

5-1-2018

Table of Contents and Masthead

Cameron Fraser

Follow this and additional works at: <https://digitalcommons.pepperdine.edu/plr>



Part of the [Legal Writing and Research Commons](#)

Recommended Citation

Cameron Fraser *Table of Contents and Masthead*, 45 Pepp. L. Rev. Iss. 3 (2018)

Available at: <https://digitalcommons.pepperdine.edu/plr/vol45/iss3/7>

This Masthead is brought to you for free and open access by the School of Law at Pepperdine Digital Commons. It has been accepted for inclusion in Pepperdine Law Review by an authorized editor of Pepperdine Digital Commons. For more information, please contact josias.bartram@pepperdine.edu, anna.speth@pepperdine.edu.

PEPPERDINE LAW REVIEW

Volume 45

2018

Number Three

CONTENTS

ARTICLES

WHAT ARE THE JUDICIARY’S POLITICS?	MICHAEL W. MCCONNELL	455
THE PIRATE’S CODE: CONSTITUTIONAL CONVENTIONS IN U.S. CONSTITUTIONAL LAW.....	MARK TUSHNET	481
HOW THE PROHIBITION ON “UNDER-RULING” DISTORTS THE JUDICIAL FUNCTION (AND WHAT TO DO ABOUT IT).....	A. CHRISTOPHER BRYANT & KIMBERLY BREEDON	505
JUSTICE AS FAIR DIVISION	IAN BARTRUM, KATHRYN NYMAN & PETER OTTO	531
EIGHT JUSTICES ARE ENOUGH: A PROPOSAL TO IMPROVE THE UNITED STATES SUPREME COURT	ERIC J. SEGALL	547
HEARING THE STATES.....	ANTHONY JOHNSTONE	575

PEPPERDINE LAW REVIEW



VOLUME FORTY-FIVE
NUMBER 3 SPECIAL ISSUE
MARCH 2018

Pepperdine Law Review (ISSN 0092-430X), (USPS 540-510), Volume Forty-Five, Number Three, March 2018. Published four times each year in January, February, March, and April, including a Symposium issue and an Annual Volume. Periodicals postage paid at Malibu, CA 90263 and at additional mailing offices.

Postmaster: ***Return postage guaranteed.*** Return book and address corrections to *Pepperdine Law Review*, 24255 Pacific Coast Highway, Malibu, CA 90263. Annual subscription: \$45.00; Single issue: \$25.00. Send all change of address notifications one month in advance of publication and include old and new addresses with zip codes. Send all correspondence to *Pepperdine Law Review*, Pepperdine University School of Law, 24255 Pacific Coast Highway, Malibu, CA 90263, (310) 506-4000.

Copyright © 2018 by the Pepperdine University School of Law. Except as otherwise provided, the author of each article in this issue has granted permission for copies of that article to be made for classroom use, provided (1) copies are distributed at or below cost, (2) the author and the *Pepperdine Law Review* are identified, (3) proper notice of copyright is affixed to each copy, and (4) the user notifies the *Pepperdine Law Review* that such copies have been made.

The views expressed herein are those of the authors of the articles and do not necessarily reflect the opinions of the Administration, Regents, Faculty, or Alumni of the Pepperdine University School of Law.

The *Pepperdine Law Review* is indexed in *Contents of Current Legal Periodicals* and *Shepard's Citations*. Current issues are available through online services provided by Westlaw and Lexis.

PEPPERDINE LAW REVIEW

Volume 45
2017-2018

EDITORIAL BOARD

Editor-in-Chief
CAMERON FRASER

Business & Production Editor
TYLER PROSSER

Managing Editor
HANNAH FITZGERALD

Note & Comment Editors
SHELBY BURNS
JAKE MCINTOSH
JOSH PARK

Lead Articles Editors
KATHERINE KILMER
JESSICA LEANO
SUSAN LY

Literary Citation Editors
KATIE HENDERSON
JORDAN JOHNSON
DANIEL MACIOCE
EDRINA NAZARADEH

