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The Institute of Bill of Rights Law: Summer 2001 Report

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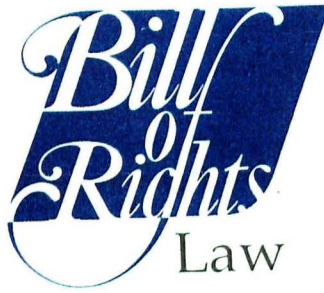
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The Institute of



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The Institute of Bill of Rights Law **Summer 2001 Report**

For almost two decades, the Institute of Bill of Rights Law at the William and Mary School of Law has sought to improve scholarly and popular understanding of our Bill of Rights.

The Institute of Bill of Rights Law carries out its mission in a variety of ways, including conferences on both scholarly and popular topics, parliamentary-style debates and public lectures, a prize-winning book series, a scholarly journal, and an endowed visiting professorship. The Institute also coordinates an extensive visitor program that brings many leading jurists, scholars, lawyers, and journalists to the William and Mary campus to discuss important issues that pertain to our Bill of Rights. The C-Span television network frequently broadcasts Institute programs and conferences to a national audience.

Supreme Court Preview

The Institute marks the commencement of the new term of the United States Supreme Court each fall with its Supreme Court Preview conference. Now in its 14th year, the Supreme Court Preview brings together leading Supreme Court journalists and legal scholars for a day and a half to discuss and analyze the Court's upcoming term.

Numerous journalists have provided commentary on the Court's pending cases at the Supreme Court Preview, including Charles Bierbauer (*CNN*), Joan Biskupic (*USA Today*), Richard Carelli (*Associated Press*), Lyle Denniston (*Boston Globe*), Linda Greenhouse (*New York Times*), Tony Mauro (*Legal Times*), and David Savage (*Los Angeles Times*). Distinguished legal scholars have also participated, including Akhil Amar (Yale), Steve Calabresi (Northwestern), Erwin Chemerinsky (Southern California), David Cole (Georgetown), Walter Dellinger (Duke), Susan Herman (Brooklyn), Marci Hamilton (Cardozo), Sam Issacharoff (Columbia), Dan Kahan (Yale), Tracey Maclin (Boston University), Robert Schapiro (Emory), Suzanna Sherry (Vanderbilt), Steve Wermiel (American), and William Stuntz (Harvard).

The Supreme Court Preview, typically broadcast in its entirety by C-Span, is attended each year by journalists, editorial writers, television news commentators, academics, students, and lawyers from throughout the country. The Supreme Court Preview is among the most highly visible activities of the Institute.

Scholarly Conferences

Each year, the Institute hosts two or three scholarly conferences. Leading legal scholars and jurists present papers or provide commentary on a topic of important scholarly interest.

During the past year, speakers included Jack Balkin (Yale), Stephen Breyer (U.S. Supreme Court), Erwin Chemerinsky (Southern California), Christopher Eisgruber (New York University), Michael Hawkins (U.S. Court of Appeals for the Ninth Circuit), Michael Klarman (University of Virginia), Diana Motz (U.S. Court of Appeals for the Fourth Circuit), Stephen Presser (Northwestern), Jack Rakove (Stanford), David Strauss (Chicago), and William Van Alstyne (Duke).

Participants publish their papers in a symposium issue of either the *William and Mary Bill of Rights Journal* or the *William and Mary Law Review*. During the past two years, we have hosted five such scholarly conferences:

- The Legacy of Chief Justice John Marshall (March 2001)
- The History of Free Speech (January 2001)
- The Federal Appointments Process (November 2000)
- Religion and the Administration of the Death Penalty (April 2000)
- Religion in the Public Square (March 2000)

During the upcoming academic year, we will host three additional scholarly conferences. The *William and Mary Bill of Rights Journal* and the *William and Mary Law Review* will publish the papers from these conferences:

- Disability and Identity (October 2001)
- Rule of Law in China (February 2002)
- The Relationship Rights of Children (March 2002)

Popular Conferences

The Institute also hosts each year one or two conferences on a controversial legal or political issue. The purpose of these conferences is to bring together public figures from a wide variety of political perspectives to discuss and shed light on issues of great popular concern.

Speakers at recent conferences have included Lanny Breuer (Deputy White House Counsel), Greg Craig (Special Impeachment Counsel to President Clinton), Thomas Griffith (Counsel to the United States Senate), Reverend Pat Robertson (President, Christian Broadcasting Network), Congressman Robert Scott (D-VA), Nadine Strossen (President, ACLU), and the directors of various public interest legal organizations -- both liberal and conservative. During the past two years, we have hosted three such conferences:

Racial Profiling (February 2001)

Religion in the Public Schools (February 2000)

The Impeachment of President Clinton (October 1999)

Public Policy Task Forces

The Institute on occasion sponsors a blue-ribbon task force that examines an issue of great public concern and makes legislative recommendations. A few years ago, the Institute sponsored a task force examining the issue of drug testing in the workplace. A distinguished committee of lawyers representing both management and labor as well as legal scholars analyzed the issue and drafted proposed legislation. This report helped shape subsequent debate on this issue.

The Institute has begun development of a task force to examine the issue of the privacy of children in the face of extraordinary technological advances, such as the internet and wireless technology. This task force will analyze the various legal and cultural issues that arise out of the development of these new technologies, as they affect children, and will make recommendations for legislative solutions.

