

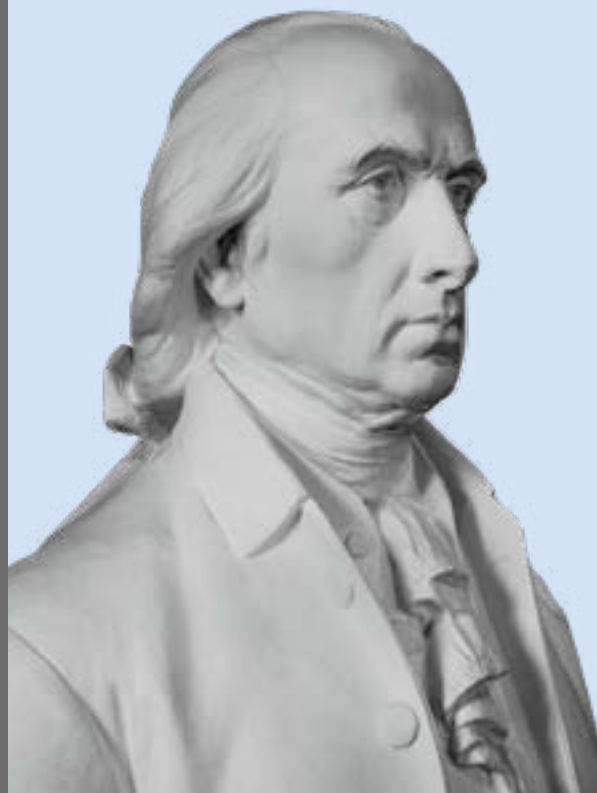


THE Federalist PAPER

THE MAGAZINE OF THE FEDERALIST SOCIETY • [FEDSOC.ORG](https://fedsoc.org)

Fall 2020

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“The courts must declare the sense of the law; and if they should be disposed to exercise **will** instead of **judgment**, the consequence would equally be the substitution of their pleasure to that of the legislative body.”

EDITOR'S LETTER



The entrance of the Mayflower Hotel during the 2019 National Lawyers Convention. This year, due to the COVID-19 pandemic, the National Lawyers Convention will be virtual, with web events taking place throughout the week of November 9, 2020. See page 10 for a preview.

Dear Friend,

As COVID-19 continues to wreak havoc on Americans' health and plans, the Federalist Society is as (virtually) active as we've ever been. While we greatly miss seeing all of our friends and colleagues at live events, we are grateful for the opportunities we have to meet virtually and to continue to host excellent discussions on a wide range of legal issues. If you haven't had a chance already, we hope you will join us for one of our many virtual events and teleforums. If the timing doesn't work out, visit fedsoc.org to find the many articles, podcasts, and videos we have been releasing.

As usual, October is a month full of planning for our annual **National Lawyers Convention**. But unlike past years, we are not booking hotel rooms, buying formal wear, and printing mountains of programs. This year's convention will be 100% virtual. While we will miss all of the conversations in the promenade of the Mayflower Hotel, we are delighted to be able to host dozens of panels and speeches at no cost to you and with no geographic barriers to attendance. We look forward to meeting again next year, but in the meantime, we hope you will join us, and invite your friends and

colleagues to see what the Federalist Society is really all about! See page 10 for more details.

Our Student Chapters and Lawyers Chapters are doing a truly wonderful job of continuing to meet and host events in spite of the pandemic-related restrictions. As you'll see in this issue, student leaders are finding creative ways to meet in person in compliance with stringent campus COVID restrictions. Lawyers in Polk County and El Paso even started up brand new lawyers chapters! Our Practice Groups have been active too, planning the breakout sessions for the NLC and many teleforums. Our other divisions and projects are producing great events, articles, and media as well. See inside for more details, and visit fedsoc.org to see what's available!

We hope you enjoy this issue of the **Federalist Paper**. Please send any comments to us at info@fedsoc.org. We hope you are staying well, and we look forward to hearing from you!

Katie McClendon
Director of Publications

STUDENT DIVISION



Feddie Award

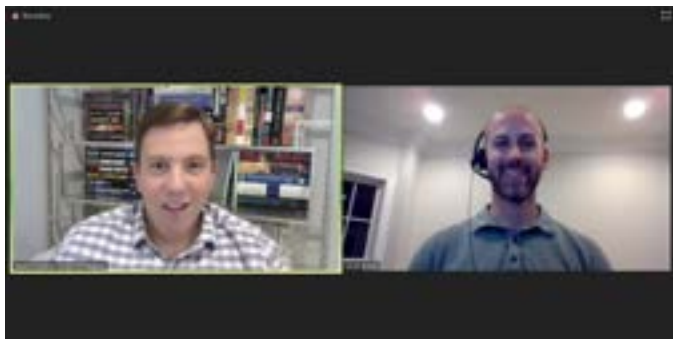
The student chapter at the University at Buffalo School of Law won the Benjamin Franklin Award for Spring Breakout Chapter. This award is presented to the student chapter that continues successful programming through the end of the year and has an especially strong spring semester. Daniel Caves, president of the chapter, accepted the award (above).

