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PRESENT POSITION

Boalt Hall School of Law, University of California at Berkeley Berkeley, CA
Director, International Legal Studies Program, 1999-2000.
Professor of Law. 1999-present.
Acting Professor of Law. 1993-99.

Subjects: Constitutional Law, Public Lawmaking, Foreign Relations Law, Separation of Powers Law, Civil Procedure, International Trade, International Law, International Law & Ethics

Chair, Section on Scholarship, Association of American Law Schools, 2000.
Scholar-in-Residence, George Washington University Law School, 1998-99
John M. Olin Foundation Faculty Fellow, 1998-99 (research grant on foreign affairs law)
Visiting Professor, Free University of Amsterdam, 1998
Junior Faculty Research Grant, University of California, Berkeley, 1997-98
Salvatori Fellowship, Heritage Foundation, Washington, D.C., 1997
American-German Young Leader, American Council on Germany, 1997

PREVIOUS POSITIONS

Committee on the Judiciary, U.S. Senate Washington, D.C.
General Counsel. 1995-1996.

Justice Clarence Thomas Washington, D.C.
Law Clerk. U.S. Supreme Court. 1994-95.

Judge Laurence H. Silberman Washington, D.C.
Law Clerk. U.S. Court of Appeals for the D.C. Circuit. 1992-93.

Other Positions

Covington & Burling, Washington, D.C., Summer 1991
Skadden, Arps, Slate, Meagher & Flom, Boston MA, Summer 1991
Dechert, Price & Rhoads, Philadelphia, PA, Summer, 1990
The White House, Washington, D.C., Summer 1990,
The Wall Street Journal, Washington, D.C., Reporter. Summer 1989.
The Boston Globe, Boston, MA, Reporter. Summer 1988.

PROFESSIONAL ORGANIZATIONS

Bar of the Commonwealth of Pennsylvania

Bar of the U.S. Court of Appeals for the Ninth Circuit
Society for Historians of American Foreign Relations
Federalist Society

PROFESSIONAL ACTIVITIES

Elected Director, Harvard Alumni Association
Consultant, Committee on the Judiciary, U.S. Senate
Term Member, Council on Foreign Relations
Board of Editors, *Berkeley Journal of International Law*
Board of Editors, *Asian Law Journal*

Counsel of Record, California State Board of Education, *Ho v. San Francisco Unified School Dist.*

Counsel of Record, Amici Law Professors & Students, *Coalition for Economic Equity v. Wilson*
Counsel for a variety of private clients in state and federal courts.

EDUCATION

Yale Law School New Haven, CT
J.D., 1992

Articles Editor, *Yale Law Journal*
Teaching Assistant, Civil Procedure I (Prof. Harold Koh)
Research Assistant for Professor Stephen Carter
Yale Univ. Advisory Committee on Investor Responsibility

Harvard University Cambridge, MA
A.B., *summa cum laude*, History, 1989
Department of History Prize, Washburn Prize, Detur Prize, Phi Beta Kappa, Harvard Scholarship
Deputy Editorial Chairman, *The Harvard Crimson*

PUBLICATIONS

24. *Congress and the Judiciary's Equitable Powers*, in *The Imperial Judiciary* (Christopher Wolfe, ed., forthcoming 2000).

23. *The States and Judicial Review* in *FEDERALISM* (Daniel B. Rodriguez & Mark Killenbeck, eds., forthcoming 2000).

22. *The Historical Origins of State Sovereign Immunity*, 53 *Stan. L. Rev.* ____ (forthcoming 2001).

21. *U.N. Wars, U.S. War Powers*, 2 *Chicago J. Int'l L.* ____ (forthcoming 2001).

20. *Why Were International Legal Scholars MIA on Kosovo?*, 1 *Chicago J. Int'l L.* 149-57

(2000).

19. *Choosing Justices*, 98 Mich. L. Rev. ____ (forthcoming 2000) (review essay)

18. *Kosovo, War Powers, and the Multilateral Future* 148 U. Pa. L. Rev. 1673-1731 (2000).

17. *Treaties and Public Lawmaking: A Textual and Structural Defense of Non-Self-Execution*, 99 Colum. L. Rev. 2210-2252 (1999)

16. *Globalism and the Constitution: Treaties, Legislative Power, and the Original Understanding*, 99 Colum. L. Rev. 1955-2100 (1999).

