

CALVIN MASSEY

LAW TEACHING EXPERIENCE

UNIVERSITY OF CALIFORNIA, HASTINGS COLLEGE OF THE LAW
San Francisco, California
Professor of Law, 1992 – present
Harry & Lillian Hastings Research Professor of Law, 1998-1999
Associate Professor of Law, 1987-1992

I regularly teach Constitutional Law. I frequently teach Property and a seminar on the U.S. Supreme Court. Less often, I teach Wills and Trusts, Corporations, and State Constitutional Law. I have twice received the "Outstanding Professor" award, given annually by the graduating class for teaching excellence. I have Chaired numerous committees, including Rank & Tenure and Appointments, and have served numerous times on Hastings's faculty-elected Executive Committee.

WASHINGTON & LEE UNIVERSITY SCHOOL OF LAW
Lexington, Virginia
Visiting Professor of Law, 2005-2006

I taught two sections of Close Business Arrangements, First Amendment, and a seminar on the U.S. Supreme Court.

BOSTON UNIVERSITY LAW SCHOOL
Boston, Massachusetts
Visiting Professor of Law, Fall 2001; Spring 2004, Fall 2004

I taught a seminar in Advanced Estate Planning and Trusts, Estates, and Basic Estate Planning.

BOSTON COLLEGE LAW SCHOOL
Newton, Massachusetts
Visiting Professor of Law, 2000-2002; 2003-2004

I taught Constitutional Law, Property, and Trusts and Estates. I received the "Outstanding Professor" award in 2002, given by the Law Students' Association.

STANFORD UNIVERSITY LAW SCHOOL
Stanford, California
Spring 1990

I taught Business Associations.

LAW TEACHING EXPERIENCE, *continued*

UNIVERSITY OF CALIFORNIA, BOALT HALL
Berkeley, California
Fall 1998, Spring 1994, 1995, 1996, and 2009

I taught Corporations and Constitutional Law.

LEWIS & CLARK COLLEGE, NORTHWESTERN SCHOOL OF LAW
Portland, Oregon
Summer 1993

I taught Corporations.

LEIDEN UNIVERSITY, FACULTY OF LAW
Leiden, The Netherlands
Visiting Professor, Spring 1998

I taught American Constitutional Law to European students.

LAW PRACTICE EXPERIENCE

PRIVATE PRACTICE
San Francisco, California

From 1987 to 1991 I was “of counsel” to Nielsen, Merksamer, Hodgson, Parrinello & Mueller, acting as an occasional consultant and participant in appellate litigation. From 1983 to 1987 I was a self-employed civil litigator handling a broad range of business and commercial litigation in federal and state courts. From 1978 to 1983 I was a partner and co-founder of a 14 lawyer firm, Niesar, Moody, Hill, Massey & Kregstein. From 1974 to 1978 I was an associate with Morrison & Foerster (1974-76) and Shartsis, Friese & Ginsburg (1976-78), primarily involved in corporate, banking and securities transactions.

EDUCATION

COLUMBIA UNIVERSITY LAW SCHOOL
New York, New York

I received a J.D. in May, 1974. I was the Managing Editor of the *Columbia Law Review* during 1973-74. I was a Harlan Fiske Stone Scholar, recipient of the Dawson Prize in 1973, and a teaching fellow in Civil Procedure during the 1973-74 term.

EDUCATION, *continued*

HARVARD UNIVERSITY GRADUATE SCHOOL OF BUSINESS
Boston, Massachusetts

I received an M.B.A. in June, 1971. I concentrated in finance, wrote a thesis on corporate financial management and was an assistant to Prof. Samuel Hayes, III.

WHITMAN COLLEGE
Walla Walla, Washington

I received a B.A., *summa cum laude*, in 1969 with a course emphasis on Economics and English. I was elected to Phi Beta Kappa during my junior year.