When the Spring 2020 semester was unexpectedly cut short, Buffalo was one of the first Fed Soc chapters to turn to Zoom to host events. The chapter hosted a discussion of the documentary *They Say It Can't Be Done* and an event with Second Circuit Judge Richard Wesley. Congratulations, Buffalo!

UT Law Zoom Events

Supreme Court Review, featuring Prof. Stephen Vladeck of UT Law and Scott Keller of Baker Botts.

Qualified Immunity, featuring Clark Neily.



The UVA Chapter's Welcome Back Happy Hour*

**socially distanced*



Interview with Rachel Daley, President of the University of Virginia Student Chapter

How has the UVA Student Chapter dealt with COVID-19 and the associated restrictions?

UVA's current policies limit attendance at social gatherings to 15, so we have had to find creative ways to host in-person events. We've been splitting up social gatherings into multiple locations and shifts to keep everyone in small groups. For example, we split up our Welcome Back Happy Hour into two different locations (two members' backyards). At each location, we had two shifts, with 15 students attending each. That way, we were able to have 60 students in attendance, but we never had more than 15 together at a time. See the photos above!

Besides limiting attendance, we've asked students at our events to wear masks and maintain physical distance from one another whenever possible. We're very lucky to be in Charlottesville, where we have generally good weather and a lot of outdoor space available to us. We're planning to continue hosting outdoor gatherings through mid-November.

We're hosting all of our speaker events via Zoom, and we've had three already: *Originalism 101* with Larry Solum (UVA Law) and Ian Wurman (ASU Law); *Supreme Court Roundup* with Julia Mahoney (UVA Law), Jeffrey Harris (Consovoy McCarthy), and Daniel Ortiz (UVA Law); and *Elections in the Age of a Pandemic* with Scott Keller (Baker Botts), Christian Adams (Public Interest Legal Foundation), and Michael Gilbert (UVA Law).

What has been the hardest thing about law school in 2020?

UVA is known for its collegial environment, and our Federalist Society chapter is a tight-knit community. It's much harder in the Zoom age to develop and maintain those social connections. This fall, our highest priority has been to get to know our new 1Ls and make sure they feel welcome in the chapter. It's been more difficult than usual to get to know new members, but we've been able to meet most of them in small-group gatherings or over Zoom.

Have there been any unexpected silver linings to the pandemic for your chapter?

One major silver lining is the opportunity to collaborate with other student chapters via Zoom. We co-hosted a Zoom trivia night with the Harvard Student Chapter, which provided a great way for members of our chapters to get to know one another. Later this semester, we will be co-hosting Zoom events with the Yale and UT chapters.

Tell us about the 2020 Student Leadership Conference.

Attending the SLC in Florida was a highlight of the summer. I really appreciated the opportunity to meet other chapter presidents and strategize about how best to handle the unique challenges we're facing this semester. The Federalist Society and the Ritz-Carlton did a fantastic job reworking the programs to allow for social distancing and other safety measures.

What is your favorite event your chapter has put on recently?

On September 17, we hosted a Constitution Day Happy Hour at a local brewery with Judge Jeffrey Sutton. Judge Sutton spoke with students about his new book, *The Essential Scalia*, and we handed out pocket Constitutions. To comply with UVA's restrictions, we required students to RSVP in advance, and we assigned attendees to shifts of 15 at a time. The small-group environment actually worked really well, because it gave students the opportunity to engage Judge Sutton in conversation and ask him questions about the book.

This interview was conducted on September 18, 2020.

National Student Symposium

March 19-20, 2021 • Philadelphia, PA • Penn Law

Theme: International Law & U.S. Foreign Policy

50% travel scholarships available

LAWYERS & PGs

New Lawyers Chapters

This summer, we launched new lawyers chapters in El Paso, Texas, and Polk County, Florida, both of which have held their first events. Join us if you're local!

The **El Paso** Lawyers Chapter held its first event over Zoom on September 1: **Qualified Immunity, a Debate: Retain or Abolish?** featuring Judd Stone and Clark Neily. There were 50 live attendees and over 6,000 people have viewed the video on YouTube.

The **Polk County** Lawyers Chapter held its inaugural event on July 28, featuring Chief Justice Charles T. Canady and Justice John Couriel of the Florida Supreme Court. There were 50 live attendees.