Symposium Editor
KAT ELLENA

*Essays, Reviews &
Other Commentary Editor*
ANNA MOLINARI

ASSOCIATE EDITORS

DAVID BARNEY
KYSER BLAKELY
MELISSA CORONA
JACQUELINE HARVEY

MAETHA JACOB
MARK KANOW
KYLER KELLY
JESSLYN NUNEZ

CASSIE ROUTH
EMILY SAUER
DESTIN TISHER
CASSIDY VEAL

SENIOR STAFF MEMBERS

BAILEY BLAIES
CASEY CATON
MELANIE COCKRUM

MEGAN DODD
CHRISOULA GIANNAKOPOUOS
CORY GOULD

GREGORY LEWIS
ANDREW SMITH
NICHOLAS YODOCK

STAFF MEMBERS

MEGAN ASRANI
DAVID BASS
TIFFANIE BITTLE
ED BRAVO
TYLER BROWN
SAMANTHA BURDICK
BEAU CARTER
RICHARD CHAGOURY
VIVIAN DAVIS
DANIEL DE CECCO
NOLAN DILTS
ALYSSA DIZOGLIO
LINDSAY ENRIQUEZ

STEVEN FRENCH
ROSS GARRETT
ASHLEY GEBICKE
SARAH GEORGE
ANNA GOODMAN
NARGESS HADJIAN
AUSTIN JONES
MATT LINNELL
TIMOTHY LONGFIELD
OSCAR LOPEZ
KRISTY MOAWAD
MATTHEW MYATT
JUDY NAM
LAUREN NAWORSKI

LAVINIA OSILESI
MONICA PALADINI
SARAH PARKER
MATT REZNICK
HEATHER SCOTT
OLIVIA SCOTT
ALAN SIMS
TRACY SMITH
COLTEN STANBERRY
TROY TESSEM
ABIGAIL WHITE
AMBER WHITE
JACKSON ZIMMERMAN

FACULTY ADVISORS

ED LARSON
ROBERT PUSHAW

PEPPERDINE UNIVERSITY

SCHOOL OF LAW

Administration and Faculty

University Administration

Andrew K. Benton, B.S., J.D., University President

Rick R. Marrs, B.A., Ph.D., M.Div., Provost

Gary A. Hanson, B.S., J.D., Executive Vice President

Keith Hinkle, B.S., J.D., Vice President for Advancement and Public Affairs

Jeff Pippin, B.A., M.B.A., Senior Vice President for Investments

School of Law Administration

Paul L. Caron, A.B. J.D, LL.M, Duane and Kelly Roberts Dean and Professor of Law

Naomi Harlin Goodno, A.B., J.D., Associate Dean for Academic Affairs,
Associate Professor of Law

Babette Boliek, BA., J.D., Ph.D., Associate Dean for Research and
Development and Associate Professor of Law

Donald Earl Childress III, B.A., M.A., J.D., L.L.M., Dean of Faculty and
Professor of Law

Selina Brandt, B.S., J.D., Associate Dean for Student Success

Phillip Bohl, B.A., J.D., M.L.I.S., Assistant Dean, Information Services

Danny DeWalt, B.A., M.Div., M.F.T., J.D., Dean of Students and Chief of Staff
and Director, Parris Institute for Professional Formation

Catherine Kerr Dodds, B.A., M.L.I.S., J.D., Assistant Dean of the Law Library
and Assistant Professor of Law

James Allan Gash, B.A., J.D., Associate Dean for Strategic Planning and
External Relations, Professor of Law and Director of Global Justice Program

Michael Hom, B.A., J.D., Assistant Dean for Career Development

Shannon Phillips, B.A., Assistant Dean for Admissions, Student Information and
Financial Services

School of Law Faculty

Robert Anderson, B.A., J.D., Ph.D., Associate Professor of Law

Jeffrey Baker, B.A., J.D., Director of Clinical Education and Associate Clinical
Professor of Law

Stephanie Blondell, B.A., J.D., Associate Director, Straus Institute of Dispute Resolution and Assistant Professor of Law and Practice

Babette E. Boliek, B.A., J.D., Ph.D., Associate Dean for Research and Development and Associate Professor of Law

Selina Brandt, B.S., J.D., Associate Dean for Student Success

Mireille Butler, J.D., J.D., Associate Professor of Legal Research and Writing

Harry M. Caldwell, B.A., J.D., Director of Trial Advocacy and Professor of Law

Carol A. Chase, B.A., J.D., Professor of Law

Donald Earl Childress III, B.A., M.A., J.D., LL.M., Dean of Faculty and Professor of Law

