

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

**ARTICLES**

REVEALING OPTIONS

*Lee Anne Fennell*

TROJAN HORSES OF RACE

*Jerry Kang*

**BOOK REVIEW**

POPULAR? CONSTITUTIONALISM?

*Larry Alexander and  
Lawrence B. Solum*

**NOTES**

Rethinking Retroactivity

The Twenty Dollars Clause

“How Clear Is Clear” in *Chevron*’s Step One?

Speech Exceptions

Effectively Ineffective: The Failure of Courts  
To Address Underfunded Indigent Defense Systems

**RECENT CASES**

**RECENT PUBLICATIONS**

Copyright © 2005 by

THE HARVARD LAW REVIEW ASSOCIATION

HARVARD LAW REVIEW

© 2005 by The Harvard Law Review Association

CONTENTS

Handwritten signature and date: Mar 5 2005

ARTICLES

Revealing Options..... Lee Anne Fennell ..... 1399

Trojan Horses of Race ..... Jerry Kang ..... 1489

BOOK REVIEW

Popular? Constitutionalism? ..... Larry Alexander and Lawrence B. Solum ..... 1594

NOTES

Rethinking Retroactivity ..... 1642

The Twenty Dollars Clause ..... 1665

“How Clear Is Clear” in Chevron’s Step One? ..... 1687

Speech Exceptions..... 1709

Effectively Ineffective: The Failure of Courts To Address Underfunded Indigent Defense Systems..... 1731

RECENT CASES

School Finance —

North Carolina Supreme Court Finds the State in Violation of Its Constitution for Failing To Provide Students an Opportunity To Obtain a Sound Basic Education. — Hoke County Board of Education v. State, 599 S.E.2d 365 (N.C. 2004)..... 1753

CONTENTS

Copyright Law —

Ninth Circuit Holds That Computer  
File-Sharing Software Vendors Are Not Liable  
for Users' Copyright Infringement. — *Metro-  
Goldwyn-Mayer Studios, Inc. v. Grokster Ltd.*,  
380 F.3d 1154 (9th Cir.), *cert. granted*,  
125 S. Ct. 686 (2004)..... 1761

Eminent Domain —

Nongovernmental Takings — Michigan  
Supreme Court Holds That Government Cannot  
Take Land To Develop a Private Office Park. —  
*County of Wayne v. Hathcock*,  
684 N.W.2d 765 (Mich. 2004)..... 1769

Civil Rights —

Americans with Disabilities Act —  
District Court Approves Settlement Requiring  
Movie Theaters To Provide Closed Captioning  
for Deaf and Hard-of-Hearing People. —  
*Ball v. AMC Entertainment, Inc.*,  
315 F. Supp. 2d 120 (D.D.C. 2004)..... 1777

RECENT PUBLICATIONS..... 1785