

H A R V A R D  
L A W R E V I E W

**ARTICLES**

EQUAL PROTECTION  
AND DISPARATE IMPACT:  
ROUND THREE

*Richard A. Primus*

DELAWARE'S COMPETITION

*Mark J. Roe*

**BOOK REVIEW**

THE NOT-SO-BRAVE  
NEW CONSTITUTIONAL ORDER

*L.A. Powe, Jr.*

**NOTE**

The Price of Everything, the Value of Nothing:  
Reframing the Commodification Debate

**BOOK NOTE**

**RECENT CASES**

**RECENT LEGISLATION**

**RECENT PUBLICATIONS**

Copyright © 2003 by

THE HARVARD LAW REVIEW ASSOCIATION

HARVARD LAW REVIEW

© 2003 by The Harvard Law Review Association

CONTENTS

ARTICLES

Equal Protection  
and Disparate Impact:  
Round Three..... *Richard A. Primus*..... 493

Delaware's Competition..... *Mark J. Roe*..... 588

BOOK REVIEW

The Not-So-Brave  
New Constitutional Order..... *L.A. Powe, Jr.*..... 647

NOTE

The Price of Everything, the Value of Nothing:  
Reframing the Commodification Debate..... 689

BOOK NOTE

Murder, He Wrote ..... 711

RECENT CASES

Appellate Procedure —  
Force of Circuit Precedent —  
Ninth Circuit Holds That  
Three-Judge Panels May  
Declare Prior Cases Overruled  
When Intervening Supreme Court  
Precedent Undercuts the Theory of  
Earlier Decisions. — *Miller v. Gammie*,  
335 F.3d 889 (9th Cir. 2003) (en banc)..... 719

CONTENTS

Civil Rights —

- Americans with Disabilities Act —  
Ninth Circuit Holds That  
Movie Theaters Must Provide  
Comparable Viewing Angles  
for Patrons in Wheelchairs.  
— *Oregon Paralyzed Veterans  
of America v. Regal Cinemas, Inc.*,  
339 F.3d 1126 (9th Cir. 2003) ..... 727

Federal Courts —

- Civil Rights Litigation —  
Ninth Circuit Holds That  
an Administrative Regulation  
Can Never Create an  
Individual Federal Right  
Enforceable Through § 1983. —  
*Save Our Valley v. Sound Transit*,  
335 F.3d 932 (9th Cir. 2003) ..... 735

International Law —

- Foreign Sovereign Immunities  
Act — D.C. Circuit Holds That  
an International Agreement Bars  
Former Hostages' Suit Against  
Iran, Despite Legislation Aimed  
at Aiding the Suit. — *Roeder v.  
Islamic Republic of Iran*,  
333 F.3d 228 (D.C. Cir. 2003) ..... 743

RECENT LEGISLATION

Criminal Law —

- Federal Sentencing Guidelines —  
Congress Amends the Sentencing  
Guidelines in an Attempt  
To Reduce Disparities. —  
Prosecutorial Remedies and Other  
Tools To End the Exploitation of  
Children Today (PROTECT) Act,  
Pub. L. No. 108-21, 117 Stat. 650  
(2003) (codified in scattered  
sections of 18, 28, and 42 U.S.C.) ..... 751

RECENT PUBLICATIONS ..... 759