Top Summer Events

- Florida Supreme Court Roundup (Broward County)
- We're All Textualists Now? Implementing a Sound Interpretive Approach (Jacksonville)
- 2019-2020 Supreme Court Roundup (Dallas, Fort Worth, Houston, Amarillo, Austin)
- The Future of Originalism (Houston, Austin)
- Supreme Court Review (Los Angeles)
- Coronavirus Litigation & Policy in Wisconsin (Milwaukee)
- Reviewing the Supreme Court's 2019-20 Term (Colorado)
- Emergency Powers & Constitutional Rights During Pandemics (Jefferson City)
- Originalism & the Case for Natural Law (Sarasota)
- Q&A with Producer/Director Michael Pack (Miami)
- A Virtual Conversation with Betsy DeVos (Houston)
- State Attorneys General: Defenders of the Bulwark of Federalism (Columbia, Charleston, Greenville)
- Advice & Consent: The Mechanics, History, & Contemporary Developments in Federal Judicial Selection & Confirmation (SC Chapters)
- Supreme Court Roundup w/ Paul Clement (Philadelphia)
- Views from the Bench Series (NYC Young Lawyers)

New Working Groups

Our Practice Groups team has launched two new working groups addressing issues that face military lawyers and in-house counsel. If you are in either of these categories, please email us at info@fedsoc.org.

Top Summer Teleforums

- Courthouse Steps: Title VII Cases
- Courthouse Steps: McGirt v. Oklahoma
- Courthouse Steps: Trump v. Mazars USA & Trump v. Vance
- Capital Conversations: Michael Pompeo, U.S. Sec. of State
- Courthouse Steps: Espinoza v. Montana Dep't of Revenue
- The Insurrection Act, Executive Authority, and More
- World Politics After Brexit: Conversation w/ Nigel Farage
- Courthouse Steps: Little Sisters of the Poor v. PA
- Courthouse Steps: June Medical Services LLC v. Russo
- Religious Liberty at the Supreme Court
- Courthouse Steps: Seila Law LLC v. CFPB
- Book Review: The Dubious Morality of Modern Administrative Law, by Richard Epstein
- The True Extent of Executive Power
- The False Claims Act, the CARES Act, and COVID-19
- Free Speech in the Digital Era: Section 230 and the FCC

Save the Date

**Sixth Annual
Texas
Chapters
Conference**

**February 19, 2021
Houston, Texas**

Save the Date

**Seventh Annual
Florida
Chapters
Conference**

**January 29-30, 2021
Lake Buena Vista, Florida**



We're All Textualists Now? (Jacksonville)
Amy Coney Barrett, Wendy Berger, Paige Gillman, Joseph Jacquot, Patrick Kilbane



The Future of Originalism (Houston, Austin)
Frank Buckley, April Farris, Josh Hammer, Andrew Oldham, Ilan Wurman

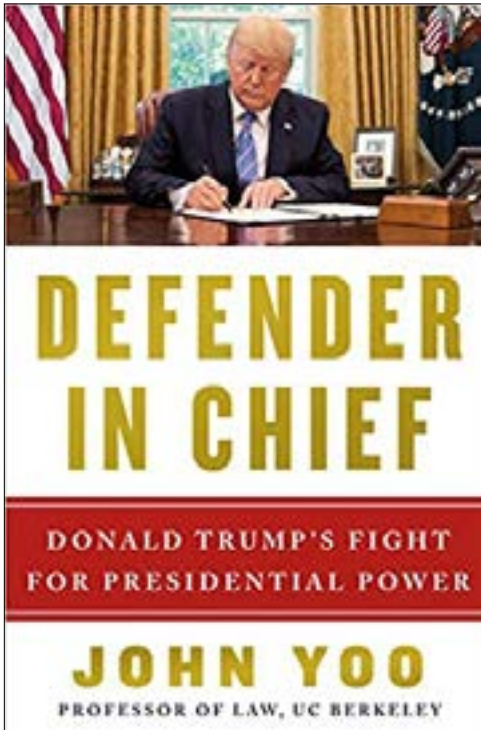


Advice & Consent (SC Chapters)
Mark Champoux, Miles Coleman, Brian Fitzpatrick, Michael Fragoso, Lindsey Graham

FED SOC REVIEW

Reviews of New Books About Executive Power

The *Federalist Society Review* is our legal journal, published on our website and Westlaw. Read these reviews, excerpted here, and more great articles at fedsoc.org. Email the editor with comments and submissions, at katie.mcclendon@fedsoc.org.