15. *Clio at War: The Use and Misuse of History in the War Powers Debate*, 70 U. Colo. L. Rev. 1169-1222 (1999).

14. *Biological and Chemical Weapon Treaties and the Constitution*, in *The New Terror: Facing the Threat of Biological and Chemical Weapons* 269-304 (Sidney Drell et al eds., Hoover Institution Press, 1999).

13. *The First Claim: The Burr Trial, United States v. Nixon, and Presidential Power*, 83 Minn. L. Rev. 1435-79 (1999).

12. *Lawyers in Congress*, 61 L. & Contemporary Problems vol.2 1-19 (1998).

11. *Sounds of Sovereignty: Defining Federalism in the 1990s*, 32 Ind. L. Rev. 27-44 (1998).

10. *Criticizing Judges*, 1 Greenbag 2d 277-287 (1998).

9. *McCulloch v. Maryland as Constitutional Tragedy*, in *Constitutional Stupidities, Constitutional Tragedies* 241 (William N. Eskridge, Jr. & Sanford Levinson eds., New York Univ. Press, 1998)

8. *The New Sovereignty and the Old Constitution: The Chemical Weapons Convention and the Appointments Clause*, 15 Constitutional Commentary 87-130 (1998)

7. *The Judicial Safeguards of Federalism*, 70 S. Cal. L. Rev. 1311-1405 (1997)

6. *Federal Courts as Weapons of Foreign Policy: The Case of the Helms-Burton Act*, 20 Hastings Int'l & Comp. L. Rev. 747-76 (1997)

5. *Who Measures the Chancellor's Foot?: The Inherent Remedial Powers of the Federal Courts*, 84 Cal. L. Rev. 1121-1177 (1996)

4. *The Continuation of Politics by Other Means: The Original Understanding of War Powers*, 84

Cal. L. Rev. 167-305 (1996)

3. *Our Declaratory Ninth Amendment*, 42 Emory L.J. 967-1043 (1993)

2. *Dollar Diplomacy/Dollar Defense: The Fabric of Economics and National Security Law*, 26 Int'l Law. 715 (1992) (with Harold Koh)

1. *Marshall's Plan: The Early Supreme Court and Statutory Interpretation*, 101 Yale L.J. 1607 (1992)

OTHER PUBLICATIONS

Seattle and Sovereignty, The Wall Street Journal, Dec. 6, 1999.

The Supreme Court Rediscovered an Old Clause, The Wall Street Journal, May 24, 1999

War Powers: Where Have All the Liberals Gone?, The Wall Street Journal, March 15, 1999

A Subpoenaed President, The Wall Street Journal, July 20, 1998

When Desegregation Turns into Discrimination, The Wall Street Journal, May 26, 1998

A Privileged Executive?, The Wall Street Journal, March 2, 1998.

First, Uphold the Law, The New York Times, Nov. 13, 1997.

John Huang's Immunity Ploy, The Wall Street Journal, July 16, 1997.

How Congress's Subpoena Power Works, The Wall Street Journal, May 28, 1997.

The Chemical Weapons Treaty is Unconstitutional, The Wall Street Journal, April 16, 1997.

The Independent Counsel, in Encyclopedia of the American Constitution (Leonard Levy et al. eds., forthcoming 1999).

Judicial Review and Federalism, 22 Harv. J. L. & Pub. Pol'y 197 (1998).

Editor's Notes, *Alberico Gentili's De Legationibus Libri Tres* (1594 edition, republished by Legal Classics Library 1997)

Editor's Notes, *William Whiting's War Powers Under the Constitution of the United States* (1864, republished by Legal Classics Library 1997)

TALKS/PRESENTATIONS

The Relevance of Foreign Judicial Decisions, Conference on Supreme Courts, Harvard Law School, Cambridge, MA (Mar. 2, 2001)

Historical Origins of the Eleventh Amendment, Stanford Law Review Symposium, Stanford Law School, Palo Alto, CA (Feb. 4, 2001)

Empirical Legal Research, Annual Meeting, Association of American Law Schools, San Francisco, CA (Jan. 6, 2001) (panel chair)

Foreign Affairs and the Supreme Court's Renewed Federalism Agenda, Federalism Symposium, Villanova Law School, Villanova, PA (Oct. 28, 2000)

The Constitutionality of Congressional-Executive Agreements, Faculty Workshop, Cardozo School of Law, New York, NY (Oct. 26, 2000)

