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Rutledge C. Clement, Jr. Professor in Constitutional Law

Interim Dean, 2009-10

Vice Dean of Academic Affairs, 2001-04, 2006-09

Professor of Law, 1997-present

Associate Professor, 1989-1997 (tenure awarded 1995)

Courses: Constitutional Law I, Fourteenth Amendment, Foreign Affairs and
the Constitution, Jurisprudence

Seminars: Constitutional Theory

LAW SCHOOL TEACHING POSITIONS

Visiting Associate Professor, University of Texas Fall 1996 &
Courses: Constitutional Law I and II, Constitutional Theory Summer 1993

Bigelow Fellow and Lecturer in Law 1988-1989
University of Chicago

Research Instructor in Law 1986-1988
New York University

PUBLICATIONS – BOOKS

American Constitutionalism: From Theory to Politics

(Princeton University Press, 1996)

*Selected as a *Choice* Outstanding Academic Book of 1997

*Italian translation: *Il costituzionalismo americano* (Il Mulino, 2003)

Co-Editor, *Radical Critiques of the Law* (University Press of Kansas, 1997)

Co-Editor, *Constitutional Theory: Arguments and Perspectives*, 3d edition (Lexis,
2007) (sole editor for third edition)

PUBLICATIONS – BOOK CHAPTERS

“Toward a Public Values Philosophy of the Constitution,” in *Philosophical
Dimensions of the Constitution* 119 (Westview Press, 1988)

“Constitutionalism in the United States: From Theory to Politics,” in *Responding to
Imperfection: The Theory and Practice of Constitutional Amendment* 37
(Princeton University Press, 1995)

- “The Nominee Is...Article V,” in *Constitutional Stupidities, Constitutional Tragedies* 51 (New York University Press, 1998)
- “Constitutional Theory Transformed,” in *Constitutional Culture and Democratic Rule* 288 (Cambridge University Press, 2001)
- “The Idea of Judicial Review in the Marshall Era,” in *Marbury v. Madison: Documents and Commentary* 61 (CQ Press, 2002)
- “The Age of Marbury: Judicial Review in a Democracy of Rights,” in *Arguing Marbury v. Madison*, edited by Mark Tushnet 104 (Stanford University Press, 2005)
- “Constituent Power and Constitutional Change in American Constitutionalism,” in *The Paradox of Constitutionalism: Constituent Power and Constitutional Form*, edited by Martin Loughlin and Neil Walker 49 (Oxford University Press, 2007)
- “Constitutional Change in the United States,” in *How Constitutions Change*, edited by Dawn Oliver and Carlo Fusaro (Hart Publishing, forthcoming 2011)

PUBLICATIONS – ARTICLES

- “Reconstructing Rawls's Theory of Justice,” 62 *New York University Law Review* 715 (1987)
- “A Right of Press Access to U.S. Military Operations,” 21 *Suffolk University Law Review* 989 (1987) (co-author)
- “What is Constitutional Theory? The Newer Theory and the Decline of the Learned Tradition,” 62 *Southern California Law Review* 493 (1989)
- “Politics and the Supreme Court: The Case of the Bork Nomination,” 5 *Journal of Law and Politics* 551 (1989)
- “Constitutionalism in the United States: From Theory to Politics,” 10 *Oxford Journal of Legal Studies* 200 (1990) (*Honorable Mention*, 1989 AALS Scholarly Paper Competition)
- “Bringing the State Into Constitutional Theory: Public Authority and the Constitution,” 16 *Law & Social Inquiry* 659 (1991) (the subject of a symposium in this issue)
- “How to Analyze the American State,” 16 *Law & Social Inquiry* 731 (1991)
- “Political Philosophy Versus Political Theory: The Case of Rawls,” 69 *Chicago-Kent Law Review* 691 (1994)
- “Pluralism in Constitutional Interpretation,” 72 *Texas Law Review* 1753 (1994)

- “Constitutional Rights and Democracy in the U.S.A.: The Issue of Judicial Review,” 8 *Ratio Juris* 180 (1995) (co-author)
- “The Nominee Is...Article V,” 12 *Constitutional Commentary* 171 (1995)
- “Judicial Review and Democracy Revisited,” 95 *APA Newsletter on Philosophy and Law* 64 (Spring 1996) (guest editor for this issue)
- “The Problem of Constitutional Change,” 70 *Tulane Law Review* 2121 (1996)
- “Constitutional Theory Transformed,” 108 *Yale Law Journal* 2115 (1999)
- “Presidential Immunity from Criminal Process,” 5 *Widener Law Symposium Journal* 49 (2000)(invited article)
- “Judicial Supremacy and Equal Protection in a Democracy of Rights,” 4 *University of Pennsylvania Journal of Constitutional Law* 281 (2002) (invited article)
- “Scholars and Public Debates: A Reply to Devins and Farnsworth,” 82 *Boston University Law Review* 227 (2002)
- “Stop Federalism Before It Kills Again: Reflections on Hurricane Katrina,” 21 *St. John’s Journal of Legal Commentary* 527 (2007) (invited article)
- “Rebooting Originalism,” 2008 *University of Illinois Law Review* 1185
- “California Constitutionalism: Trust in Government and Direct Democracy,” 11 *Univ. of Pennsylvania Journal of Constitutional Law* 551 (2009)