Macmillan

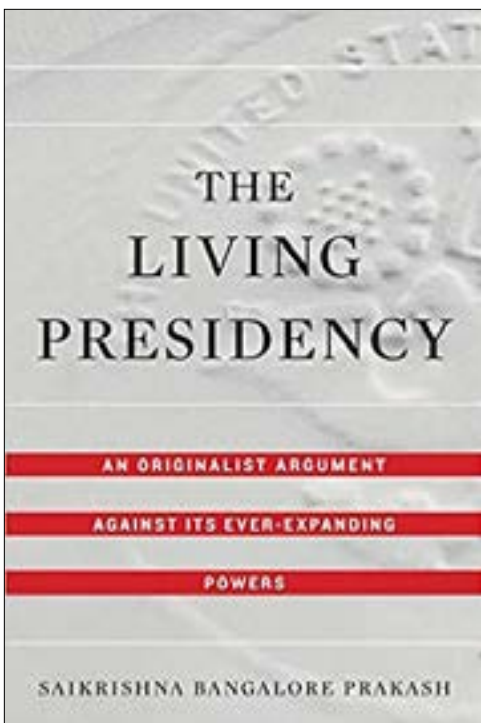
Review by Andrew C. McCarthy, *National Review*

The sordid details of the story can obscure the central importance of the president's right to fire subordinates. The Constitution's chief concern is liberty. One way it protects liberty is by vesting in the president all executive power, and that protection will be undermined if we tolerate encroachments on that vesting. The flipside of this is that it is only executive power that is vested in the president; he does not make the laws he executes, but Congress does. Yoo fondly recalls the late, great Justice Scalia's observation that "every tinhorn dictator" has a beautiful bill of rights, but it's the separation of powers that protects liberty.

As students of Machiavelli, Locke, Montesquieu, and Blackstone, the Framers were convinced that the combination of legislative and executive authority in one set of hands was the very definition of tyranny. To permit Congress to strip away a president's control of the executive branch by limiting his capacity to fire subordinates—officers who do not exercise their own power but only power delegated to them by the president—would indulge what Alexander Hamilton saw as the gravest threat to the separation of powers: The "legislature's propensity to intrude upon the rights and to absorb the powers of the other departments." That would be particularly egregious as applied to matters touching on law enforcement. As Yoo explains, Article II of the Constitution vests the executive power in the president without qualification. . . .

Yoo persuasively contends that the original meaning of executive power is best illustrated by then-Treasury Secretary and executive visionary Alexander Hamilton in his defense of President Washington's 1793 Neutrality Proclamation, which kept the United States out of Europe's burgeoning war. The Vesting Clause states a general grant of executive power in its historical abundance. The subsequently enumerated powers (including the Take Care Clause) "specify and regulate the principal articles implied in the definition of Executive Power; leaving the rest to flow from the general grant." Thus, "the Executive Power of the Nation is vested in the President; subject only to the exceptions and qualifications" expressed elsewhere in the Constitution. . . .

The Constitution, in sum, commands an energetic, unitary executive, who participates in the separation of powers to uphold liberty, and who is responsible for the actions of subordinates—whom he must be able to dismiss at will. The last point is important because most executive branch officials are not elected, but appointed by the president; to maintain accountability to the people, the president must be able to dismiss these subordinates for any reason, and the voters must be the ones to determine the appropriateness of those reasons in the next presidential election. . . .



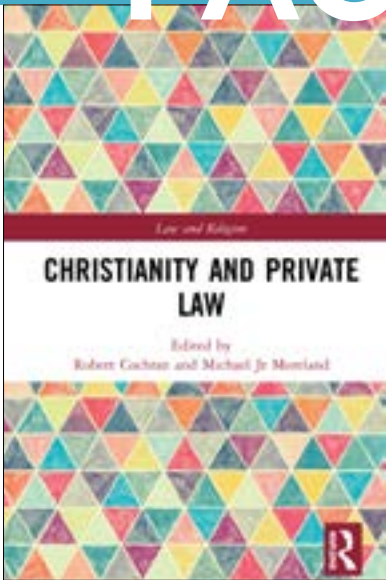
Harvard University Press

Review by Professor Lee J. Strang, *University of Toledo College of Law*

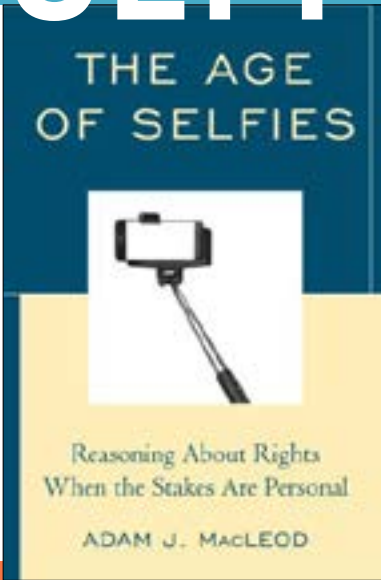
In Professor Prakash's telling, every American institution and most Americans have been part of the problem. "The transformations [of the presidency] are all around us, and every institution—Congress, the courts, the executive, and the public—has helped usher in those changes." Of course, presidents, past and present, covet greater power for a variety of reasons, including to secure their policy objectives. The federal judiciary, hedged in by both constitutionally mandated and self-imposed jurisdictional limits, has avoided disrupting the expansion of presidential powers. Congress is the branch that has ceded the most authority to the executive, because of its own institutional limitations, the role of parties, and its desire to shed responsibility for controversial subjects, among other reasons. Most worrisome, however, is the role played by the American people, who have come to expect presidents to make and keep campaign promises that can only be kept through unconstitutional assertions of executive authority. If American voters want federal officials to achieve goals that require the officials to exceed their limited and enumerated powers, it is practically impossible to tame officials' use of those unconstitutional powers. This is the identical challenge that faces originalist scholars who argue that Congress exceeded its Commerce Clause authority when it enacted federal anti-discrimination laws—there is no appetite among Americans to return Congress to its limited powers in this and other areas.