PUBLICATIONS

Books

American Constitutional Law: Powers and Liberties (Third Edition, Aspen, 2009)
(casebook)

American Constitutional Law: Powers and Liberties (Second Edition, Aspen, 2005)
(casebook)

Annual Supplements (Aspen, 2005-2008)

American Constitutional Law: Powers and Liberties (Aspen, 2001) (casebook)
Annual Supplements to *American Constitutional Law* (Aspen, 2001-2004)

Property (2d Edition, Aspen/Emanuel, 2006) (outline)

Property (Aspen/Emanuel, 2002) (outline)

Property (Emanuel Publishing, 1998) (outline)

Constitutional Law (Aspen, 1997) (outline)

Constitutional Law (2d edition, Aspen, 2001) (outline)

Silent Rights: The Ninth Amendment and the Constitution's Unenumerated Rights
(Temple University Press, 1995) (monograph)

The California State Constitution (Greenwood Press, 1993) Co-authored with Profs.
Joseph Grodin and Richard Cunningham (treatise)

Articles, Essays, and Book Chapters

“Church Schisms, Church Property, and Civil Authority,” *St John’s L. Rev.* (forthcoming)

“State Standing after *Massachusetts v. EPA*,” 61 *Florida L. Rev.* 249 (2009)

“Second Amendment Decision Rules,” 60 *Hastings L.J.* – (2009) (forthcoming)

“Two Zones of Prophylaxis: The Scope of the Fourteenth Amendment Enforcement Power,” 76 *Geo. Wash. L. Rev.* 1 (2007)

“The Role of Governmental Purpose in Constitutional Judicial Review,” 59 *S. Car. L. Rev.* 1 (2007)

“The Constitution in a Postmodern Age,” 64 *Wash. & Lee L. Rev.* 165 (2007)

Book Review, *The Rehnquist Legacy*, 25 *Law & History Rev.* 683 (2007)

Book Review, *The Oxford Companion to the Supreme Court of the United States*, 24 *Law & History Rev.* 689 (2006)

“The Political Marketplace of Religion,” 57 *Hastings L.J.* 1 (2005)

“The New Formalism: Requiem for Tiered Scrutiny?” 6 *U. Pa. J. Const. L.* 944 (2004)

“Elites, Identity Politics, Guns, and the Manufacture of Legal Rights,” 73 *Fordham L. Rev.* 573 (2004) (symposium issue)

“Designation of Heirs: A Modest Proposal to Diminish Will Contests,” 37 *Real Prop. Prob. and Tr. J.* 577 (2003)

“Congressional Power to Regulate Sex Discrimination: The Effect of the Supreme Court’s ‘New Federalism,’” 55 *Maine L. Rev.* 63 (2003) (symposium contribution)

“Some Thoughts on the Law and Politics of Reparations for Slavery,” 24 *Boston College Third World Law Review* 157 (2004) (symposium contribution)

“Joltin’ Joe Has Left and Gone Away: The Vanishing Presumption Against Preemption,” 66 *Albany L. Rev.* 759 (2003)

“Federalism and the Rehnquist Court,” 53 *Hastings L.J.* 431 (2002)

“Civic Discourse Amid Cultural Transformation,” 12 *Cardozo Studies in Law and Literature.* 193 (2000).

Articles, Essays, and Book Chapters, continued

- "Guns, Extremists, and the Constitution," *57 Wash. & Lee L. Rev.* 1095 (2000).
- "Juvenile Curfews and Fundamental Rights Methodology," *27 Hastings Const. L. Q.* 775 (2000).
- "A Whig in Republican Clothing," a review of Linda Przybyszewski, *The Republic According to John Marshall Harlan* (1999) , February 2000 *JURIST: Books-on-Law*
- "Public Fora, Neutral Governments, and the Prism of Property," *50 Hastings L.J.* 309 (1999)
- "The Tao of Federalism," *20 Harv. J. Law & Pub. Policy* 887 (1997)
- "Takings and Progressive Rate Taxation," *20 Harv. J. Law & Pub. Policy* 85 (1996)
- "Etiquette Tips: Some Implications of 'Process Federalism,'" *18 Harv. J. Law & Pub. Policy* 175 (1994).
- "Hate Speech, Cultural Diversity, and the Foundational Paradigms of Free Expression," *40 UCLA L. Rev.* 103 (1992), portions reprinted in *Speaking Freely: The Case Against Speech Codes*, Henry Mark Holzer, ed., 1994.
- "The Natural Law Component of the Ninth Amendment," *61 U. Cin. L. Rev.* 49 (1992) (part of symposium issue on Natural Law and the Constitution).
- "Devolution or Disunion: The Constitution After Meech Lake," *29 Osgoode Hall L. J.* 792 (1991)
- "Abstention and the Constitutional Limits to the Judicial Power of the United States," *1991 B.Y.U. L. Rev.* 811 (part of Federal Courts Symposium issue).
- "The Locus of Sovereignty: Judicial Review, Legislative Supremacy, and Federalism in the Constitutional Traditions of Canada and the United States," *1990 Duke L.J.* 1229.
- "The Anti-Federalist Ninth Amendment and Its Implications for State Constitutional Law," *1990 Wis. L. Rev.* 1229.
- "State Sovereignty and the Tenth and Eleventh Amendments," *56 U. Chi. L. Rev.* 61 (1989).
- "A More Plausible Interpretation of the Eleventh Amendment," *57 U. Chi. L. Rev.* 118 (1990).