PUBLICATIONS – BOOK REVIEWS

- “Mending the Regulatory State,” 11 *Law and Philosophy* 291 (1992)
- “Review of Rex Martin's *A System of Rights*,” 68 *Tulane Law Review* 1689 (1994)
- “Review Essay: Legal Liberalism at Yale,” 14 *Constitutional Commentary* 535 (1997)
- “Has the Hour of Democracy Come Round at Last? The New Critique of Judicial Review,” 17 *Constitutional Commentary* 683 (2000)
- “Barnett and the Constitution We Have Lost,” 42 *San Diego Law Review* 283 (2005)
- “Levinson and Constitutional Reform: Some Notes,” 67 *Maryland Law Review* 14 (2007)

WORKS IN PROGRESS

The Long War and the Constitution: From Truman to Obama (book project under contract at Harvard University Press)

SYMPOSIA

Co-Editor, "Symposium on John Rawls's *Political Liberalism*," 69 Chicago-Kent Law Review 549 (1994)

Organizer, "Moments of Change: Transformation in American Constitutionalism," Yale Law School, September 26-27, 1998

Organizer, "Proposal to AALS for Joint AALS/APSA Conference on Constitutional Law" (approved by AALS September 2000, held June 5-8, 2002 in Washington, D.C.)

PRESENTATIONS AND CONFERENCE PAPERS

"Can a Conception of Political Right Adjudicate Between Conflicting Conceptions of the Good?," presented at the 1990 Amintaphil Conference on Liberalism and Community

"State and Constitution in the United States," presented at the 1992 meeting of the Southwestern Political Science Association

"Judicial Review and Democracy Revisited," presented at the 1993 meeting of the American Political Science Association

"The Problem of Constitutional Change in the United States," presented at the 1994 Murphy Institute of Political Economy Conference on "Constitutions and Constitutionalism"

"Understanding American Constitutionalism," presented at the 1995 Murphy Institute of Political Economy Conference on "Constitutions and Constitutionalism II"

"Constitutional Rights and Democracy in the U.S.A.: The Issue of Judicial Review," presented at the 17th IVR World Congress, June 1995 in Bologna, Italy (co-author)

"The Constitution and State-Centered Theories of American Politics," presented at the 1995 meeting of the American Political Science Association

"The Hardest Questions in Constitutional Law: A Brief Catalog," presented at the 1995 meeting of the Georgetown Discussion Group on Constitutional Law

"On the Very Idea of Judicial Review," presented at the 1996 meeting of the American Political Science Association

"Affirmative Action in History and Theory," presented at the Brendan F. Brown Conference on Race and American Constitutionalism, Loyola University School of Law, March 1997, New Orleans

Participated as discussant on panel “The Judiciary in the Constitutional Order” and on panel “What’s So Great About Constitutionalism” at the 1997 meeting of the American Political Science Association

“Historicism and Constitutional Interpretation in the United States,” presented at the 19th IVR World Congress, June 1999, New York City

Organizer and chair, “Roundtable on the Clinton Crisis and the Presidency,” presented at the 1999 meeting of the American Political Science Association

Organized panel on “Judicial Review and the Normative Implications of the New Institutionalism” and presented paper “Judicial Review in a Democracy of Rights” at the 2000 meeting of the American Political Science Association

“Judicial Review in a Democracy of Rights,” presented at February 2001 Symposium on Equal Protection at the University of Pennsylvania Law School

“Constitutional Law Outside the Courts,” presented at June 2002 AALS/APSA Conference on Constitutional Law, Washington, D.C.
available at: <http://www.aals.org/profdev/constitutional/griffin.html>

Organized and chaired panel, “Marbury and the Consequences of Judicial Supremacy,” at 2002 meeting of the American Political Science Association; presented paper, “The Age of Marbury”

“Barnett and the Constitution We Have Lost,” panel presentation at 2004 AALS meeting

“The State of Constitutional Theory,” panel discussion at 2004 meeting of the American Political Science Association