This raises the question of whether and to what extent presidential practices that violate the original meaning of Article II—the practices that form the basis of the "historical gloss" on Article II—possess any legal authority. The phenomenon described by Professor Prakash is one in which current governmental practices—the living presidency—diverge from what the Constitution's original meaning authorizes, and this phenomenon is not limited to the executive branch. All three branches of the federal government have (especially since the New Deal) regularly acted inconsistently with the Constitution's original meaning. Congress regularly enacts legislation that is beyond its limited and enumerated powers, and the judiciary regularly issues rulings that are not warranted by the original meaning of the Constitution or statutes it purports to interpret. (Professor Prakash notes this at a number of points.) Indeed, the phenomenon of nonoriginalist practices is so pervasive that critics of originalism have regularly pointed to this fact to criticize originalism, and originalists have worked hard to respond to the criticism. . . .

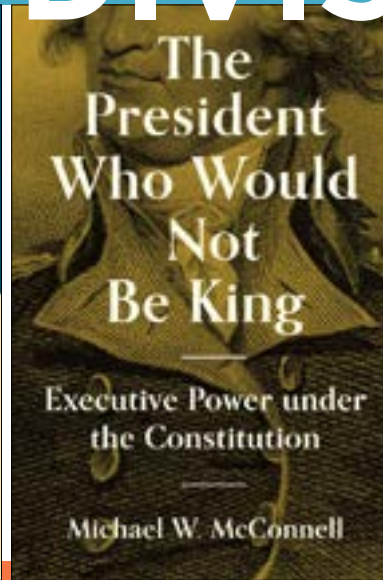
FACULTY DIVISION



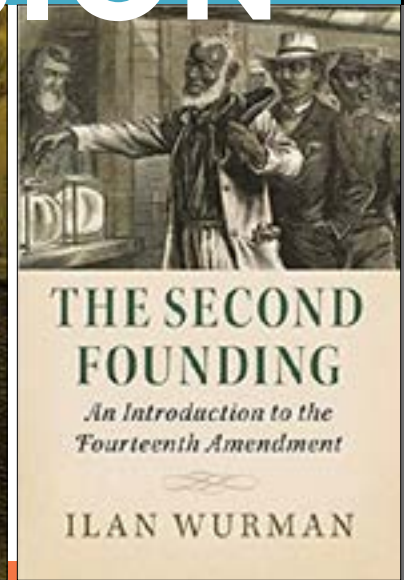
Routledge



Rowman & Littlefield



Princeton University Press



Cambridge University Press

Check out these new books by legal academics!

2020 Junior Scholars Colloquium

June 26-27 • Zoom

Supreme Court Preview: October Term 2020

October 1 • Livestream

Winning Authors & Papers

- Stephanie Barclay (Notre Dame)
The Historical Origins of Judicial Religious Exemptions (Notre Dame Law Review, forthcoming)
- Josh Blackman (South Texas), James Phillips (Chapman)
Corpus Linguistics and Heller
- Greg Dickinson (Stanford LST Program)
Rebooting Internet Immunity (George Washington Law Review, forthcoming)
- Kevin Haeberle (William and Mary)
Marginal Benefits of the Core Securities Laws
- Dmitry Karshedt (George Washington)
Nonobviousness: Before and After
- Shlomo Klapper (Yale '20), Soren Schmidt (Yale '20), & Tor Tarantola (Yale '20)
Ordinary Meaning From Ordinary People
- Marah Stith McLeod (Notre Dame)
Communicating Punishment (Boston University Law Review, forthcoming)
- Erin Sheley (Cal. Western)
Criminalizing Coercive Control Within the Limits of Due Process (Duke Law Journal, forthcoming)

Featuring

- Erin Hawley
Senior Legal Fellow, Independent Women's Law Center
- Orin Kerr
Professor of Law, University of California-Berkeley
- Alan B. Morrison
Lerner Family Associate Dean for Public Interest and Public Service Law, The George Washington University Law School
- Elizabeth Papez
Partner, Gibson, Dunn & Crutcher LLP
- Edward Whelan
President, Ethics and Public Policy Center
- Moderator: Robert Barnes
The Washington Post



