



PAUL R. BAIER

George M. Armstrong, Jr., Professor of Law
Judge Henry A. Politz Professor of Law
Paul M. Hebert Law Center

Louisiana State University
Baton Rouge, Louisiana 70803-1000

Office Phone: (225) 578-8326

E-Mail, paul.baier@law.lsu.edu

Member: Louisiana Bar; Supreme Court of the
United States, U.S. Fifth Circuit Bars

A.B. Univ. of Cincinnati 1966, *summa cum laude* in
Economics; 4.00 cumulative average; Phi Beta Kappa
(junior year); 1st prize Robert A. Taft Memorial Essay
1966, "Can American Cities Be Renewed?"

Scholar in Residence, La. Bar Foundation, 1990-92

Distinguished Professor 2004, La. Bar Foundation

Law Professor of the Year 2010, LSU Law Center

Juris Doctoris *cum laude*, 1969, Harvard Law School

Editor, HARVARD LEGAL COMMENTARY, 1968-69

Clerkship, Taft, Stettinius & Hollister, Cincinnati, Ohio, Summer 1967;

Assistant to City Solicitor Philip M. Cronin, Esq., Cambridge, Massachusetts, Summer 1968;

Law Clerk, Judge John H. Gillis, Michigan Court of Appeals, 1969-70;

Instructor in Law, University of Michigan Law School, 1970-71;

Administrative Assistant to Chief Judge T. John Lesinski, Michigan Court of Appeals, 1970-71;

Ass't Professor, University of Tennessee College of Law, 1971-72;

Faculty, A.B.A. Appellate Judges Seminar, 1972-73, Boston, Miami, San Diego, Reno;

Director, A.B.A. Appellate Judges Conference's Law Clerk Institute, Louisiana State University Law
Center, 1972-76;

Judicial Fellow, Supreme Court of the United States, 1975-76;

Faculty, ABA National Appellate Advocacy Program, Phoenix, Arizona, 1976;

Executive Director, Louisiana Commission on the Bicentennial of the United States Constitution, 1987-
1991;

Sec./Treas., Vice-Chairman, Bill of Rights Section, Louisiana State Bar Ass'n, 1987-2010;

Special Assistant Louisiana Attorney General, Special Counsel to Attorney General William J. Guste,
Jr., 1989-91, *United States v. Louisiana*; *Guste v. Roemer*, Governor, U.S. Fifth Cir. Ct Apps;

Special Counsel to Louisiana Attorney General Richard P. Ieyoub, *United States v. Louisiana*, Higher
Education Desegregation Case, U.S. Fifth Cir., 1993; *Louisiana v. Hays*, Congressional Reapportionment
Case, U.S. Sup. Ct, 1995; *Foster v. Love*, Federal Election Day Case, U.S. Sup. Ct, 1998; *Campbell v.*
Louisiana, Race Discrimination/Grand Jury Foreperson, U.S. Sup. Ct, 1998;

Governing Board, Edward Douglass White Historic Site (Act 507, 1993 Regular Session) by nomination
of Secretary of State W. Fox McKeithen, 1993-1998.

Secretary, Supreme Court of Louisiana Historical Society, 2007-present.

FILMS

“Supreme Court” (script, narration, appearance)—a 1976 production of the American Bar Association, featuring Chief Justice Burger and Justices Tom Clark and Lewis F. Powell, Jr. The film, which won national and international awards, was on display in the Supreme Court building, Washington, D.C., for ten years and was shown on P.B.S. stations throughout the country.

“Court Reports,” a film historiography of the Supreme Court of the United States tracing the Court’s history from 1790 to 1953, in National Archives’ Universal Newsreels and music. The film premiered at the first annual dinner party of the Supreme Court Historical Society, May 1976, in the Great Hall of the Supreme Court, and it was shown in the Supreme Court’s exhibit area theater, Washington, D.C.

TELEVISION PRODUCTIONS

“Hugo Lafayette Black and John Marshall Harlan: Two Faces of Constitutional Law,” WLSU TV 1978, a 30-minute dialogue featuring two law students portraying Justices Black and Harlan who are interviewed in the style of Steve Allen’s “Meeting of Minds.” Transcript published, *Hugo Lafayette Black and John Marshall Harlan: Two Faces of Constitutional Law, With Some Notes On the Teaching of Thayer’s Subject*, 9 SOUTHERN UNIV. LAW REVIEW 1 (1982).

“A Conversation with Henry Putzel, Jr.” WLSU TV 1978, an interview with the thirteenth Reporter of Decisions of the Supreme Court of the United States. The transcript of this interview, with my annotations and photographs, appears *sub nom. A Report on the Reporter: “Double Revolving Peripatetic Nitpicker”* in YEARBOOK 1980 SUPREME COURT HISTORICAL SOCIETY 10.

“Experiences in Advocacy,” WLSU TV 1979, an interview with Colonel Frederick Bernays Wiener, author of EFFECTIVE APPELLATE ADVOCACY (Prentice Hall, 1950) (revised edition, A.B.A., 2004), BRIEFING AND ARGUING FEDERAL APPEALS (B.N.A. 1967), and a renowned advocate at the Bar of the Supreme Court of the United States.

“A Life Lived Greatly in the Law: Erwin N. Griswold,” WLSU TV, 1980, an interview with former Solicitor General and Dean of the Harvard Law School Erwin N. Griswold.

PLAYS

“Father Chief Justice”: *E. D. White and the Constitution* (1997), a play of five acts, continuing production co-sponsored by the Louisiana Bar Foundation. “Father Chief Justice,” which I direct, premiered March 8 (Holmes’s birthday), 1997 in the Theater of the Jean Lafitte National Historic Park, Thibodaux, Louisiana. Justice Harry T. Lemmon of the Louisiana Supreme Court (ret.) plays the lead role as E. D. White; Chief Judge William V. Redmann (ret.) plays Mr. Justice Holmes; Judge Mary Ann Vial Lemmon (U.S.D.C. E.D. La.) plays Fanny Holmes; Mrs. Alvin B. Rubin, Baton Rouge, plays the Widow White; I play the role of the narrator, Professor Richard Henry Jesse, first academic Dean of the University of Louisiana (now Tulane University), who in his day was a close personal friend of Chief Justice White. A preview of the play has been published, “Father Chief Justice”: *E. D. White and the Constitution*, 58 LOUISIANA LAW REVIEW 423 (1998); ACT III, “At Home,” appears in the Summer 1998 number of LITIGATION, Vol. 24, No. 4, *sub nom. “The Blue and Gray as One: Holmes and White on the Supreme Court”*; ACT IV, “By the Light of Reason,” appears in 6 LOYOLA JOURNAL OF PUBLIC INTEREST LAW 1 (2005).