Public Debates

Recognizing the value of spirited intellectual exchange, the Institute sponsors parliamentary-style debates on important issues of the day. Experts from each side of a contentious issue debate one another before a lively audience at the law school. Recent debaters have included Paul Blackman (Legislative Director, National Rifle Association); Clint Bolick (Director of Litigation, Institute for Justice); Dennis Henigan (Executive Director, Center to Prevent Handgun Violence); and Elliot Minberg (Legal and Education Policy Director, People for the American Way). During the past two years, we have held four such debates:

Should the Electoral College Be Abolished? (November 2000)

Are Gun Manufacturer Tort Suits an Effective and Legitimate Means of Controlling Handgun Violence? (March 2000)

Should We Interpret the Constitution According to the Understanding of the Framers? (November 1999)

Should the Government Provide Vouchers for Private Schools? (October 1999)

Jurists in Residence

The Institute occasionally invites distinguished jurists to spend a day or two in residence at the law school to meet with students and faculty. During the past year, the following jurists visited William and Mary:

Stephen Breyer, Associate Justice of the United States Supreme Court (November 2000)
William Rehnquist, Chief Justice of the United States Supreme Court (October 2000)

As part of their visits to William and Mary, both Chief Justice Rehnquist and Justice Breyer delivered remarks that C-Span broadcast to a national audience.

Scholars in Residence

Each year, the Institute brings several distinguished scholars to William and Mary. These scholars present their work through public lectures and conversations with small groups of students and faculty. During the past year, the following scholars visited William and Mary for a full day of meetings and presentations as part of the Institute's scholar-in-residence program:

Chai Feldblum, Georgetown Law Center (April 2001)
Paul Rishworth, University of Auckland (New Zealand) School of Law (March 2001)
Michael Curtis, Wake Forest School of Law (January 2001)
Elizabeth Loftus, University of Washington, Department of Psychology
(November 2000)
Scott Sunby, Washington and Lee School of Law (September 2000)
William Stuntz, Harvard Law School (September 2000)

Practitioners in Residence

The Institute invites lawyers who engage Bill of Rights or human rights issues as part of their law practice to spend a day at the law school to discuss their work with students and faculty. During the past year, we hosted two practitioners as part of this program:

Charles Ehrlich, Claims Resolution Tribunal (charged with adjudicating property claims arising out of Nazi-era dislocations), Zurich, Switzerland
(November 2000)
George Castelle, Public Defender, Charleston, West Virginia (November 2000)

Journalists in Residence

Because of its special concern with issues of freedom of the press, on occasion the Institute hosts a distinguished journalist who meets with both students and faculty. Last year's visitor was David Broder of the *Washington Post*.

Lee Visiting Professor

The Institute frequently invites a scholar of national stature in the field of constitutional law to serve as a distinguished visiting professor at William and Mary. The Lee Visiting Professor teaches at the law school for either a semester or full academic year and participates in the events and scholarly activities of the Institute. Past Lee Professors have included Vince Blasi (Columbia), Kent Greenawalt (Columbia), Sheri Johnson (Cornell), Yale Kamisar (University of Michigan), Michael Klarman (University of Virginia), John McGinnis (Cardozo), John Nowak (University of Illinois), David Rabban (University of Texas), Steve Wermiel (*Wall Street Journal*), and Diane Zimmerman (New York University). William Van Alstyne of Duke Law School will serve as our Lee Visiting Professor during the coming academic year.

Constitutional Conflicts Book Series

The Institute, in conjunction with Duke University Press, publishes a *Constitutional Conflicts* book series. One of the series' books, Rodney Smolla's *A Year in the Life of the Supreme Court*, won the American Bar Association's Silver Gavel Award in 1995, and another, Michael Curtis's *Free Speech, "The People's Darling Privilege": Struggles for Freedom of Expression in American History*, won a prize as the best book published in 2000 on freedom of speech. Professor Neal Devins serves as the Series Editor.

The series published three new books during the 2000-2001 academic year and two more books are scheduled for publication during the coming year.

William and Mary Bill of Rights Journal

The Institute publishes its own scholarly journal, the *William and Mary Bill of Rights Journal*, which has become one of the nation's leading law reviews devoted exclusively to constitutional law issues. Three years ago, the *Journal*, which is edited by William and Mary law students, expanded its publication schedule from two to three issues per year. In a recent evaluation of 285 specialized law reviews in the United States, the *William and Mary Bill of Rights Journal* ranked seventh.

Student Division

The Institute sponsors a Student Division which helps to coordinate the Institute's various activities. The Student Division, a highly valued component of student life at the law school, organizes its own annual conference devoted to the examination of a cutting-edge constitutional issue of significant public interest. The Student Division also brings speakers to the law school to make public presentations and to discuss their work with small groups of students.

Public Education

Pursuant to its goal of improving popular understanding of the Bill of Rights, the Institute engages in various public education efforts. The Institute operates a "Bill of Rights Education Project" in which William and Mary law students visit local high schools and teach a multi-week course on the Bill of Rights.

The Institute also works with William and Mary's public information office to help make law professors available to the print and broadcast media to discuss contemporary legal and political issues that relate to the Bill of Rights.