Articles, Essays, and Book Chapters, continued

"The Excessive Fines Clause and Punitive Damages: Some Lessons from History," 40 *Vand. L. Rev.* 1233 (1987).

"Federalism and Fundamental Rights: The Ninth Amendment," 38 *Hastings L.J.* 305 (1987), reprinted in *The Rights Retained by the People: The History and Meaning of the Ninth Amendment* (Randy Barnett, ed. 1989)

"An Old-Fashioned Life," 24:1 *San Francisco Attorney* 32 (1998) (book review of Gormley, *Archibald Cox: Conscience of a Nation*)

Introduction to *A Disquisition on Government*, John C. Calhoun, a reprint of the 1851 classic defense of the merits of decentralized federalism (Legal Classics Library, 1993).

"The Faith Healers," 17 *Law & Social Inquiry* 821 (1992).

"The Duty of Keeping Political Power Separated," 20 *Hastings Const. L. Q.* 1 (1992).

"Getting There: A Brief History of the Politics of Supreme Court Appointments," 19 *Hastings Const. L. Q.* 1 (1991).

"The 'Underlying Principle' of the Independence of the California Constitution," 2 *State Const. Comm. & Notes* 1 (Winter 1991).

"American Fiduciary Duty in an Age of Narcissism," 54 *Sask. L. Rev.* 101 (1990).

"Rule of Law and the Age of Aquarius," 41 *Hastings L.J.* 757 (1990) (Review of Geoffrey de Q. Walker, *The Rule of Law*).

"The Jurisprudence of Poetic License," 1989 *Duke L. J.* 1047.

"California's Privacy Right: Independence Threatened," 1 *State Const. Comm.* 4 (Spring 1990).

"Pure Symbols and the First Amendment," 17 *Hastings Const. L. Q.* 369 (1990), reprinted in *The Flag and the Constitution, Vol. II: Flag Burning and the Law* (Michael Kent Curtis, ed., 1993).

"Anti-Federalism and the Ninth Amendment," 64 *Chi.-Kent L. Rev.* 987 (1988), reprinted in *The Rights Retained by the People: The History and Meaning of the Ninth Amendment, Vol. 2* (Randy Barnett, ed. 1993).

"Law's Inferno," 39 *Hastings L.J.* 1269 (1988) (Review of Mark Kelman, *A Guide to Critical Legal Studies*).

Articles, Essays, and Book Chapters, continued

"An Assault Upon 'Takings' Doctrine: Finding New Answers in Old Theory," 63 *Ind. L.J.* 113 (1987) (Review of Richard Epstein, *Takings: Private Property and the Power of Eminent Domain*).

"California Law of Initiative and Referendum," in *The Law of Politics* (California Continuing Education of the Bar, 1977) (with Steven Dantzker).

Several op-ed essays and encyclopedia entries

CURRENT WORK IN PROGRESS

Horseshoes, Hand Grenades, and the Constitution, a book on constitutional interpretation

An article on affirmative and negative rights in equal protection and substantive due process

PAPERS PRESENTED AND SPEAKING APPEARANCES

Paper presenter, "Second Amendment Decision Rules," Symposium on the Second Amendment after *Heller*, University of California, Hastings, and the Hastings Law Journal, February 13, 2009

Faculty colloquium, New York Law School, October 8, 2008

Faculty colloquium, University of California, Davis Law School, October 4, 2008

Paper presenter, Annual Meeting of the National Conference of State Legislators, Boston, August 2007, "The Commerce Clause and Protectionism: Two Sides to the Coin."