PLAYS (Cont'd.)

"*Father Chief Justice*" was performed at Louisiana's Old State Capitol, April 29, 2000, as part of the Baton Rouge Bar Association's A.B.A. award-winning Law Day Celebration, and it played at the Centennial annual meeting of the American Association of Law Libraries, July 2006, St. Louis, Missouri. More recently, it was performed May 22, 2008, in the chamber of the Louisiana Supreme Court, 400 Royal St., New Orleans, LA, featuring Chief Justice Pascal F. Calogero, Jr., as Chief Justice White; February 4, 2009, Nunemaker Auditorium, Loyola University, New Orleans, sponsored by Loyola University College of Law; May 5, 2009, U.S. Fifth Circuit Judicial Conference, Ritz-Carlton, New Orleans. Aspen Publishers sponsored a preview of the play January 6, 2010 in the chamber of Louisiana Supreme Court, printing and distributing a limited Centenary Edition of the play in celebration of the Centennial of White becoming Chief Justice of the United States, December 19, 1910. On Mardi Gras, March 8 (Holmes's birthday), 2011, "*Father Chief Justice*" played the Coolidge Auditorium, Jefferson Building, the Library of Congress, Washington, D.C., to an audience of over 400 guests. The LOC posted its webcast of the Coolidge production on the internet. http://www.youtube.com/watch?v=s7F9a1N_OZQ. On April 30, 2011, the Antitrust Section of the American Bar Association featured the *Standard Oil* Octopus scene of the play, Act IV, sc. ii, at its annual Spring Meeting, J.W. Marriott, Washington, D.C. Over 600 antitrust lawyers crowded into a makeshift Marriott theater to witness Alan Van Fleet, Section Chair, play Mr. Justice Harlan, his volcanic dissent from Chief Justice White's Rule of Reason. William Kolasky, WilmerHale, Washington, D.C., played Chief Justice White. I cast and directed both of our *Standard Oil* players in celebration of the Centennial of Chief Justice White's *Standard Oil* opinion, May 1911. Most recently, "*An Evening with Justice Holmes*," a Boston production featuring Act III of *Father Chief Justice*, played the auditorium of the Social Law Library, John Adams Courthouse, Pemberton Square, Nov. 9, 2012. Four members of the Massachusetts Supreme Judicial Court played the parts of Justice Holmes (Justice Robert Cordy), Fanny Holmes (Justice Margot Botsford), Justice Louis Brandesi (Justice Francis Spina), and Chief Justice White (Justice Ralph Gants). I directed the Boston "*Evening*" which played to a full house, with a waiting list of over 130.

SPECIAL EXHIBITS

"COURT REPORTS," a multi-media panorama of the history of the Supreme Court of the United States produced at the request of the Supreme Court Historical Society, Washington, D.C., for the chartering party of the Illinois State Chapter of the Supreme Court Historical Society, November 10, 1979, at the Palmer House, Chicago, Illinois.

BOOKS

CONSTITUTIONAL LAW (Aspen Custom Publishing Series, Wolters Kluwer, First Edition 2010).

CONSTITUTIONAL LAW (Aspen Custom Publishing Series, Wolters Kluwer, Revised Edition 2013).

"FATHER CHIEF JUSTICE": E. D. WHITE AND THE CONSTITUTION, *A Play by Paul R. Baier* (Louisiana Bar Foundation Centennial Edition 2010).

"FATHER CHIEF JUSTICE": E. D. WHITE AND THE CONSTITUTION, *A Play by Paul R. Baier* (Aspen Publishers Limited Edition 2010).

AN EVENING WITH JUSTICE HOLMES, ACT III (Louisiana Bar Foundation 2013),

http://www.google.com/#bav=on.2,or.r_qf.&fp=f4a1b9992c07a34d&q=an+evening+with+justice+holmes+ .

BOOKS (Cont'd.)

MR. JUSTICE AND MRS. BLACK: THE MEMOIRS OF HUGO L. BLACK AND ELIZABETH BLACK (Random House 1986), Editor's Note and annotations. Justice William J. Brennan, Jr., in his *Foreword* calls the book "a contribution of first rank to the story of a vibrant if sometimes turbulent period of the Court's history."

CONSTITUTIONAL INTERPRETATION: *Procédés d'Elaboration* (with Justice Harry A. Blackmun) (LSU-Aix-Marseille III Summer Study in Law, 1986).

LIONS UNDER THE THRONE: THE SUPREME COURT IN THE MIRROR OF CHIEF JUSTICES, *The Edward Douglass White Lectures of Chief Justices Warren E. Burger and William H. Rehnquist, Edited and with an Introduction by Paul R. Baier* (Louisiana Bar Foundation 1995).

REPORT OF THE LOUISIANA BAR FOUNDATION CONCLAVE ON LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT (Editorial Chair, Louisiana Bar Foundation 1995).

THE CONSTITUTION AND AMERICAN CIVILIZATION, CASES AND MATERIALS, with a *Foreword* by Chief Justice Catherine D. Kimball (Sixteenth Edition 2013), Vol. I, pp. vi, 323, with an Appendix of Writing Samples, pp. iii, 69. Teaching materials for the first LSU Honors College offering in law and legal studies, co-taught with Professor James D. Hardy, Jr., Associate Dean Emeritus, LSU Honors College.

THE POCKET CONSTITUTIONALIST (Golden Anniversary Seventh Edition, Claitor's 2013).

THE BILL OF RIGHTS AND JUDICIAL BALANCE: A TRIBUTE JUSTICE LEWIS F. POWELL, JR., Readings for the Inaugural Program of the Louisiana State Bar Association's Bill of Rights Section (Louisiana State Bar Ass'n 1989).

CONSTITUTIONAL INTERPRETATION: *Procédés d'Elaboration* (rev. 2d ed.) (with Justice Harry A. Blackmun) (LSU-Aix-Marseille III Summer Study in Law, 1992).

