage of the decisions.

STAFF

NEAL DEVINS, Goodrich Professor of Law, Director, Institute of Bill of Rights Law and Professor of Government

MELODY S. NICHOLS, Program Coordinator

ASSISTANT EDITORS

Stephen J Clarke Emily A Jones Amanda L Kutz Jennifer H Lagerquist Eric M Leppo Laura N Mangel Jeffrey B. Mead Marie E Siesseger Emily L Tulli

Curtis G Carll Aaron L Kimber Casey L Ewart Seth R Hansen

Svetlana Khvalina Anna N. Schenker

The Institute of



WILLIAM & MARY SCHOOL OF LAW WILLIAMSBURG, VIRGINIA 23187-8795 (757) 221-3810 ◆ FAX (757) 221-3775

E-Mail: IBRL@ wm.edu ♦ Web: IBRL.org

2004-2005 Supreme Court Preview

| | Table of C | Ontents |
|----|--|---------|
| | Schedule of Events | xix |
| | Who's Who on the Panels | xx |
| I. | MOOT COURT ARGUMENT: Roper v. Simmons | |
| | In This Section | |
| | New Case: 03-633 Roper v. Simmons | |
| | Synopsis and Question Presented | 2 |
| | Court to Decide Young Killers' Fate; Justices to Rule on Executing Juveniles Jan Crawford Greenburg | 12 |
| | Death Penalty Information Center: Statistics | 15 |
| | Jury Will Get Case of Drowning Death Leo Fitzmaurice | 18 |
| | Jurors Consider Death For Woman's Killer Leo Fitzmaurice | 19 |
| | Psychiatrists Question Death for Teen Killers Paul Davies | 20 |
| | Supreme Court Passes on Case of a Teen on Death Row; Four Justices Have Called Execution of Young Killers "Shameful," But Have Yet to Press the Issue Further. | |
| | Anne Gearan | 23 |
| | In Virginia, Convicts Find They're Not Too Young to Die; Jury Spares Malvo, But Another Teen Killer Waits on Death Row | 25 |
| | Reilly Capps | 25 |

II. THE LAW UNDER GEORGE W. BUSH

The War on Terror

| High Court Says Detainees Have Right to Hearing David Savage | 31 |
|---|----|
| War of Secrets: Judicial Restraint; The Imperial Presidency vs. The Imperial Court Linda Greenhouse | 35 |
| Two Out of Three Ain't Bad; Assessing the Supreme Court's Detainee Rulings Peter Berkowitz | 38 |
| No Blank Check David Cole | 41 |
| Tribunals to Weigh Detainees' Status: Setup is Response to Supreme Court Ruling on Rights Charles Savage | 43 |
| By Flouting War Laws, US Invites Tragedy Erwin Chemerinsky | 45 |
| Gitmo' Better Blues Neal Katyal | 47 |
| Memo Lists Acceptable 'Aggressive' Interrogation Methods Toni Locy and John Diamond | 50 |
| A Crucial Look at Torture Law John Yoo | 52 |
| Slim Legal Grounds for Torture Memos; Most Scholars Reject Broad View of Executive's Power R. Jeffrey Smith | 54 |
| A 'Torture' Memo and Its Tortuous Critics Eric Posner and Adrian Vermeule | 57 |
| Bush Pushes for Renewal of Antiterrorism Legislation Richard W. Stevenson and Eric Lichtblau | 59 |
| Repeal the Patriot Act Andrew P. Napolitano | 61 |

| The Patriot Act Without Tears Andrew C. McCarthy | 63 |
|---|----|
| Executive Privilege | |
| Justices' Ruling Postpones Resolution of Cheney Case Linda Greenhouse | 66 |
| At the Court, Inflating the White House's Power Joan A. Lukey | 69 |
| Refusal to Testify Has Precedent Charles Lane | 72 |
| Charlie McCarthy Hearings Maureen Dowd | 74 |
| President's Privilege; Why Bush Didn't Want Condoleeza Rice to Testify Before the September 11 Commission – and Why She's Going to do so Today Terry Eastland | 76 |
| Power Plays Alexis Simendinger | 78 |
| The Social Conservative Agenda | |
| A New Meaning for 'Bully Pulpit' Susan Jacoby | 82 |
| A Senator's Call to 'Win This Culture War' David D. Kirkpatrick | 84 |
| Winning While Losing Richard W. Stevenson | 87 |
| George W., Judicial Activist Timothy Noah | 89 |
| The Politics of Piety; Bush's Public Religiosity Connects with America – and That Will Win Him Votes Charlotte Allen | 91 |
| Look Left Jonathan Chait | 94 |