Paper presenter, Annual Meeting of the Law & Society Association, Las Vegas, June 2005, "The Future of Tiered Scrutiny."

Commentator and presenter, Conference on the Second Amendment and the Future of Gun Regulations, Fordham Law School, April 2004

Paper presenter and commentator, Symposium on Reparations for Slavery, Boston College Third World Law Journal, March 2003

Paper presenter, Symposium on "Law, Labor, and Gender," University of Maine Law School and Maine Law Review, September 2002

Colloquium participant, "The Meaning of Privileges and Immunities," Liberty Fund, Tucson, April 2002

PAPERS PRESENTED AND SPEAKING APPEARANCES (*continued*)

Colloquium participant, "The Rule of Law and the Elaboration of a Constitutional Text," Liberty Fund, Indianapolis, March 2002

Colloquium speaker, Boston College Law School, February 2002

Colloquium speaker, Boston University Law School, February 2002

Bush v. Gore Revisited, Boston College Law School, November 2001

"Votes and Voices: Reevaluations in the Aftermath of the 2000 Presidential Election," Cardozo School of Law, Yeshiva University, April 2001. Panel on Developments in Our Public Discourse

Colloquium speaker, Washington & Lee Law School, November 2000

Colloquium Participant, Academics for the Second Amendment, Arlington, VA, November 1998

Golden Gate University Law School, Debate on the Impeachment of President Clinton, October 1998

Palo Alto and Santa Clara Bar Associations, Palo Alto, October 1995; Debate on Affirmative Action

Canadian Studies Symposium, University of California, Berkeley, November 1993. "The Meaning of the 1993 Federal Election"

Canadian Studies Symposium, University of California, Berkeley, November 1992. "After the Referendum, What Next?"

Participant, Roots of the Common Law colloquium, Clemson University and Liberty Fund, October 1992.

Panelist, Fulbright Roundtable, Canadian Consulate, San Francisco, April 1992, on Canadian constitutional change.

Distinguished Visiting Scholar Lecture, California State University, Sacramento, February 1992 (Delivered a lecture, "Federalism and the Canadian Constitution").

Participant, Liberty and the Ninth Amendment Colloquium, University of Puget Sound Law School, May 1991

Western Social Science Association, Annual Meeting, April 1991. (Presented a paper: "Devolution or Disunion: The Constitution After Meech Lake").

PAPERS PRESENTED AND SPEAKING APPEARANCES *(continued)*

Canadian Institute for Advanced Legal Studies, Stanford University, July 1990.
(Presented a paper: "American Fiduciary Duty in an Age of Narcissism").

National Association of Attorneys General, Annual Seminar on State Constitutional Law, May-June 1990. (Presented "The Antifederalist Ninth Amendment and Its Implications for State Constitutional Law").

Symposium on "Controversies of Law," May 1990, co-sponsored by University of California, Hastings. (Presented a paper: "Abortion").

Panel participant, Symposium on Freedom and Federalism, April 1990, George Mason University.

Association of Canadian Studies in the United States, Biennial Meeting, November 1989.
(Presented a paper: "Meech Lake and Calhoun's Concurrent Majority.")

Conference on the California Constitution, March 1989, University of California, Hastings.

Numerous media appearances on local radio and television, and participation in panels, debates, and fora at Hastings intended primarily for the Hastings community.

PROFESSIONAL AND BAR MEMBERSHIPS

I am an elected member of the American Law Institute. I was admitted to the California bar in 1974 and am also admitted to the bars of various United States District Courts, the United States Court of Appeals (9th Circuit), and the United States Supreme Court.

CIVIC ACTIVITIES

I have served as an arbitrator, court-appointed mediator, judge (*pro tempore*) of the California Municipal Court, Vice-Chair of the California State Bar Committee on Debtor-Creditor Relations, as a director of various civic organizations, and fund raiser for private elementary and secondary schools.

23 April 2009