JUDGES OF LIBERTY: Readings for the Louisiana State Bar Association's Bill of Rights Section Program (Louisiana State Bar Ass'n 1993).

LAWYERS IN THE GREAT TRADITION: LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT: Readings for the Louisiana State Bar Association's Bill of Rights Section Program (Louisiana State Bar Ass'n 1996).

MANDATORY DRUG TESTING OF STATE EMPLOYEES: THE URINE HOLE IN THE FOURTH AMENDMENT, Readings for the Louisiana State Bar Association's Bill of Rights Section Program (Louisiana State Bar Ass'n 1999).

GERMAN AND AMERICAN CONSTITUTIONALISM: SOME OBSERVATIONS AND COMPARISONS FROM BERLIN (Tulane Law School Summer Program Abroad, Frei Universität Berlin, Berlin, Germany, 1992, co-taught with Justice Harry A. Blackmun of the Supreme Court of the United States).

SEPARATION OF POWERS AND THE RULE OF LAW (Tulane Law School Summer School Abroad, Siena, Italy, 1991, co-taught with Justice Antonin Scalia of the Supreme Court of the United States).

COURT REPORTS AND REPORTERS OF DECISIONS: FROM EDMUNDUS PLOWDEN TO HENRY PUTZEL, JR., WITH HEADNOTES BIOGRAPHICAL & LEGAL AND A SYLLABUS (Association of Reporters of Judicial Decisions 1990).

BOOKS (Cont'd.)

LAWYERS IN THE GREAT TRADITION: THE ARGUMENT OF AN APPEAL (with Justice Harry T. Lemmon (Ret.), Louisiana Supreme Court) (Loyola Law School Skills Curriculum, 18th ed. 2013).

INSIDE THE SUPREME COURT: A collage of film, radio, television, and talk in four parts, produced for the Annual Judicial Conference of the Michigan Supreme Court and the Michigan Court of Appeals, Point West, Michigan, July 1978.

THE IDEA OF STYLE IN APPELLATE JUDICIAL OPINIONS (Federal Judicial Center, 1976). Senior Staff Attorneys Seminar, Federal Judicial Center, Washington, D.C., December 1976.

THE IDEA OF STYLE IN APPELLATE JUDICIAL OPINIONS (Second Edition, 1977), prepared in connection with a seminar on writing style for all Fifth Circuit law clerks at the invitation of Chief Judge John R. Brown, Fifth Circuit Court of Appeals, New Orleans, September 1977.

ON LAW CLERKING: A COMPREHENSIVE VIEW (A.B.A. Appellate Judges Conference; 5 editions). This collection was prepared in connection with LSU's national training program for law clerks, of which I was Director, 1972-1976.

MATERIALS FOR LOUISIANA'S LAW CLERK SEMINAR (2d ed. Louisiana Judicial College, 1980).

CONTRIBUTIONS TO BOOKS

In Homage to Saúl Litvinoff, in ESSAYS IN HONOR OF SAÚL LITVINOFF 3 (Olivier Moréteau, Julio Romañach, Jr., Alberto Luis Zuppi eds., Claitor's Publishing Division, 2008).

Promoting the Past to Assure the Future: The Lure of Legal History, in AMERICAN ASSOCIATION OF LAW LIBRARIES ANNUAL MEETING CONFERENCE PROCEEDINGS, CENTENNIAL CELEBRATION: "PIONEERING CHANGE" 176-191 (AALL, St. Louis, MO. 2006).

Edward Douglass White, in YALE BIOGRAPHICAL DICTIONARY OF AMERICAN LAW 585 (Yale University Press, 2009).

Frederick Bernays Wiener, in YALE BIOGRAPHICAL DICTIONARY OF AMERICAN LAW 587 (Yale University Press, 2009).

Chambers v. Florida, in 1 ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES 263 (Paul Finkelman ed., Routledge 2006).

Hughes Court, in 2 ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES 781 (Paul Finkelman ed., Routledge 2006).

Lochner v. New York, in 2 ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES 928 (Paul Finkelman ed., Routledge 2006).

Edward Douglass White, 5 in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES 221 (Macmillan Reference USA, 2008).

The White Court, in 5 ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES 223 (Macmillan Reference USA 2008).

CONTRIBUTIONS TO BOOKS (Cont'd.)

8th ANNUAL FIFTH CIRCUIT APPELLATE PRACTICE AND ADVOCACY PROGRAM, Part 2, Overview of Cases and Case Analysis, pp. i, 26 (Bar Ass'n of the Fifth Federal Circuit and Center for Continuing Professional Development, Paul M. Hebert Law Center, Louisiana State University 1993).

9th ANNUAL FIFTH CIRCUIT APPELLATE PRACTICE AND ADVOCACY PROGRAM, Part 2, Overview of Cases and Case Analysis, pp. i, 26 (Bar Ass'n of the Fifth Federal Circuit and Center for Continuing Professional Development, Paul M. Hebert Law Center, Louisiana State University 1994).

12th ANNUAL FIFTH CIRCUIT APPELLATE PRACTICE AND ADVOCACY PROGRAM, Part 8, Lawyers in the Great Tradition: The Ethics of Appellate Advocacy, pp. ii, 54 (Bar Ass'n of the Fifth Federal Circuit and Loyola School of Law, Institute for Continuing Legal Education 1997).

13th ANNUAL FIFTH CIRCUIT APPELLATE PRACTICE AND ADVOCACY PROGRAM, Part 1, *Ethica Campea*, The Ethics of Oral Argument, pp. viii, 31 (Bar Ass'n of the Fifth Federal Circuit and Loyola School of Law, Institute for Continuing Legal Education 1998).

Table Talk at the Hotel Bentley, in LOUISIANA BAR FOUNDATION REPORT ON LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT, Part V, pp. 67-77, 175-184 (Louisiana Bar Foundation, 1995).

1991 REPORT OF THE LOUISIANA BAR FOUNDATION, Scholar-in-Residence Program, "Time and the Court," pp. 37-44.

COMMEMORATIVE PROCEEDINGS FOR THE BICENTENNIAL OF THE SUPREME COURT OF THE UNITED STATES, *Time and the Court*, 573-574 So.2d WEST'S LOUISIANA CASES XXVII, LI (1991).