The Supreme Court as an Election Issue

| Fighting Over the Court: It's Tough to Make the Supreme Court into an Election Issue William G. Ross | 97 |
|---|-----|
| Bush's Justice Terry Eastland | 100 |
| Admit the Obvious: It's a Political Process; Ideology Governs Judicial Confirmations. Let's Say So David Greenberg | 103 |
| Dismissed in Boston: Why Won't the Democrats Talk About Judges? Dahlia Lithwick | 106 |
| Appointments | |
| The Right-Wing Assault; What's at Stake, What's Already Happened and What Could Yet Occur Cass R. Sunstein | 108 |
| Remarks by the President During Federal Judicial Appointees Announcement | 111 |
| Stop the Madness; In the Judicial Nominations War, Do Unto Others as You Would Have Them Do Unto You. Stuart Taylor Jr. | 113 |
| Checkmate in the Judges Game? For democracy's sake, President Bush should threaten a recess appointment, or two. Randolph J. May | 116 |
| Bush Bypasses Senate On Judge; Pickering Named To Appeals Court During Recess | |
| Mike Allen and Helen Dewar | 119 |
| Statement on Appointment of William H. Pryor Jr. | 122 |
| Understudies Clay Risen | 123 |
| Here's What Less Experience Gets You Michael J. Gerhardt | 126 |

| | Activist, Schmactivist Dahlia Lithwick | 130 |
|------|---|-----|
| | The Case of the Gradually Disappearing Supreme Court Stuart Taylor Jr. | 132 |
| 111. | CIVIL RIGHTS | |
| | In This Section | |
| | New Case: 02-1672 Jackson v. Birmingham Board of Education | |
| | Synopsis and Question Presented | 138 |
| | Justices Asked to Broaden Anti-Bias Law: High Court to Consider Title IX Case that Would Ban Retaliation Against Those Who Complain About Sexual Discrimination | |
| | Christine M. Garton | 146 |
| | Gender Equity Case Heads to Top Court: Coach Claims He Lost Job for Whistleblowing | |
| | Mary Orndorff | 149 |
| | A Girl's Team, a Fired Coach, Title IX Warren Richey | 150 |
| | High Court is Rolling Back Implied Private Rights of action: The Court Refused to Review a Suit Based on a Law Requiring Children's Health Screenings | |
| | Steve France | 152 |
| | New Case: 03-636 Johnson v. Gomez | |
| | Synopsis and Question Presented | 155 |
| | Justices Agree to Evaluate Prison Policy Based On Race Linda Greenhouse | 163 |
| | Justices to Debate California's Segregated Prison Policy David G. Savage | 165 |
| | U.S. Supreme Court to Review California Prison Cell Segregation Anne Gearan | 166 |

| Syracuse U.: Syracuse Grad, Cell Mate Challenge Prison Housing Erin Dejesus | |
|---|-----|
| New Case: 03-1160 Smith v. City of Jackson | 168 |
| Synopsis and Question Presented | 170 |
| Supreme Court to Consider Role of Intent in Age Bias Linda Greenhouse | 177 |
| Being Unfair to the Gray-Haired Marshall H. Tanick | 179 |
| Age Bias Lawsuits Likely to Skyrocket George Brandon | 181 |
| Age Discrimination Hard to Prove, But Suits Likely to Grow Dave Carpenter | 183 |
| New Case: 03-1395 Tenet v. Doe | |
| Synopsis and Question Presented | 185 |
| Court to Review Spies' Right to Sue CIA Over Broken Vow Walter Pincus | 193 |
| Lawsuit Could Affect Spy Recruitment Mike Carter | 195 |
| Suspicious Behavior: The Ninth Circuit Lets Ex-Spies Sue the CIA Robert Pambianco | 197 |
| Local Couple Sues, Says CIA Didn't Keep Cold War Promises Mike Carter | 199 |
| New Case: 03-9659 Miller-El v. Dretke | |
| Synopsis and Question Presented | 201 |
| Death Row Inmate Back at High Court: Is 5 th Circuit Defying a Supreme Court Ruling? Marcia Coyle | 209 |
| Batson Strikes Out in Miller-El Habeas Appeal John Council | 210 |