ARTICLE I & RTP



ARTICLE I INITIATIVE
WRITING CONTEST

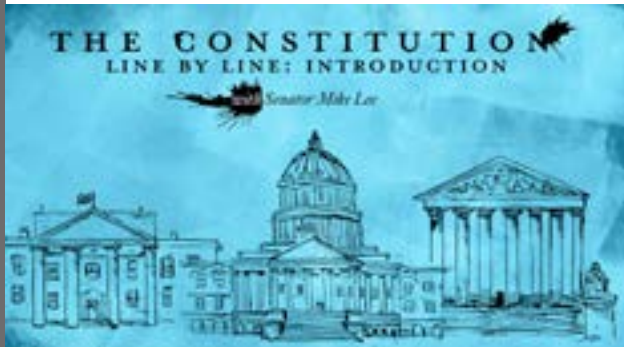
Judicial Interpretation & the Erosion of Legislative Power

In *Bostock v. Clayton County*, the Supreme Court was asked to consider whether an employer who fires an individual for being gay or transgender violates Title VII of the Civil Rights Act of 1964. Congress has proposed several times, but not yet passed, amendments to extend protections to these individuals under the Act. In *Bostock*, the Court ruled that an employer does in fact violate the Act when he or she fires someone for being gay or transgender. Some critics of the decision question whether this was within the Court's power to determine.

The *Bostock* decision once again turned the public's attention to the Constitutional separation of powers which vests legislative, executive, and judicial powers in three discrete branches. The Constitution delegates lawmaking authority to the Legislative Branch, and the judiciary has historically been tasked with the interpretation of those laws. Over the years, broadly written statutes from Congress have become commonplace and various forms of statutory interpretation have arisen out of necessity to determine the precise meaning of vague statutory text.

In observing this modern trend in lawmaking and the resulting actions by the Court to navigate differing forms of statutory interpretation, some lament the erosion of boundaries between the two branches and an increasing gray area between the two branches' constitutionally prescribed roles. Has the judiciary usurped too much of Congress's legislative power? If so, how can Congress show greater ambition for their own institution and work against these trends? What innovations can the legislative branch create to claw back its legislative prerogative?

Prizes: The first-place winner will receive free registration, accommodations, and travel to the Federalist Society's 2021 Student Symposium and a \$7,000 cash prize. A runner-up \$2,000 cash prize and a \$1,000 honorable mention prize will also be awarded.

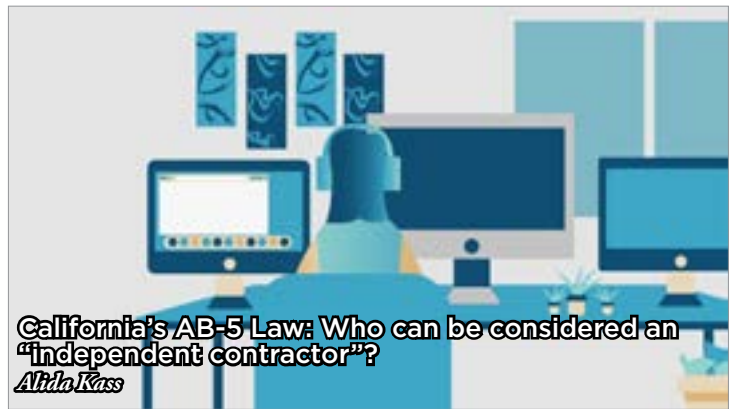


For this year's celebration of Constitution Day, the Article I Initiative collaborated with Senator Mike Lee to walk through the first Article of the Constitution in a three-part online series. Watch it at articleiinitiative.org or on YouTube.

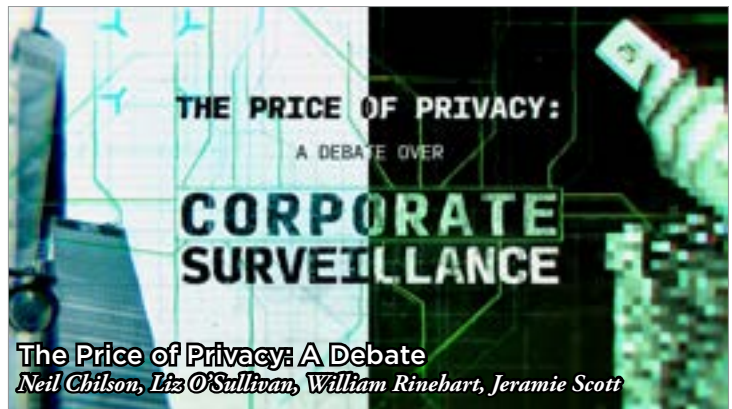
New at the Regulatory Transparency Project



FDA Regulation of Diagnostic Testing and COVID-19
Roger D. Klein



California's AB-5 Law: Who can be considered an "independent contractor"?
Alida Kass



The Price of Privacy: A Debate
Neil Chilson, Liz O'Sullivan, William Rinehart, Jeramie Scott