PROCEEDINGS ON THE RETIREMENT OF HONORABLE JOHN A. DIXON, Jr., *Address*, 562-563 So.2d WEST'S LOUISIANA CASES XLIX, LVII (West Pub. Co. 1990).

PROCEEDINGS ON THE RETIREMENT OF HONORABLE LUTHER F. COLE, *Louisiana's Luther F. Cole: Achievement on the Wing*, 612-613 So.2d WEST'S LOUISIANA CASES LIX, LXIV (West Pub. Co. 1993).

FOURTH AMENDMENT BORDERLANDS, Baton Rouge Bar Ass'n Bench Bar Conference 2001, Perdido Beach Resort, Orange Beach, Ala., April 6, 2001, 29 pp.

PROCEEDINGS ON THE RETIREMENT OF CHIEF JUDGE MELVIN A. SHORTESS, *Address*, 804-805 So.2d WEST'S LOUISIANA CASES XXXI, XXXVI (West Group, 2002).

SELECT APPELLATE ARGUMENTS

Before the Montana Supreme Court: *Hulit v. St. Vincent's Hospital*, 164 Mont. 168, 520 P.2d 99 (1974) (per Castles, J.). A married couple wanted to share the birth of their child using the LaMaze method of childbirth. Their attending obstetrician sought to accommodate their wishes; Dr. Hulit sued his own hospital and colleagues over this troubling medico-legal question, won an injunction below, and I was off to Helena, Montana, to argue as amicus curiae for the International Childbirth Education Association urging the constitutional rights of doctor and married couple at childbirth.

SELECT APPELLATE ARGUMENTS (Cont'd.)

Before the Louisiana First Circuit Court of Appeal: (Ellis, C.J., Ponder, Chaisson, JJ.), *Baier v. Woman's Hospital*, 340 So.2d 360 (La. App. 1st Cir. 1976), *writ refused* 342 So.2d 224 (La. 1977). The same knotty question of husbands in the delivery room, this time on the Baier home court.

Before the United States Court of Appeals for the Fifth Circuit: (Coleman, C.J., Reynaldo Garza, Sam Johnson, JJ.), *Valley v. Rapides Parish School Board [Forest Hill I]*, 646 F.2d 925 (5th Cir. 1981), *reversing* 499 F. Supp. 490 (W.D. La. 1980). This appeal raised an important legal question never before decided by any federal appellate court, *viz.*, the power of a federal court pursuant to a federal court desegregation decree to close a rural community's only school against the express wishes of the school board and the parties. I represented the intervenor Forest Hill citizens who opposed the closing of their school. *Held*: "The closing of a facility built and maintained at the expense of local taxpayers is a harsh remedy, which should only be employed if absolutely necessary to achieve the goal of a unitary system after all other reasonable alternatives have been explored." *Reversed and remanded*.

Baier v. Parker, No. 81-3622 (5th Cir. 1982) (unreported). This was a constitutional challenge to confidentiality orders issued by the United States District Court for the Middle District of Louisiana (Parker, C.J.) in the *East Baton Rouge Parish School Desegregation Case*. The district court ordered all proposals offered during settlement negotiations placed under judicial seal. After negotiations broke down, the court framed its own desegregation decree without indicating the source of its remedial ideas, including closing Southdowns Elementary School, which parents in the neighborhood opposed. To their amazement, parents were told by their elected representatives that the federal court had forever barred members of the East Baton Rouge Parish School Board from disclosing to their constituents what was proposed during the unsuccessful settlement negotiations held at the federal courthouse. Although their representatives wanted to talk, their lips were sealed. This, according to our lights, violated the First Amendment.

The School board also objected to the district court's perpetuating its confidentiality orders, arguing they abridged the First Amendment right of Board members to speak out on the soundness of the district court's plan by reference to the sealed negotiations and the corollary "right to hear" of concerned parents throughout the Parish. See *Baier v. Parker*, 543 F. Supp. 288, 296-300 (M.D. La. 1981). Fortunately, desegregation in the dark ended quietly in Baton Rouge at 4:05 p.m. C.S.T. Monday, November 22, 1982, when the district court "*sua sponte*" lifted the challenged gag orders a full year and a half after they were imposed and while three appeals, including *Baier v. Parker*, were pending in the Fifth Circuit. Two weeks later the Fifth Circuit denied rehearing and rehearing en banc in *Baier v. Parker* without a word.

Of course, the constitutional challenge was now moot. It was so held in *Davis v. East Baton Rouge Parish School Board*, 721 F.2d 1425, 1441 n.15 (5th Cir. 1983), wherein the First Amendment question was silently laid to rest, deep in a footnote, without facing the merits. All of which, in turn, sparked commentary from counsel's academic cloister, *viz.*: Paul R. Baier, *Fifth Circuit Symposium, Constitutional Law [First Amendment, Theory and Practice]*, 29 Loy. L. Rev. 647, 650-56 (1983).

Before the United States Court of Appeals for the Fifth Circuit: (Clark, C.J., Politz, Randall, JJ.), *Valley v. Rapides Parish School Board [Forest Hill II]*, 702 F. 2d 1221 (5th Cir. 1983). The second-round Forest Hill appeal, contesting the district court's re-affirmance of its decision to close Forest Hill Elementary School. The appeal was argued on May 26, 1981, and after a wait of *twenty-two months*, on March 30, 1983, the Fifth Circuit split 2 to 1, affirming the district court's decision closing Forest Hill Elementary School (Politz, J., joined by Randall, J.; Chief Judge Charles Clark dissenting). A heartbreaker.

Before the Louisiana Supreme Court: *Allen v. Louisiana State Bd. of Dentistry*, 543 So.2d 908 (La. 1989) (per Cole, J.), *reversing* 531 So.2d 787 (La. App. 4th Cir. 1988). The Louisiana Supreme Court condemned the State Board of Dentistry's prosecutor's drafting the decision suspending a dentist's license to practice, which I opposed on due process grounds. This commingling of prosecutorial and adjudicative functions "is anathema under our notions of due process." 543 So.2d at 916.

SELECT APPELLATE ARGUMENTS (Cont'd.)