| | Death Row Inmate Loses Appeal Claiming Racism Thomas Korosec | 214 |
|-----|--|------------|
| | High Court Revisits Racial Bias in Jury Selection Warren Richey | 215 |
| | High Court Rules Inmate Deserves His Bias Hearing Charles Lane | 218 |
| IV. | INTERNATIONAL LAW | |
| | Use of Foreign Law in Domestic Jurisprudence | |
| | Opening Argument: Should Foreign Law Be Used to Interpret Our Constitution? Stuart Taylor, Jr. | 222 |
| | Don't Gag U.S. Courts Martha F. Davis | 225 |
| | Thinking Outside the U.S. Charles Lane | 227 |
| | Foreign Exchange: Should the Supreme Court Care What Other Countries Think? Tim Wu | 229 |
| | Courting the World: U.S. Judges Must Overcome a Culture of Legal Isolationism— Or Risk Being Left Behind Anne-Marie Slaughter | 232 |
| | Judicial Interpretation of the Law Based on Foreign Precedents Statements to House Judiciary Subcommittee on Constitution John O. McGinnis Vicki C. Jackson | 234 237 |
| | Remarks for the American Constitutional Society. Looking Beyond Our Borders: The Value of a Comparative Perspective in Constitutional Adjudication Justice Ruth Bader Ginsburg | 240 |
| | We Promised the World; Now President Bush Should Honor Our Treaty Obligations to Foreigners in U.S. Courts Stuart Taylor, Jr. | 242 |
| | | |

The Alien Tort Claims Act

| | Sosa v. Alvarez-Machain, United States v. Alvarez-Machain | 247 |
|----|---|-----|
| | Human Rights Abuses Worldwide Are Held to Fall under U.S. Courts Linda Greenhouse | 255 |
| | The Court of Last Resort Arlen Specter | 258 |
| | Playing the Security Card David Cole | 259 |
| | Justices Open Door with Alien Tort Case; What Kind of Claims Remain is Contested Marcia Coyle | 261 |
| V. | CRIMINAL PROCEDURE | |
| | New Case: 04-104 U.S. v. Booker | |
| | Synopsis and Question Presented | 268 |
| | Transcript of Sentencing Hearing in U.S. v. Fanfan (04-105) | 273 |
| | Justices Agree to Consider Sentencing Lyle Denniston | 275 |
| | Justices, in Bitter 5-4 Split, Raise Doubts on Sentencing Guidelines Linda Greenhouse | 277 |
| | High Court Ruling Sows Confusion Joan Biskupic | 280 |
| | Long Term in Drug Case Fuels Debate on Sentencing Adam Liptak | 283 |
| | Justice By the Numbers Joan Biskupic and Mary Pat Flaherty | 286 |
| | New Case: 03-923 Illinois v. Caballes | |
| | Synopsis and Question Presented | 292 |

| High Court Takes Police-Dog Case Joan Biskupic | 297 |
|---|-----|
| Supreme Court to Hear La Salle County Drug Case Tom Collins | 299 |
| An Officer's Best Buddy Adriana Mateus | 301 |
| New Case: 03-674 Jama v. INS | |
| Synopsis and Question Presented | 304 |
| New Case: 03-583 Leocal v. Ashcroft | |
| Synopsis and Question Presented | 310 |
| Supreme Court Roundup: Justices Agree to Hear Two Deportation Cases Linda Greenhouse | 312 |
| Miami-Dade Case Goes to High Court Lisa Arthur | 314 |
| Immigration Case Creates Legal Stir Todd Nelson | 315 |
| U.S. Gains Strength On Deportations: Supreme Court Says Legal Aliens Who Commit Certain Crimes Can Be Held Before Hearing on Removal Tony Mauro | 317 |
| New Case: 03-931 Florida v. Nixon | |
| Synopsis and Question Presented | 319 |
| Man Gets New Trial in '84 Killing: Court Says Nixon Did Not Agree to Defense Strategy James L. Rosica | 327 |
| High Court to Review Slaying; Tallahassee case Tests Rules for Defense Lawyers Tallahassee Democrat Staff | 329 |
| The Defense Wishes to Rest: Lawyers Avoid 'Hassle' of Death Penalty Stephanie Saul | 330 |
| New Trial Revives Old Nightmares: Court's Decision Shocks Jurors from 1985 Case James L. Rosica | 332 |