“Trust in Government as a Constitutional Problem,” Law and Public Affairs Seminar, Princeton University, November 2005

“Reflections on Hurricane Katrina,” Symposium on Federalism Past, Federalism Future, St. John’s University School of Law, March 2006

“Constituent Power and Constitutional Change in American Constitutionalism,” Conference on Constituent Power and Constitutional Form, European University Institute, Florence, Italy, March 2006

Organized and chaired panel, “The Bush Presidency and the Constitution” and gave panel presentation on Sanford Levinson’s “Our Undemocratic Constitution,” at 2007 AALS meeting

“War Powers and Constitutional Change,” presented at 2009 meeting of the American Political Science Association; Tulane Murphy Institute Faculty Seminar; Cornell Constitutional Theory Colloquium, October 2009; University of Texas Colloquium, February 2010

“The Legal Justification for the Vietnam War: The Case of Nicholas deB. Katzenbach,” invited paper for “The American Experience in Southeast

Asia, 1946-1975,” conference at the U.S. Department of State, September 29-30, 2010

“The National Security Constitution and the Bush Administration,” invited paper for conference on *A Republic of Statutes* at Yale Law School, December 10-11, 2010

SHORT CONTRIBUTIONS

“We, the Independent Counsel,” *Legal Times*, February 17, 1997, p. 21

“See No Evil, Report No Evil,” *Legal Times*, May 11, 1998, p. 31

“What’s So Great About American Constitutionalism?” 8 *The Good Society* 58 (1998)

“On the Very Idea of Judicial Review,” *Tulane Lawyer*, Fall/Winter 1998-99

“Clinton Case: Unconstitutional Crisis,” *Times-Picayune*, February 24, 1999

“Constitutional Strategy and the Clinton Crisis,” *Law and Courts*, Winter 1999

“To the Members of the Florida Legislature: Statement of 48 Constitutional Scholars Opposing the Legislative Designation of Electors for the 2000 Election”

“Constitutional Theory As I Found It,” 13 *The Good Society* 25 (2004)

“The Last Hierarchy: Confronting the Tenure Process as Vice Dean,” 73 *UMKC Law Review* 289 (2004)

Review of *The Great Tradition* by Anthony Brundage and Richard A. Cosgrove, *Journal of American History* 564 (Sept. 2008)

“The Bush Presidency and Theories of Constitutional Change,” *Tulane Lawyer*, Summer 2009

“Dean’s Letter Opposing Louisiana Senate Bill 549,” April 2010, available at: <http://lawprofessors.typepad.com/files/deansletter.pdf>

“Tribute to Sandy Levinson,” *Law and Courts*, Summer 2010

EDUCATION

New York University School of Law
General LL.M., 1986

University of Kansas School of Law
J.D., 1983

Finalist, First Year Moot Court Competition
First Prize, Robinson Philosophy Essay Competition

University of California, San Diego 1979-1980
Graduate study in philosophy
Instructor, Humanities Program

University of Kansas 1975-1979
B.G.S. in Philosophy and English, 1979
Third Place, 1979 National Debate Tournament
President, University of Kansas Forensics 1977-1979

MEMBERSHIPS, WORK EXPERIENCE, AND SERVICE

District of Columbia Bar (admitted 1983)
Associate, Washington, D.C. law firm 1983-1985

International Association for the Philosophy of Law and Social Philosophy (IVR)
Chair of Program Committee, 1992 American section Conference

American Philosophical Association
Committee on Philosophy and Law, 1994-97

AALS Planning Committee for Workshop on Democratic Governance, 2005
Annual Meeting

Chair, AALS Section on Constitutional Law, 2006

AALS Planning Committee for 2008 Conference on Constitutional Law

Member: American Political Science Association; American Society for Political
and Legal Philosophy; American Society for Legal History; American Bar
Association; U.S. Association for Constitutional Law

Tulane Law School Service (as Chair): Appointments Committee, 2000-01;
Self-Study Committee, 2001-02; Academic Affairs Committee, 2002-03; Legal
Writing Committee, 2003-04; Strategic Planning Committee, 2006; Self-Study
Committee, 2007-08

Director, Trinity College Summer Program, Cambridge, 2008-10

AWARDS AND HONORS

1999-2000 Sumter Davis Marks Research Excellence Award for Scholarship

2002 Felix Frankfurter Distinguished Teaching Award

REFERENCES

References upon request

Personal History

Born April 8, 1957. I grew up in Lawrence, Kansas. My father was a professor of history at the University of Kansas, my mother was a law librarian. I have lived in Washington, DC, New York City, Chicago, San Diego, and New Orleans. I am married with one child, a daughter.