Before the United States Court of Appeals for the Fifth Circuit: (Politz, C.J., Reavley & Jolly, JJ.), *State of Louisiana, ex rel. Guste, Attorney General v. Roemer, Governor*, 949 F.2d 145 (5th Cir. 1991), from the district court's ruling that Governor Roemer, not Attorney General Guste, was the State's legal representative in the *Louisiana Higher Education Desegregation Case*. As Special Assistant Attorney General and personal counsel to Attorney General William J. Guste, Jr., I urged the ruling below effectively denied Attorney General Guste his state constitutional office as "chief legal officer" of the State. The Fifth Circuit, per Politz, C.J., certified this state constitutional squabble to the La. Sup. Ct, as I had urged, over the opposition of Governor Roemer and counsel. Then it was all sweetly settled.

Before the United States Court of Appeals for the Fifth Circuit: (Smith, Duhé & Wiener, JJ), *United States v. State of Louisiana*, 9 F.3d 1159 (5th Cir. 1993), as Special Counsel for Louisiana Attorney General; rebuttal argument against the United States urging reversal. This was the *Louisiana Higher Education Desegregation Case*, in which the district court had dismantled the four state higher education governance boards and the Southern University Law Center, all of which we stoutly opposed in the Fifth Circuit. *Held*: Remedial order VACATED; summary judgment on liability REVERSED; REMANDED. Thereafter, this twenty-year old litigation was sweetly settled and Southern University Law Center continues its vital work.

Before the United States Court of Appeals for the Fifth Circuit, *James v. Whitley*, 39 F.3d 607 (5th Cir. 1994). A battle for federal habeas corpus on Nolan James's claim of race discrimination in the selection of grand jury foremen in Ascension Parish, Louisiana. I appeared pro bono by appointment of the Fifth Circuit.

Before the United States Supreme Court: *Louisiana v. Hays*, 515 U.S. 737 (1995), the ill-fated fight for Congressman Cleo Fields Congressional District. The Supreme Court of the United States ordered Hays & Co. dismissed for want of standing after the case had been litigated on the merits in the district court for over two years!

Before the Louisiana Supreme Court: *Louisiana Paddlewheels v. Riverboat Gaming Commission*, 646 So.2d 885 (La. 1996) (per Lemmon, J.), on behalf of a competitor of Merv Griffin's "Player's" casino. "Paddlewheels" wanted some of the action but was blocked by special act of the Legislature prohibiting additional river boats on Lake Charles unless Calcasieu Parish voted yes. This reversed the rules of river boat gaming in one parish alone, which we urged violated equal protection and the constitutional prohibition of special laws. The Supreme Court agreed and declared the statute unconstitutional. A "big chip" case.

Before the Louisiana Supreme Court: *Charles A. Brown d/b/a Triambient Lounge v. State Through Dept. of Pub. Safety*, 680 So.2d 1179 (La. 1996), declaring unconstitutional a statute forbidding contributions to political action committees formed to oppose repeal of video-poker by popular referendum. As amicus curiae, I successfully opposed the statute on First Amendment grounds. Another "big chip" case.

Before the Louisiana Supreme Court: *Louisiana Seafood Management Council v. Louisiana Wildlife and Fisheries Commission*, 715 So.2d 387 (La. 1998), representing Louisiana's Commercial Fishermen in their constitutional challenge to Act 1316, 1995 Reg. Sess., the Marine Resources Conservation Act. The trial court condemned the Act as an unconstitutional taking of the fishermen's "Right to fish commercially," previously conferred by statute.

Before the United States Supreme Court: *Foster v. Love*, 522 U.S. 67 (1998), the Federal Election Day Case, as Special Assistant Attorney General. The Court condemned Louisiana's October open primary law, as applied to Congressional elections, as a plain violation of the Federal Election Day Law. We didn't read the Election Law that way, did our duty, and lost the case. So it goes.

SELECT APPELLATE ARGUMENTS (Cont'd.)

Before the United States Supreme Court: *Campbell v. Louisiana*, 523 U.S. 392 (1998), another joint appearance with Louisiana Attorney General Richard P. Ieyoub. Delicate issues of standing to sue were raised: Campbell was a convicted white murderer who claimed a black had never served as grand jury foreperson in Evangeline Parish, Louisiana. I advised the Attorney General in advance of our appearance that Louisiana would lose the case but that we were obliged to do our duty. True enough, we lost. We were consoled, however, in knowing we were only defending the constitutional errors of the Louisiana Supreme Court.

Before the United States Court of Appeals for the Fifth Circuit, *Young v. Cain*, No. 99-30870 (1999). On appeal from the district court's dismissal of a prisoner's *pro se* habeas corpus petition claiming race discrimination in the selection of grand jury forepersons in Washington Parish, Louisiana. This case came to me by way of mail from the Louisiana State Penitentiary at Angola. After two trips to Angola, consultation with Robert Young, a painstaking search of the record, and encouragement from Jerry McKernan, Esq., trial counsel in Young's criminal case, I filed an application for a certificate of appealability to the Fifth Circuit. On Christmas Eve, December 23, 1999, Judge W. Eugene Davis signed an order granting Young's request for a C.O.A., *viz.*:

Young argues that the district court's reliance on *Campbell v. Louisiana*, 523 U.S. 392, 118 S. Ct. 1419, 1427 (1998), is misplaced as the district court relied upon Justice Thomas's dissent rather than the Court's majority opinion in determining that Young's conviction by the petit jury foreclosed his challenge regarding the selection of the grand jury foreman. Young's request for a COA is *granted*.

Before the United States Court of Appeals for the Fifth Circuit, *Young v. Cain*, No. 99-30870 (4/27/2000). Following briefing on the merits, the Fifth Circuit held: "The district court's conclusion that Young's equal protection claim was foreclosed by his subsequent conviction by a petit jury was thus reversible error."

Before the Louisiana Supreme Court, *Wooley v. State Farm Insurance*, No. 2004-CA-822, 893 So.2d 746 (La. 1/19/05), as *amicus curiae* by leave of Court. The district court appointed me *amicus curiae* in a case involving a Louisiana statute that expressly denies judicial review to any state agency where an administrative law judge rules against the agency's adjudicative position, La. R.S. 49:964(A)(2) ("No agency or official thereof, or other person acting on behalf of an agency or official thereof, shall be entitled to judicial review of a decision made pursuant to this Chapter."). As *amicus* I urged the unconstitutionality of the statute on separation of powers grounds. The trial court so held. Thereafter on appeal to the Louisiana Supreme Court I briefed and argued the matter (9/7/04) urging affirmance.