| New Case: 03-08/8 Crawford v. Martinez | |
|--|-----|
| Synopsis and Question Presented | 334 |
| New Case: 03-7434 Benitez v. Wallis | |
| Synopsis and Question Presented | 335 |
| High Court to Decide Fate of Refugee; Daniel Benitez, a Mariel Refugee in Indefinite Detention, Wants the U.S. Supreme Court To Order His Release Alfonso Chardy | 339 |
| High Court to Consider Detention Case; Justices to Decide if U.S. Can Indefinitely Imprison Illegal Immigrants Charles Lane | 342 |
| Mariel Felons Remain Stuck in Legal Limbo Alfonso Chardy | 344 |
| New Case: 03-1039 Goughnour v. Payton | |
| Synopsis and Question Presented | 347 |
| California Death Penalty Law at Issue David G. Savage | 354 |
| Legal Pingpong and a Condemned Man Jerry Hicks | 355 |
| En Banc Ninth Circuit Again Orders New Death Penalty Trial for Killer MetNews Staff Writer | 359 |
| With a 6-5 Split, Ninth Circuit Treads Familiar Ground Jason Hoppin | 361 |
| FEDERALISM | |
| New Cases: 03-1116 Granholm v. Heald | |
| Synopsis and Question Presented | 365 |
| New Case: 03-1274 Swedenburg v. Kelly | |
| Synopsis and Question Presented | 372 |

VI.

| Justices to Review Issue of Shipping Alcohol Interstate Robert S. Greenberger | 380 |
|---|------|
| Top court to rule on winery shipping; Small vintners seek end to ban on direct out-of-state sales | |
| Carol Emert | 381 |
| Justices Step Into Interstate Wine Rift Linda Greenhouse | 384 |
| The Wine Shipping News | |
| David Shaw | 386 |
| Time to Sober Up; The Constitution does let states stop cross-border alcohol sales | |
| Brannon P. Denning | 388 |
| New Case: 03-1454 Ashcroft v. Raich | |
| Synopsis and Question Presented | 391 |
| Medical Marijuana to Get Justices' Review | 400 |
| David G. Savage | 400 |
| Court will hear medical pot appeal; U.S. seeking to overturn state law upheld by appeals court | |
| Bob Egelko, Patrick Hoge | 402 |
| Justice Set Back Use of Marijuana to Treat Sickness | 40.4 |
| Linda Greenhouse | 404 |
| Voters Approve Measure to Use Pot as Medicine John Balzar | 406 |
| New Case: 03-388 Bates v. Dow Agrosciences | |
| Synopsis and Question Presented | 409 |
| Supreme Court to consider FIFRA tort preemption | |
| Maureen Conley | 415 |
| The Supreme Court Term That Was and the One That Will Be Michael S. Greve | 417 |

The Rehnquist Court Federalism Revival: A Status Report

| | Pulling Its Punches; The Court took on big issues but rendered few big decisions Tony Mauro | 420 |
|------|--|-----|
| | The Court's Faux Federalism Ramesh Ponnuru | 422 |
| | What Brown Teaches Us About the Rehnquist Court's Federalism Revival Neal Devins | 426 |
| | He'll Look Better When He's Gone Simon Lazarus | 428 |
| | Steady Rationale at Court Despite Apparent Bend Linda Greenhouse | 431 |
| | The Supreme Court v. Balance of Powers Larry D. Kramer | 434 |
| VII. | BUSINESS LAW | |
| | New Case: 03-0184 Ballard v. CIR | |
| | Synopsis and Question Presented | 439 |
| | New Case: 03-1034 Kanter v. CIR | 444 |
| | Tax Court Secrecy Under Fire at High Court Justices Must Decide Whether to Take Up Case That Centers Around Tax Court Reporters Currently Kept Under Wraps | |
| | Marcia Coyle | 449 |
| | Justices to Review Tax Court Secrecy; At Issue is Whether Taxpayers in Big Disputes Are Getting Fair Trials When Legal Findings Are Kept From Them Associated Press | 453 |
| | New Case: 03-0932 Dura Pharmaceuticals v. Broudo | |
| | Synopsis and Question Presented | 454 |
| | Supreme Court Ruling Could Hit Fraud Lawsuit Claims Adrian Michaels | 460 |
| | Wall Street Holds its Breath Over Ruling: A Case Linked to an Asthma Device Could Settle the Issue of Loss Causation, Which Has Divided US Courts Since 1995 Jonathan Birchall | 461 |

