

Justice Talking Listening Guide
The Future of the Supreme Court
2/13/06

SHOW SUMMARY

With the appointments of Chief Justice John Roberts and Justice Samuel Alito, the Supreme Court is undergoing its most significant change in over a decade. Has the Supreme Court appointment process worked or should it be scrapped? Will the loss of Justice Sandra Day O'Connor affect the law on key issues like executive power, states' rights, abortion and gay rights? Tune in to this edition of Justice Talking as we look at whether a changing court will change the law and the nation.



Michael Comiskey



Michael Gerhardt



Dawn Johnsen



Douglas Kmiec



Joan Biskupic

• Part 1: **Michael Comiskey**, a political science professor at Penn State University and the author of "Seeking Justices: The Judging of Supreme Court Nominees," and **Michael Gerhardt**, a constitutional law professor at the University of North Carolina and the author of "The Federal Appointments Process," debate the Supreme Court nomination process and whether or not it needs an overhaul.

• Part 2: **Dawn Johnsen**, an Indiana University law professor and the former legal director for NARAL, and **Douglas Kmiec**, a constitutional law professor at Pepperdine University, discuss the future of the Supreme Court now that it has a new chief justice, John Roberts.

• Part 3: **Joan Biskupic**, a long-time Supreme Court reporter who currently writes for USA Today and the author of "Sandra Day O'Connor," speaks with Margot about the life and legacy of the Supreme Court's first female justice.



Listen to audio from the Senate Judiciary Committee's nomination hearings for Justice Samuel Alito, including his responses to questions on abortion, the death penalty and executive power, brought to you by National Public Radio.

<http://www.npr.org/template/story/story.php?storyId=5149675>



Host Margot Adler

Margot Adler is a National Public Radio correspondent based in NPR's New York Bureau. Adler has thirty years of experience as a radio host and reporter and is the author of several books. She lives in New York City with her husband and son.

DEFINITION OF TERMS

Stare Decisis – the doctrine that courts should generally follow previous court decisions (precedents) on a legal question. The phrase is Latin for “to stand by things decided.” Reliance on precedent is required of trial courts and appellate courts unless the Supreme Court changes the rule.

States’ Rights – The Tenth Amendment was included in the Bill of Rights to further define the balance of power between the federal government and the states. The amendment says that the federal government has only those powers specifically granted by the Constitution. These powers include the power to declare war, to collect taxes, to regulate interstate business activities and others that are listed in the articles. Any power not listed is left to the states or the people. Although the Tenth Amendment does not specify what these “powers” may be, the U.S. Supreme Court has ruled that laws affecting family relations (such as marriage, divorce, and adoption), commerce that occurs within a state’s own borders, and local law enforcement activities, are among those specifically reserved to the states or the people.

Roe v. Wade - the 1973 landmark United States Supreme Court case that overturned most state laws outlawing or restricting abortion on the basis that they violated the constitutional right to privacy. The ruling has been one of the most controversial in U.S. history and the national debate over whether terminating pregnancies should be legal continues to be a major part of the American political sphere. Many who oppose the ruling believe that a fetus is a living person and therefore abortion is essentially the destruction of human life. Many who support the ruling believe it is necessary to preserve women's equality and the rights of the individual.

DISCUSSION QUESTIONS

1. Do you think the current Supreme Court nomination process is fair? Why are justices appointed for life?
2. Even if the Supreme Court doesn’t directly overturn *Roe v. Wade*, how might it affect abortion rights when it rules on other laws?



Read the opinions of high schools students about what qualifications are most important in the selection of Supreme Court justices on the *Student Voices Speak Out* at <http://student-voices.org/discussions/discussion.php?DiscussionID=401>.