Before the Louisiana Supreme Court, *State of Louisiana v. Anthony Scott*, No. 2004-KA-1312, 921 So.2d 904 (La. 1/19/06), as *amicus curiae* by leave of Court, on behalf of the Louisiana Psychological Association, *et al.* On appeal of a capital murder conviction; what are the proper legal standards for determining mental retardation? Argued May 25, 2005.

Before the United States Supreme Court: *Kennedy v. Louisiana*, No. 07-343, October Term 2007, decided June 25, 2008, 554 U.S. 407, Counsel of Record for Amici Curiae Louisiana Association of Criminal Defense Lawyers and Louisiana Public Defenders Association. Justice Kennedy's majority opinion declaring Louisiana's statute imposing the death penalty for child rape unconstitutional cited and relied on data contained in our amici brief, 554 U.S., at 439.

SELECT APPELLATE ARGUMENTS (Cont'd.)

Before the Louisiana Supreme Court, *State v. Castillo*, 57 So.3d 1012 (La. 2011). Chief Justice Kimball appointed our Law Center Clinic to represent Vincent Castillo, an indigent, on his claim that the Sixth Amendment guarantees a right to counsel on his discretionary first and only appeal from his criminal misdemeanor convictions, carrying a potential imprisonment in excess of six months. I served as faculty advisor and counsel of record on our Law Center's amicus brief, along with four students from my Advanced Appellate Advocacy Seminar. After several months of mentoring, researching the law, briefing the case our Castillo team assembled in the Louisiana Supreme Court for oral argument, March 16, 2010. This was a spectacular "real-life" classroom.

ARTICLES

Breach of the No-Strike Clause, Section 301, and the Availability of Injunctive Relief, 5 HARVARD LEGAL COMMENTARY 224 (1968). As a third-year law student I suggested (p. 233) that a particular Supreme Court opinion, *Sinclair Refining Co. v. Atkinson*, 379 U.S. 195 (1962), "should be overruled." Two years later, it was. *Boys Markets v. Clerks Union*, 398 U.S. 235 (1970). On the strength of the article, Professors David Shapiro and Frank Sander selected me as one of the student editors of Vol. 6 of HARVARD LEGAL COMMENTARY (1969).

Rights Under a Collective Bargaining Non-Agreement: The Question of Monetary Compensation for a Refusal to Bargain, 47 JOURNAL OF URBAN LAW 253 (1970). In this article I urged the view that the Labor Board should not adopt a make-whole monetary remedy for refusals to bargain. My view was that the Board lacked statutory authority to adopt such a remedy; nor did such relief make good sense policywise. The Board later adopted precisely these views. See *Ex-Cell-O Corp.*, 185 N.L.R.B. 107 (1970); *Tidee Products, Inc.*, 194 N.L.R.B. 1234 (1972), and the D.C. Cir. affirmed, *Electrical Workers v. N.L.R.B.*, 502 F.2d 349 (D.C. Cir. 1974).

In Aid of the Judicial Process: A Proposal for Law Curricular and Student Involvement (with Chief Judge T. John Lesinski), 56 JUDICATURE 100 (1972), suggesting that law schools, students, and courts should develop a program of externships that would benefit both legal education and the judiciary. The idea has caught on at Stanford, Rutgers, Michigan, and at other law schools, including the LSU Law Center.

The Law Clerks: Profile of an Institution, 26 VANDERBILT LAW REVIEW 1125 (1973) (lead article in a symposium issue with Robert Braucher, Eugene Wright, George Rose Smith, Frederick Hamley, Ruggero Aldisert, and others).

The Work of the Louisiana Appellate Courts for the 1972-73 Term—Criminal Procedure I, 34 LOUISIANA LAW REVIEW 396 (1974).

On Law Clerking: A Missouri Supplement Annotated, 1 OBITER DICTUM 46 (1975). Chief Judge David Dixon, of the Missouri Court of Appeals, invited me to conduct a two-day seminar for Missouri law clerks and to deliver this postprandial address.

The Work of the Louisiana Appellate Courts for the 1973-74 Term—Pretrial Criminal Procedure, 35 LOUISIANA LAW REVIEW 461 (1975).

The Work of the Louisiana Appellate Courts for the 1973-74 Term—Administrative Regulation: Law and Procedure, 35 LOUISIANA LAW REVIEW 349 (1975).

The Work of the Louisiana Appellate Courts for the 1974-75 Term—Administrative Law and Procedure, 36 LOUISIANA LAW REVIEW 464 (1976).

ARTICLES (Cont'd.)

What is the Use of a Law Book Without Pictures or Conversations, Spring 1979 SOCIAL SCIENCE RECORD 7. A special *Law and Citizenship* issue.

The Lawyer's Reason and the Soldier's Faith: Colonel Frederick Bernays Wiener, THE CIVILIAN, October 15, 1979, p. 1, col. 1.

"Double Revolving Peripatetic Nitpicker": A Report on the Reporter, 1980 YEARBOOK OF THE SUPREME COURT HISTORICAL SOCIETY 10.

The True Story of the Ohio Syllabus Rule, 1980 YEARBOOK OF THE SUPREME COURT HISTORICAL SOCIETY 21.

Introduction to Hugo Black: A Memorial Portrait, 1982 YEARBOOK OF THE SUPREME COURT HISTORICAL SOCIETY 72.

Hugo Lafayette Black and John Marshall Harlan: Two Faces of Constitutional Law, With Some Notes on Teaching of Thayer's Subject, 9 SOUTHERN UNIV. LAW REVIEW 1 (1982).

Edward Douglass White: Frame for a Portrait, Oration at the Unveiling of the Rosenthal Portrait of Chief Justice Edward Douglass White, before the Louisiana Supreme Court, October 29, 1982, 43 LOUISIANA LAW REVIEW 1001 (1983).

Fifth Circuit Symposium: Constitutional Law, 29 LOYOLA LAW REVIEW 647 (1983).

What Is the Use of a Law Book Without Pictures or Conversations?, 34 JOURNAL OF LEGAL EDUCATION 619 (December 1984). The culmination of almost a decade's experimentation and innovation in the use of archival materials in teaching constitutional law. "[O]ne of the most innovative articles on legal education I can recall."—Erwin N. Griswold.