| Corporate Securities: Causation and Analysis John C. Coffee | 463 |
|---|-----|
| New Case: 03-0377 Koons Buick v. Nigh | |
| Synopsis and Question Presented | 467 |
| In re: Michael B. Price; Christine R. Price, Debtors/Appellants v. Delaware State Police Federal Credit Union, U.S. Trustee, 370 F.3d 362 (3d Cir. 2004) | 476 |
| High Court to Consider on Caps on Penalties Set by Lending Act Robert S. Greenberger | 477 |
| Seeking Truth in Car Loans Associated Press | 478 |
| Tricks Add Plenty to Car Costs Robert K. Heady | 479 |
| New Case: 03-1164 Veneman v. Livestock Marketing/ 03-1165 Nebraska Cattlemen v. Livestock Marketing | |
| Synopsis and Question Presented | 481 |
| Where's the Beef? Heading for the Supreme Court Linda Greenhouse | 489 |
| Judge Rules Against Fees for Beef Marketing Courts: Government is Ordered to Stop Collecting Funds From Farmers for Research and Promotion Campaigns Bloomberg News | 490 |
| Sizzle, Steak and Lawsuits; Supreme Court to Hear California Beef Ad Case With Wide Implications Tom Abate | 491 |
| U.S. Court Rejects Mandatory Levy on Dairy Farmers Scott Kilman | 493 |
| Looking Ahead: Prometheus Radio Project v. Federal Communications Commission | 1 |
| Synopsis and Question Presented | 494 |
| Court Backs Cross-Ownership Ban James P. Miller | 500 |

| | Sallie Hoffmeister | 501 |
|-------|--|------------|
| | Powell Calls Rejection of Media Rules a Disappointment Frank Ahrens | 503 |
| | Rewriting the Rules; FCC Relaxes Limits on Media Ownership Edmund Sanders and Jube Shiver Jr. | 506 |
| | Senate Votes to Block FCC Media Rules Frank Ahrens | 511 |
| | Looking Ahead: Punitive Damages; State Farm Insurance v. Campbell | |
| | Insurers Urge U.S. Supreme Court to Change Utah Ruling in Landmark Punitive Damages Case | 514 |
| | Justices Limit Punitive Damages in Victory for Tort Revision Linda Greenhouse | 515 |
| | High Court Orders New Look at Punitive Award; Philip Morris Had Faced \$79.5 Million Judgment Edward Walsh | 517 |
| VIII. | LOOKING AHEAD | |
| | Looking Ahead: The Ten Commandments; Van Orden v. Perry | |
| | Synopsis and Question Presented | 523 |
| | Looking Ahead: The Ten Commandments; Johnson v. Baker | |
| | Synopsis and Question Presented | 528 |
| | A Most Unusual Lawyer; A Homeless Man with Psychological Scars is Challenging Texas Over a Ten Commandments Statute. The Supreme Court May Take His Case. Scott Gold | 532 |
| | | <i>332</i> |
| | Two Tablets May Renew A High Court Headache; Disputes in Alabama, Other States Prompt Call For Supreme Court to Issue Definitive Ruling Manuel Roig-Franzia | 537 |
| | Federal Appeals Court Rules Against Ky. Ten Commandments Display | 540 |