Videos

Papers

- Closing the Streaming Loophole
Adam Mossoff, Randall Rader, Zvi Rosen
- Ten Reforms to Spur Coronavirus Recovery
Dana Berliner, Anastasia P. Boden, Braden Boucek, Daniel Greenberg, Emily Hamilton, Kimberly Hermann, Alida Kass, Mithun Mansinghani, Clark Neily, Jon Riches, Luke A. Wake, Shoshana Weissmann

Podcasts

- Antitrust Investigations into Big Tech Companies
Thomas Hazlett, Jennifer Huddleston, Hal Singer
- Community Reinvestment Act: Remedy or Relic?
Mehrsa Baradaran, Diego Zuluaga, Elliot Gaiser
- Environmental Citizen Suits & SEPs: Do Constitutional and Nondelegation Concerns Outweigh Environmental Benefits?
Richard Epstein, Eric Groten, Joel Mintz, Mario Loyola



regproject.org
articleiinitiative.org

DIGITAL

The Federalist Society's **Archive Collection**

Drawn from a cache of recently discovered VHS tapes, the Federalist Society's **Archive Collection** showcases the history of originalism, textualism, and conservative and libertarian thought, captured and preserved in video form.

This blast from the past offers significant insight into the growth of the Society and the role of its members in civil society. Starting in the mid-1980s with the Society's inaugural events and continuing through the new millennium, these videos cover the breadth and depth of legal concepts as expressed by the lawyers, professors, judges, and policymakers who influenced their evolution.

The **Archive Collection** encapsulates the development of important ideas, ranging from economics to criminal justice and executive power to the First Amendment. You can watch legal luminaries such as Judge Robert Bork and Supreme Court Justice Antonin Scalia expound on timeless legal topics at Federalist Society events from the 1980s, with more to come from the 1990s and early 2000s.

See for yourself how the discussion began at fedsoc.org/ArchiveCollection.

Speakers include:

- Professor Akhil Amar
- Professor Randy Barnett
- Professor Paul Bator**
- Ambassador John Bolton
- Justice Stephen Breyer
- President George H.W. Bush
- Senator Ted Cruz
- Professor Richard Epstein
- Milton Friedman
- C. Boyden Gray
- Judge Edith Jones
- Charles Krauthammer
- Professor Gary Lawson
- Dean Henry Manne
- Edwin Meese III
- Professor Michael Moore**
- Representative Ron Paul
- Professor Saikrishna Prakash**
- Judge A. Raymond Randolph
- President Ronald Reagan**
- William Bradford Reynolds
- Professor Ronald Rotunda**
- Justice Antonin Scalia**
- Judge Laurence Silberman
- Senator Elizabeth Warren**
- Professor John Yoo**

bolded names featured in stills at right

1988 National Lawyers Convention: Address by President Ronald Reagan



1991 Annual Lawyers Convention: Bankruptcy Law & Financial Institutions [Archive Collection]



2006 National Student Symposium: International Law & the War on Terrorism [Archive Collection]



1988 National Student Symposium: Do We Have an Unwritten Constitution?



NLC PREVIEW



2020 NATIONAL LAWYERS CONVENTION

The Rule of Law & the Current Crisis

Showcase Panels

Showcase Discussion:

A Discussion with Professors Robert George & Cornel West on Freedom of Speech, Freedom of Thought, the Black Lives Matter Movement, & Cancel Culture

See page 9 for an excerpt of a transcript of an earlier online discussion we hosted between Profs. George and West.

Showcase Panel:

The Presidency & the Rule of Law

Showcase Panel:

Law, Justice, Wokeness: Where Do We Go From Here?

These special events are scheduled throughout Thursday, November 12.

Confirmed **SPEAKERS** so far include Michael Mukasey, Lisa Heinzerling, Eugene Volokh, Stephanie Barclay, Richard Epstein, Adam White, Ron Cass, Kathleen Ham, Ashutosh Bhagwat, Sally Katzen, Randall Kennedy, Randy Barnett, Jack Goldsmith, Brendan Carr, and more!

Save the Date

Our **VIRTUAL** National Lawyers Convention will be held the week of November 9-13, 2020. If you haven't been able to make the trip to Washington, DC, in past years, now is your chance to join us for our marquee annual event!

The 2020 NLC is 100% **FREE** to you, except for any applicable CLE fees, and all events are open to the public.

We will greatly miss seeing so many of our members and friends gathered together at the Mayflower Hotel this year. Our only consolation is that this could be our best attended NLC ever, since there are no geographic or financial barriers to attendance. Please **INVITE** your friends, family, and colleagues to join us—whether for the whole week or only a panel or two!

Keep checking fedsoc.org for updated schedules and speaker confirmations.