Fifth Circuit Symposium: Constitutional Law, 30 LOYOLA LAW REVIEW 619 (1984).

Mr. Justice Black: A Centennial Reflection, 31 LOYOLA LAW REVIEW 415 (1985).

Fifth Circuit Symposium: Constitutional Law, 31 LOYOLA LAW REVIEW 639 (1985).

Justice Clark, the Voice of the Past, and the Exclusionary Rule, 64 TEXAS LAW REVIEW 415 (1985).

Framing and Reviewing a Desegregation Decree: Of the Chancellor's Foot and Fifth Circuit Control, 47 LOUISIANA LAW REVIEW 123 (1986).

A Sprig of Laurel for Chief Judge Redmann, 33 LOYOLA LAW REVIEW 900 (1988).

Time and The Court, Oration on the Occasion of the Bicentennial of the Supreme Court of the United States, February 2, 1990, delivered in the Chamber of the Louisiana Supreme Court, New Orleans, 38 LOUISIANA BAR JOURNAL 9 (1990).

Chief Justice John Dixon: Twenty Years in Retrospect, 65 TULANE LAW REVIEW 1 (1990), annotated remarks delivered at retirement proceedings held in the Louisiana Supreme Court, March 27, 1990, honoring Chief Justice John A. Dixon, Jr.

ARTICLES (Cont'd.)

The Bill of Rights and Beyond: La Liberté en Louisiana, Remarks on the Bicentennial of the Bill of Rights, 39 LOUISIANA BAR JOURNAL 175 (1991).

Louisiana Legal Memoirs: Law in the Cajun Nation, 54 LOUISIANA LAW REVIEW 1443 (1994).

The Court and Its Critics, 78 AMERICAN BAR ASSOCIATION JOURNAL 58 (Feb. 1992). I was solicited by the Editor of the A.B.A.J. to respond to Bruce Fein's arrogant attack on the Supreme Court and on Justices Kennedy and Souter in particular.

Mr. Justice Blackmun: Reflections from the Cour Mirabeau, 43 AMERICAN UNIVERSITY LAW REVIEW 707 (Spring 1994). A tribute to H.A.B. in a symposium including Chief Justice Rehnquist, Justice Ruth Bader Ginsburg, Justice William Brennan, Justice Byron White, and Erwin N. Griswold.

O'er the Land of the Free: Flag Burning and the First Amendment, 56 LOUISIANA LAW REVIEW 499 (1996). Speech before Boyd-Ewing Post 58, The American Legion, Louisiana State University, Dec. 4, 1995.

"Father Chief Justice": E.D. White and the Constitution, A Play, 58 LOUISIANA LAW REVIEW 423 (1998).

The Blue and Gray As One: Holmes and White on the Supreme Court, 24 LITIGATION 76 (Summer 1998).

Lewis F. Powell, Jr., 1907-1998: Remembrances from LSU Law, 59 LOUISIANA LAW REVIEW 409 (1999) (special issue dedicated to Mr. Justice Powell).

Mr. Justice Blackmun: Reflections from the Cours Mirabeau, 59 LOUISIANA LAW REVIEW 647 (1999) (special issue dedicated to Justice Harry A. Blackmun and Dottie Blackmun).

The Constitutionality of Minimum Age Requirements for Public Office: Reading Joseph Story on Constitution Day (recounting my successful legal representation, pro bono, of Louisiana Secretary of State W. Fox McKeithen in *Wilfong v. State*, No. 464,561 (19th Judicial Dist. Ct. La., filed Sept. 14, 1999), 60 LOUISIANA LAW REVIEW 481 (2000).

Apologia Pro Vita Sua: Some Appeals I Have Known, 60 LOUISIANA LAW REVIEW 508 (2000).

Chief Judge Melvin Shortess: A Pencil Sketch from Life, 61 LOUISIANA LAW REVIEW 135 (2000).

Holmes and Honors Law at LSU—From the Great Hall to La Maison Française, 63 LOUISIANA LAW 53 (2003).

Of Bakke's Balance, Gratz and Grutter: The Voice of Justice Powell, 78 TULANE LAW REVIEW 1955 (2004).

"By the Light of Reason": Edward Douglass White and the Constitution, 6 LOYOLA JOURNAL OF PUBLIC INTEREST LAW 1 (2005).

On Being Knighted by the Louisiana Bar Foundation, Distinguished Professor 2004, Remarks at the 19th Annual Fellows Dinner, April 15, 2005, Ritz-Carlton Hotel, New Orleans, 65 LOUISIANA LAW REVIEW 1159 (2005).

William H. Rehnquist, † Sept. 3, 2005: The Chief at LSU Law, 2 THE CIVILIAN 8 (2005).

William H. Rehnquist, † Sept. 3, 2005: The Chief at LSU Law, 53 LOUISIANA BAR JOURNAL 377 (2006).

ARTICLES (Cont'd.)

100 Years of LSU Law, 1906-2006: A Centennial Gloss, 67 LOUISIANA LAW REVIEW 289 (2007).

The Supreme Court, Justinian, and Antonin Scalia—Twenty Years in Retrospect, 67 LOUISIANA LAW REVIEW 489 (2007).

Honors Colleges and Law Schools: A Decennial Digest, 32 LEGAL STUDIES FORUM 915 (2008).

Of Judicial Freedom and Judicial Constraint: The Voice of Louisiana's Judge Albert Tate, Jr., 35 SOUTHERN UNIV. LAW REVIEW 443 (2008).

Hugo Black and Judicial Lawmaking: Forty Years in Retrospect, 14 NEXUS 3 (Chapman Univ. School of Law, 2009) (lead article in Chapman's Symposium on Judicial Activism, Same-Sex Marriage, and the Right of Privacy in the Aftermath of Proposition 8).

A Sprig of Laurel for Chief Justice Calogero, 55 LOYOLA LAW REVIEW 1 (2009) (Dedication to Chief Justice Calogero on his retirement).

Beyond Black Ink: From Langdell to the Oyez Project: The Voice of the Past, 55 LOYOLA LAW REVIEW 277 (2009) (The Judiciary's Tug of War with Technology Symposium, March 13, 2009, Loyola Univ. New Orleans College of Law).