| Turmoil In Adams County: Religious Displays Taken From Schools Randy Ludlow | 542 |
|--|---------|
| Debate Lingers As Monument is Removed From View; Commandments Display Put in Storage in Ala. Courthouse Alan Cooperman & Manuel Roig-Franzia | 545 |
| Alabama Justice's Ouster Upheld in Ten Commandments Case Ariel Hart | 547 |
| Looking Ahead: Felony Voting Rights; Muntaqim v. Coombe | |
| Synopsis and Question Presented | 548 |
| Disenfranchised Without Recourse? Gary Young | 553 |
| Felony Disenfranchisement Laws in the United States The Sentencing Project | 555 |
| Once a Felon, Never a Voter? Megan Twohey | 558 |
| Votes For Felons John J. Miller | 562 |
| Restoring Felons' Voting Rights A Heated Election-Year Issue in Florida Chicago Tribune Staff | 565 |
| Looking Ahead: Freedom of Religion for Prison Inmates; Bass v. Madison | |
| Synopsis and Question Presented | 568 |
| Zoning Gets Religious David L. Hudson, Jr. | 575 |
| Lawsuit May Force Change in Prison Ban on Beards Richard Fausset | 577 |
| Joint Statement of Senator Hatch and Senator Kennedy on the Religious Land U Institutionalized Persons Act of 2000 | Ise and |
| Congressional Record (S6687-S6689) | 580 |

| The Law of Prisons: In the Belly of the Whale: Religious Practice in Prison | 583 |
|--|-----|
| Federalism and Federal Spending: Why RLUIPA is Unconstitutional Gregory S. Walston | 587 |
| Looking Ahead: Internet Piracy and User Privacy; Recording Industry of America v. Verizon | |
| Synopsis and Question Presented | 589 |
| Recording Industry Curbed on Music Suits Jonathan Krim and Frank Ahrens | 594 |
| Music Industry's Move Against Swappers Hits a Snag Just as Impact Takes Hold Ethan Smith | 597 |
| Piracy Has Its Hooks In Edna Gundersen | 600 |
| Music Industry Spins Falsehood Janis Ian | 605 |
| Looking Ahead: Oregon Death with Dignity Act; Oregon v. Ashcroft | |
| Synopsis and Question Presented | 607 |
| Ashcroft Attacks Oregon's Suicide Law Josh Meyer and Kim Murphy | 615 |
| Court Rejects Ashcroft; Backs Suicide Law Henry Weinstein | 618 |
| Euthanizing the CSA Wesley J. Smith | 621 |
| In Oregon, Choosing Death Over Suffering John Schwartz and James Estrin | 623 |
| Suicidal Folly Jonathan H. Adler | 626 |
| Why Ashcroft is Wrong on Assisted Suicide Nelson Lund | 629 |

Looking Ahead: The Defense of Marriage Act Law Backing Two-Sex Marriage Is Upheld by Federal Judge 631 Adam Liptak Marriage Act Is Upheld In Pair's Bankruptcy Maureen O'Hagan 633 Bush Has the Wrong Remedy to Court-Imposed Gay Marriage Stuart Taylor, Jr. 635 Supreme Court Paved Way for Marriage Ruling With Sodomy Law Decision Linda Greenhouse 638 States' Recognition of Same-Sex Unions May Be Tested Charles Lane 640 Leave Marriage to the States Bob Barr 642 Looking Ahead: Federal Ban on Partial Birth Abortion; Court Rules That Governments Can't Outlaw Type of Abortion 644 Linda Greenhouse Senate Passes Ban on Abortion Procedure; Bush Set to Sign Bill; Foes Plan Court Fight Helen Dewar 647 Partial-birth Ban Debated in Court 649 Amy Fagan Next on Abortion: Supreme Collision Simon Lazarus 651 U.S. Judge in San Francisco Strikes Down Federal Law Banning Form of Abortion 654 Adam Liptak U.S. Court in New York Rejects Partial-Birth Abortion Ban 657 Julia Preston **MISCELLANEOUS**

Also This Term: Other Cases from the 2003-2004 Term

IX.

| Synopses and Questions Presented | 660 |
|--|-----|
| Reflections at the End of the 2003-2004 Term | |
| The Year Rehnquist May Have Lost His Court Linda Greenhouse | 673 |
| All Hail the Supreme Court; The Nine Justices Agree That They Know What Is Best Stuart Taylor, Jr. | 677 |
| Off the Bench Dahlia Lithwick | 680 |
| O'Connor Not Confined by Conservatism Joan Biskupic | 682 |