Robert F. Cochran, Jr., B.A., J.D., Director, The Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics and Louis D. Brandeis Professor of Law

Jack J. Coe, Jr., B.A., J.D., LL.M., Ph.D., Professor of Law

Tanya Asim Cooper, B.A., M.A., J.D., LL.M., Director of the Restoration and Justice Clinic and Assistant Clinical Professor of Law

Richard L. Cupp, B.A., J.D., John W. Wade Professor of Law

Catherine Kerr Dodds, B.A., M.L.I.S., J.D., Assistant Dean of the Law Library and Assistant Professor of Law

James Allan Gash, B.A., J.D., Associate Dean for Strategic Planning and External Relations, Professor of Law and Director of Global Justice Program

Chris Chambers Goodman, B.A., J.D., Professor of Law

Naomi Harlin Goodno, A.B., J.D., Associate Dean for Academic Affairs and Associate Professor of Law

Colleen P. Graffy, B.A., M.A., LL.M., Associate Professor of Law

David S. Han, B.A., J.D., Associate Professor of Law

Michael A. Helfand, B.A., J.D., Ph.D., Associate Professor of Law and Associate Director, Diane and Guilford Glazer Institute for Jewish Studies

Nancy Hunt, B.A., J.D., Director, Washington DC Externship Experience and Assistant Professor of Law and Practice

Bernard James, B.G.S., J.D., Professor of Law

Khrista Johnson, A.B., J.D., Associate Professor of Law

Douglas W. Kmiec, B.A., J.D., Caruso Family Chair in Constitutional Law and Human Rights

Kristine S. Knaplund, B.A., J.D., Professor of Law

Edward J. Larson, B.A., M.A., Ph.D., J.D., University Professor and Hugh & Hazel Darling Chair in Law

Amy B. Levin, B.A., J.D., M.S.W., Co-Director, Byrne Judicial Clerkship Institute and Associate Professor of Legal Research and Writing

Barry P. McDonald, B.B.A., J.D., Professor of Law

James M. McGoldrick, Jr., B.A., J.D., Professor of Law

Gregory S. McNeal, B.A., M.P.A., J.D., Ph.D., Professor of Law and Public Policy
Anthony Miller, B.A., M.A., J.D., Professor of Law
Derek Muller, B.A., J.D., Associate Professor of Law
Grant Nelson, B.A., J.D., William H. Rehnquist Professor of Law Emeritus
Gregory L. Ogden, B.A., J.D., LL.M., LL.M., Professor of Law
Brittany Stringfellow Otey, B.A., J.D., Director, Pepperdine Legal Aid Clinic and Associate Professor of Clinical Law
Ronald F. Phillips, B.S., J.D., Senior Vice Chancellor, School of Law Dean Emeritus, and Ronald F. Phillips Professor of Law
Robert Popovich, B.S., M.B.T., J.D., Professor of Law
Robert J. Pushaw, B.A., J.D., James Wilson Endowed Professor of Law
Hilary S. Reed, B.A., J.D., Associate Professor of Legal Research and Writing
Peter Robinson, B.A., J.D., Professor of Law
Shelley Ross Saxer, B.S., J.D., Laure Sudreau-Rippe Endowed Professor of Law
Mark S. Scarberry, A.B., J.D., Professor of Law
Steven M. Schultz, B.A., J.D., Assistant Professor of Law and Director of Global Programs
Victoria L. Schwartz, B.A., B.A., B.S., J.D., Co-Director, LLM and Certificate Programs in Entertainment, Media and Sports Law and Associate Professor of Law
Sukhsimranjit Singh, L.L.B., LL.M., Associate Director of the Straus Institute and Assistant Professor of Law and Practice
Christen Sproule, B.A., J.D., Assistant Visiting Professor of Legal Research and Writing
Thomas J. Stipanowich, B.A., M.A., J.D., Academic Director, Straus Institute for Dispute Resolution, William H. Webster Chair in Dispute Resolution, and Professor of Law
Deanell Reece Tacha, B.A., J.D., School of Law Dean Emeritus
Ahmed Taha, B.A., B.S., Ph.D., J.D., Professor of Law
Robert A. Uhl, B.A., J.D., Director, Investor Advocacy Clinic and Adjunct Professor of Law
Peter T. Wendel, B.S., M.A., J.D., Professor of Law
Maureen Arellano Weston, B.A., J.D., Professor of Law and Co-Director, LLM and Certificate Programs in Entertainment, Media and Sports Law