Federalism and the Rehnquist Court, Appellate Justices Institute, California Judicial Education Program, Monterey, CA (Oct. 4, 2000)

The Imperial Presidency Abroad, Symposium on The Rule of Law in the Wake of Clinton, Cato Institute, Washington, D.C. (July 12, 2000)

Federalism and Judicial Review, University of Montpelier Law School, Montpelier, France (June 10, 2000)

The Constitutionality of Congressional-Executive Agreements, Public Law Workshop, University of Chicago Law School, Chicago, IL (May 18, 2000)

International Law, the Treaty Power, and Domestic Litigation, American Society of International Law, Annual Meeting, Washington, D.C. (April 6, 2000)

U.N. Wars, U.S. War Powers, American Enterprise Institute, Washington, D.C. (April 5, 1999)

Kosovo and Multilateral War Powers, University of Utah School of Law, Salt Lake City, UT (Mar. 23, 2000).

Liberty, Resistance, and the Rule of Law, Liberty Fund Colloquium, New Orleans, LA (Mar. 9-12, 2000)

Globalization and the Constitution, Athenaeum Speakers Series, Claremont-McKenna College, Claremont, CA (Feb. 17, 2000)

Separation of Powers and Foreign Policy, Federalist Society National Lawyers Convention, Washington, D.C. (Nov. 13, 1999) (panel chair)

Ethics and Post-Cold War Humanitarian Intervention: Beyond Realism and Idealism, Department of Political Science, UC Berkeley, Berkeley, CA (Nov. 6, 1999) (panel chair).

Supreme Court 1998 Term, Conference of the U.S. District Court, Northern District of California, Asilomar, CA (Oct. 18, 1999).

The Spirit of the Laws, Robbins Collection, Boalt Hall, (Oct. 15-16, 1999) (panel chair).

The Separation of Powers and the 20th Century, Federal Bar Association, Sacramento, CA (Sept. 25, 1999)

Testimony on H.R. 1082: The Hate Crimes Prevention Act of 1999, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C. (August 4, 1999).

Supreme Court 1998 Term, Federal Judicial Center, Washington, D.C. (July 12, 1999).

Supreme Court 1998 Term, Judicial Conference, U.S. Court of Appeals for the Eighth Circuit, Kansas City, Missouri (July 9, 1999).

Criticizing Judges and Judicial Independence, Judicial Conference, U.S. Court of Appeals for the Eighth Circuit, Kansas City, Missouri (July 8, 1999)

Established Religion and Compelled Speech: Links Between the Framing of the First Amendment of the Constitution and Modern Speech Doctrine, The Robbins Collection in Religious and Civil Law & La V^{ème} Section de l'Ecole Pratique des Hautes Etudes, Sciences Religieuses, La Sorbonne (June 3, 1999).

Supreme Court 1998 Term, National Association of Attorneys General, Boise ID (May 27, 1999)

Regulation of Federal Judicial Appellate Jurisdiction under the Prison Litigation Reform Act, Federal Judicial Center Seminar for Federal Appellate Judges, Stanford Law School, Stanford, CA (April 15, 1999).

Treaties as Public Lawmaking, William and Mary Law School Faculty Colloquium, Williamsburg, VA (March 26, 1999).

Delegating Sovereignty: Constitutional and Legal Implications of US Participation in Treaty Regimes, Center for International Studies, New York University, New York, NY (Feb. 27, 1999) (participant).

Impeachment and the Rule of Law, Federalist Society, University of North Carolina Law School, Charlotte, North Carolina (Feb. 10, 1999).

Clio at War: The Misuse of History in the War Powers Debate, University of Colorado Law Review Symposium, Boulder, CO (Jan. 22, 1999).

The Independent Counsel Statute in the Next Century, Federalist Society Law Scholars Panel, Association of American Law Schools Annual Meeting, New Orleans, LA (Jan. 6, 1998) (panel chair).

Impeachment and the Rule of Law, San Francisco Unified School District Teachers Retreat, San Francisco, CA (Dec. 8, 1998).

Impeachment and President Clinton, Federalist Society Lawyers Chapter, Sacramento, CA (Dec. 7, 1998).

Judicial Independence and Judicial Accountability, 100th Anniversary Symposium, University of Southern California Law School, Los Angeles, CA (Nov. 20, 1998).

Regulation of Biological and Chemical Weapons, Hoover Institution/Stanford University Conference on Biological and Chemical Weapons, Stanford, CA (Nov. 17, 1998).

