

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

IN MEMORIAM: WILLIAM H. REHNQUIST

Chief Justice John G. Roberts, Jr.

Justice Sandra Day O'Connor

Justice Ruth Bader Ginsburg

R. Ted Cruz

James C. Duff

David G. Leitch

Maureen E. Mahoney

THE SUPREME COURT, 2004 TERM

FOREWORD:

A POLITICAL COURT

Judge Richard A. Posner

COMMENT:

THE DEBATE OVER FOREIGN LAW IN
ROPER V. SIMMONS

CONSTITUTIONAL COMPARISONS:
CONVERGENCE, RESISTANCE, ENGAGEMENT

Vicki C. Jackson

FOREIGN LAW AND THE
MODERN *IUS GENTIUM*

Jeremy Waldron

FOREIGN LAW AND THE
DENOMINATOR PROBLEM

Ernest A. Young

LEADING CASES

THE STATISTICS

Copyright © 2005 by

THE HARVARD LAW REVIEW ASSOCIATION

INDEX	✓
VOICES	
E. L. ...	

VOLUME 119

NOVEMBER 2005

NUMBER 1

HARVARD LAW REVIEW

© 2005 by The Harvard Law Review Association

CONTENTS

IN MEMORIAM: WILLIAM H. REHNQUIST

Chief Justice John G. Roberts, Jr. 1
Justice Sandra Day O'Connor 3
Justice Ruth Bader Ginsburg 6
R. Ted Cruz 10
James C. Duff 16
David G. Leitch 20
Maureen E. Mahoney 25

THE SUPREME COURT, 2004 TERM

Table of Contents 28
Table of Cases 30
Foreword:
 A Political Court *Judge Richard A. Posner* 31
Comment:
 The Debate over Foreign Law in
 Roper v. Simmons 103
Constitutional Comparisons:
 Convergence, Resistance,
 Engagement *Vicki C. Jackson* 109
Foreign Law and the
 Modern *Ius Gentium* *Jeremy Waldron* 129
Foreign Law and the
 Denominator Problem *Ernest A. Young* 148

C O N T E N T S

Leading Cases.....169

I. Constitutional Law.....169

 A. Commerce Clause169

 B. Criminal Law and Procedure179

 C. Due Process208

 D. Equal Protection218

 E. Establishment Clause.....238

 F. Freedom of Association.....268

 G. Freedom of Speech and Expression277

 H. Takings Clause287

 I. Twenty-first Amendment.....307

II. Federal Jurisdiction and Procedure317

 A. Diversity Jurisdiction317

 B. Status of International Law327

III. Federal Statutes and Regulations337

 A. Age Discrimination in Employment Act337

 B. American Indian Statutes347

 C. Civil Rights Act, Title IX.....357

 D. Copyright.....366

 E. Federal Preemption of State Law.....376

 F. Immigration Act.....386

 G. Review of Administrative Action395

 H. Witness Tampering Statute.....404

The Statistics.....415