Adjunct Faculty

The Honorable Gregory Alarcon, B.A., J.D.
Phil Armstrong, B.S., J.D.
Sean Aughey, B.A., LL.M., *London Program*
Arnold Barba, B.A., J.D.
Lucas Bastin, B.L., B.A., B.C.L., *London Program*
Zachary Briers, B.A., J.D.

Paul E. Burns, B.S., J.D.
Rebecca Callahan, B.A., J.D., LL.M.
Oliver Caplin, B.Med. Sci., M.B. Bchir, G.D.L., B.P.P., *London Program*
John Allen Chalk, Sr., B.S., M.A., J.D.
Maria Chedid, B.A., J.D.
Frederick Brian Cox, B.S., M.Div., M.D.R.
Jim Craven, B.A., J.D., LL.M.
Steve Cron, B.A., J.D.
Darryl Darden, A.B., M.A., J.D., M.D.R.
Daniel DeWalt, B.A., M.Div., M.F.T., J.D.
David Doto, B.A., J.D., LL.M.
William Eddy, B.A., M.S.W., J.D.
Bruce Einhorn, B.A., J.D.
Casey Elford, B.A., J.D., M.D.R., LL.M.
Max Factor III, B.A., J.D.
Jo Anne Frankfurt, B.A., J.D.
Debra Gerardi, B.A., J.D., R.N., M.P.H.
Howard Gadlin, B.A., Ph.D.
Robert Goff, B.A., J.D.
Marc P. Goodman, B.A., M.A., J.D.
Matthieu Gregoire, B.A., M.A., LL.M., *London Program*
Robert Gumer, B.A., J. D.
Jerry Hager, B.A., J.D.
Gary Haugen, B.A., J.D.
Stacie Hausner, B.A., J.D., LL.M.
Susan Hill, B.A., J.D.
John Hurney, B.A., J.D., C.D.R.
Laurel Kaufer, B.A., J.D.
Curtis Kin, B.A., J.D.
Randy Kiser, B.A., J. D.
Nicholas M. Kublicki, B.A., J.D., LL.M.
Amy Longo, B.A., J.D.
Steve Lurie, B.A., J.D.
Denise Madigan, B.A., M.P.P., J.D.
Nina Meierding, B.S., M.Ed., C.D.R., J.D.
The Honorable Lawrence J. Mira, B.S., J.D.
William Nix, A.B., M.A., J.D., LL.M.
Douglas Noll, B.A., J.D., M.A.
Judith Hale Norris, B.A., J.D.
Amanda Padoan, B.A., J.D., *London Program*
Patti L. Paniccia, B.A., J.D.
Jeff Paquin, B.A., J.D.

Steven W. Paul, B.A., J.D.
Leslie Petersil, B.A., J.D.
David Peterson, B.S., J.D.
Donald Philbin, LL.M., J.D., M.B.A.
Brian Philpott, B.S., J.D.
Rob Rader, B.A., M.A., J.D.
Marcelo Rosadilla, U.D., LL.M.
Jeremy Rosen, B.A., J.D.
Steve Rottman, B.A., J.D.
Colin Rule, B.A., M.A.
Lester Savit, B.S., J.D.
Jan Schau, B.A., J.D.
Donna Silverberg, B.A., J.D.
David Talbot, B.A., M.D.R., J.D.
Wendy Trachte-Huber, B.S., J.D.
Mark Travis, B.S., J.D., LL.M.
Alexander Turk, LL.B., LL.M., Ph.D., *London Program*
Marco Turk, B.A., J.D.
Daniel Van Ness, B.A., J.D.
The Honorable Alexander Williams, B.A., LL.B.
Charles Wiggins, J.D., LL.M.
Donald Wolfe, B.A., J.D., LL.M.
Michael Zacharia, B.A., J.D.
Zena Zumeta, B.D., J.D.