The Clinton Administration and the Rule of Law, Federalist Society Lawyer's Chapter, Pittsburgh, PA (Nov. 4, 1998).

Presidential Privileges in the Age of Clinton, University of Minnesota Law Review Symposium, University of Minnesota Law School, Minneapolis, MN (Oct. 20, 1998).

Treaties as Public Lawmaking, University of Virginia Law School Faculty Workshop, Charlottesville, VA (Oct. 9, 1998).

Political Participation in the Reformation of State Institutions, American Political Philosophy Association, Symposium on Judicial Imperialism, Washington, D.C. (Oct. 2, 1998).

The October 1997 Supreme Court Term, Judicial Conference of the U.S. Court of Appeals for the Fourth Circuit, White Sulphur Springs, West Virginia (June 27, 1998)

The Law and Politics of the Independent Counsel Statute, Institute for Governmental Studies, University of California at Berkeley, Berkeley, CA (April 22, 1998)

The Senate's Prerogatives in the Judicial Appointments Process, Federalist Society, University of Chicago Law School, Chicago, IL (Apr. 20, 1998).

Sounds of Sovereignty: Federalism in the 1990's, Symposium on “National Power and State Autonomy,” Indiana University Law School, Bloomington, IN (Apr. 17, 1998)

The Original Understanding of the Treaty Power, Berkeley Journal of International Law Symposium, Boalt Hall School of Law, University of California at Berkeley, Berkeley, CA (Apr. 6, 1998)

The Treaty Power, University of San Diego Law School, San Diego, CA (Mar. 16, 1998)

Federalism in the 1990's, Federalist Society Student Symposium, New York University Law School, New York, NY (March 7, 1998)

Are Property Rights an International Human Right?, Federalist Society National Symposium, Practice Group on National Security and International Law, Washington, D.C. (Oct. 17, 1997).

Unilateral Trade Sanctions and the World Trade Organization, Trade with Asia: Legal Challenges for the Next Century, Berkeley Journal of International Law Symposium, Berkeley, CA (Sept. 20, 1997).

The Clash of Civilizations?: The Rule of Law and International Affairs, German-American Young Leaders Conference, American Council on Germany, Hamburg, Germany, (Aug. 25, 1997)

The Original Understanding of the Treaty Power, Society for Historians of American Foreign Relations, Washington, D.C., Annual Meeting (June 22, 1997)

Federal Courts and Equitable Remedies, Hastings College of Law, University of California, San Francisco, CA (March 21, 1997)

The Political Relationship Between the Supreme Court and Congress, Legal Studies Department, University of California at Berkeley, Berkeley, CA (March 19, 1997)

The Judicial Protection of Individual Rights and State Sovereignty, Conference on Privileges and Rights of Citizenship: Law and the Juridical Construction of Civil Society, Robbins Collection, Boalt Hall School of Law, Berkeley, CA (March 14, 1997)

East Timor and International Law, Conference on East Timor, Portuguese Studies Program, University of California at Berkeley, Berkeley, CA (March 1, 1997)

The Political Independence of the Federal Judiciary, testimony before the American Bar Association, Commission on the Separation of Powers and Judicial Independence, San Francisco, CA (February 21, 1997)

The Federal Judiciary and the Senate, Public Law Seminar, Political Science Department, University of California at Berkeley, Berkeley, CA (February 19, 1997)

Helms-Burton and the Use of Federal Courts as Weapons of Foreign Policy, Hastings College of Law, University of California, Symposium on the Helms-Burton Act (January 1997).

McCulloch v. Maryland as a Constitutional Tragedy, Association of American Law Schools, Section on Interpretation, Washington, D.C., Annual Meeting (January 1997)

The Inherent Remedial Power of the Federal Courts, The Heritage Foundation, Washington, D.C., Symposium on Judicial Power (December 1996).

Limits on the Federal Judicial Power, The Federalist Society, Washington, D.C., National Symposium on the Federal Judiciary (November 1996).

School Desegregation and the Federal Judicial Power, Federalist Society, New York University Law School, New York, NY (October, 1996).

The Chemical Weapons Convention and the Limits of American Sovereignty, testimony before the Senate Judiciary Committee, Subcommittee on the Constitution, Washington, D.C. (Sept. 10, 1996).

The Original Understanding of War Powers, The Society for Historians of American Foreign Relations, Boston, MA, Annual Meeting (June, 1994).