Practice Group Breakout Panels

Religious Liberty in the Modern Age

The EPA Turns 50: A Debate on Environmental Progress & Regulatory Overreach

Prosecutorial Discretion, Partisanship, & the Rule of Law

Regulatory Practice and Oversight in 2021 & Beyond

Scrutinizing Speech

Cryptocurrency, Blockchain & the Evolution of a Central Bank Digital Currency

Regulating Social Media

Are MDL Judges Too Powerful?

The Law, China, & the Possible New Cold War

Assessing the Trump Administration Labor Policy

Intellectual Property Rights & the Rule of Law

Qualified Immunity & Effective Law Enforcement

Freedom of Association in the Legal Profession

Emergency Powers & the Rule of Law

Second Amendment

FREEDOM OF THOUGHT



Meet Alida Kass, Fed Soc's new VP for Strategic Initiatives and the director of our new Freedom of Thought Project!

You are a longtime friend of the Federalist Society. How did you first get involved, and how have you volunteered as a leader over the years?

I was active in the student chapter at Georgetown, and that's also where I worked as a research assistant for Lee Otis. She was teaching a seminar on Conservatism and the Law. It was an amazing opportunity to ask questions and to start developing my own framework for thinking about the law.

Later, I co-taught the same class with Lee at Georgetown. When I moved to New Jersey, I revived the dormant New Jersey Lawyers Chapter and served as president. With the support of the national organization, we hosted monthly chapter events, including a luncheon with Justice Scalia in May 2015.

I've also served on the Executive Committee of the Litigation Practice Group, and I've been working on the Regulatory Transparency Project. I've been able to do podcasts, videos, teleforums, op-eds, and white papers—just amazing opportunities.

How has the New Jersey Chapter continued to be active during the COVID-19 pandemic?

Early in the pandemic, the entire state was under a stay-at-home order. The workdays were bleeding into the evenings and the work week into the weekends. We started doing weekly Zoom happy hours every Friday afternoon. Randy Barnett and Eugene Volokh were among the first to join us. I'd been trying to

schedule them in New Jersey for years! But they were easily available on Zoom.

We've covered a range of topics—one week, it might be a discussion about an interesting dissent on the Third Circuit, another week we're discussing the future of the conservative/libertarian legal movement. Sometimes our guests will share the recipe of the cocktail they'll be drinking. It's a great way to end the week, build the camaraderie of the chapter, and reach new members.

What do you see as the biggest threats to freedom of conscience, thought, and speech today?

I think the biggest threat is that entire categories of legitimate opinion and argument are being labeled "bigotry" and rendered unworthy of protection. Of course, there is such a thing as genuine bigotry that society rightly condemns. But the term is being stretched so far that people are using it to mean "a political view I disagree with." This is antithetical to our society's commitment to freedom of thought and conscience and expression.

Various forms of intimidation and coercion are being used to stifle debate and thought, but "cancellation" is a particularly vicious example of the problem. The effort is not just to silence debate, but to ruin lives. This has been going on for years, and the persistence of this phenomenon is evidence of how far our cultural commitment to freedom of thought and conscience has eroded.

What do you think are the most important ways we can contribute to renewing a vibrant and civil public square?

I think the first step is to reorient the terms of the debate away from labels and abstractions like "bigotry," "misogyny," "imperialism" and other terms that just shut down discussion. We need to focus instead on cultivating respectful conversation and debate on the very topics where the discussion has degenerated into name-calling. No organization is better suited to the task than the Federalist Society.

What is the Freedom of Thought Project?

This is a special initiative to reframe the discussion about freedom of thought. We all see the headlines that document the most extreme examples of cancelling, but many attacks on freedom of thought go unreported and undocumented. We need to systematically document the ongoing attacks on freedom of thought, in order to demonstrate the scale and prevalence of the problem, and then build resources to equip advocates for freedom of thought to confront it.

We will be focusing on a few especially significant areas. Academia is critical—constraints on freedom of thought are antithetical to the core purpose of our educational institutions. The technology sector is also important—the social platforms have become a powerful weapon used to restrict and police the boundaries of acceptable thought. We also need to look at how the boundaries are being enforced in workplaces—in the corporate and legal worlds.

What are you most excited about as you join the Federalist Society full time and get this project off the ground?

The Federalist Society was founded on an idea: that by providing a fair and level platform for respectful and vigorous debate, we can develop and refine our understanding of law and public policy. For more than 38 years, thoughtful people from across the ideological spectrum have brought substantive, rational arguments to a variety of sensitive, contentious questions. I believe the ability to engage in this sort of debate is essential for an effective constitutional democracy, and it is currently under attack. So in addition to saving democracy and civil society, this project is also about defending the premise of the Federalist Society itself. That's what I find most exciting about this project.

Contact Alida at alida.kass@fedsoc.org, and check fedsoc.org for updates on the project!

The Federalist Society
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1776 I Street, N.W., Suite 300
Washington, D.C. 20006



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