Model Appellate Argument: Connecting the Books with Life—Oyez, Oyez, Oyez, AROUND THE BAR (Baton Rouge Bar Journal), June 2010, p. 9.

"Cricket on the Hearth": Edward Douglass White and the Constitution, A Play by Paul R. Baier, 56 LOYOLA LAW REVIEW 793 (2010).

"Playing Justice Holmes", <http://www.raisingthebar.org/News/FoundationNews.asp?NewsID=171> (LOUISIANA BAR FOUNDATION, 2011) (with Jacob A. Stein).

"The Justice from the Bayou: Chief Justice Edward Douglass White, a Centennial Reflection" (with Georgia Chadwick), CULTURAL VISTAS (Louisiana Endowment for the Humanities), Fall 2012.

Judicial Review in Louisiana: A Bicentennial Exegesis (with Georgia Chadwick), 5 JOURNAL OF CIVIL LAW STUDIES 7 (2012).

An Evening with Justice Oliver Wendell Holmes and Chief Justice Edward Douglass White (with Jacob A. Stein), THE BAR REVIEW (Shreveport Bar Ass'n, March 2013).

Judicial Review in Louisiana: A Bicentennial Minute Entry (with Georgia Chadwick), 60 LOUISIANA BAR JOURNAL 408 (2013).

The Book of Peppercorns (with Jacob A. Stein), LOUISIANA LAW REVIEW ON LINE (May 31, 2013), <http://lawreview.law.lsu.edu/2013/05/31/the-book-of-peppercorns/>

CASENOTES

Davis v. Passman (No. 78-5072) in October 1978 Term, PREVIEW No. 29 at 2 (1979).

CASENOTES (Cont'd.)

Consolidated Edison Co. of New York v. New York Public Service Commission (No. 79-134) in October 1979 Term, PREVIEW No. 31 at 1 (1980).

Shea v. Louisiana (No. 82-5920) in 1984-85 Term, PREVIEW No. 5 at 101 (1984).

Thornburg v. Gingles (No. 83-1968) in 1985-86 Term, PREVIEW No. 9 at 259 (1986).

BOOK REVIEWS

Law in the Cajun Nation. By J. Minos Simon, with David Leon Chandler. Lafayette: Prescott Press. 1993. 41 LOUISIANA BAR JOURNAL 341 (1994).

The Pocket Constitutionalist (Silver Anniversary Fifth Edition). By Paul R. Baier & Co. Baton Rouge, Claitor's Publishing Division. 2003. 8vo, pp. Lxiii, 320. *Sub nom.* O. W. Wollensak, AROUND THE BAR (Baton Rouge Bar Journal), February 2005, p. 25.

OP-EDS

The Laws of War: Should military tribunal try al Qaeda?, THE WASHINGTON TIMES, Tuesday, March 28, 2006, Page A23.

"Classic Traits": *Souter/Sotomayor*, NEW HAMPSHIRE BAR ASS'N NEWS, Friday, August 14, 2009, p. 4; <http://www.nhbar.org/publications/archives/display-news-issue.asp?id=5200>

SELECT SPEAKING ENGAGEMENTS

"On the Use and Abuse of Law Clerks," before the Appellate Judges Conference's 1972 National Seminar, Boston, Miami, San Diego, and Reno.

"On Brief Writing," representing Chief Justice Warren E. Burger, with Justice Stanley Mosk of the California Supreme Court and John Frank, Esq., of Phoenix, Ariz., before the Appellate Judges Conference's National Appellate Advocacy Program, Phoenix, Arizona, 1976.

"The Idea of Style in Federal Appellate Opinions," a presentation at the Senior Staff Attorneys Seminar, Federal Judicial Center, Washington, D.C., 1976.

"The Law Clerking Arts," a seminar for Fifth Circuit Law Clerks, at the United States Court of Appeals for the Fifth Circuit, New Orleans, 1977.

"The Constitution and the Family," before the Section on Constitutional Law of the Association of American Law Schools, Atlanta, Georgia, 1977.

"Inside the Supreme Court," a multi-media production (film, radio, television, sound recordings) on the Supreme Court of the United States, before the Annual Judicial Conference of the Michigan Supreme Court and the Michigan Court of Appeals, Point West, Michigan, 1978.

SELECT SPEAKING ENGAGEMENTS (Cont'd.)

"What Is the Use of a Law Book Without Pictures or Conversations?", before the National Archives Conference on Law in American Society: New Historical Perspectives and Resources, Washington, D.C., 1978.

"The Supreme Court Tapes: Lively Conversations for the Classroom," a demonstration of the use of National Archives recordings of oral arguments in Supreme Court cases in teaching constitutional law, before the Section on Teaching Methods and the Section on Constitutional Law of the Association of American Law Schools, Phoenix, Ariz., 1980.

"The Supreme Court Tapes: Law in the Making," a demonstration of the use of National Archives recordings of oral arguments in Supreme Court cases in teaching civil procedure, before the Conference on Teaching of Civil Procedure, sponsored by the Association of American Law Schools, Cornell Law School, 1980.

Edward Douglass White: Frame for a Portrait," address at the unveiling of the Rosenthal portrait of Chief Justice White before the Louisiana Supreme Court, New Orleans, October 29, 1982. Chief Justice John Dixon asked me to deliver the principal oration at the unveiling ceremony.

"The Use of Clio in the Classroom," a demonstration of the use of National Archives recordings of oral argument in Supreme Court cases, e.g., *United States v. Nixon*, *The Pentagon Papers Case*, and of video-taped interviews, e.g., my television interview with Dean Erwin N. Griswold, before the Judicial Archives/Legal History Symposium: "Clio and the Courts: Tapping the Historical Resources of the Southern Federal Judiciary, 1789–Present," Emory Law School, Oct. 1984.

"Reflections on Winning and Losing in the Fifth Circuit," a presentation at the Fifth Circuit Appellate Practice and Advocacy Seminar, co-sponsored by the Bar Association of the Federal Fifth Circuit and Southern Methodist University School of Law, Dallas, Texas, November 1985.

"How to Read the American Constitution: Reflections from the *Cour Mirabeau* and the *Philosophenweg*," Heidelberg University, Heidelberg, Germany, August 1986.

"The Supreme Court, Justinian, and Antonin Scalia," Address before the American Justinian Society of Jurists, New Orleans, Columbus Day 1986.

"The Black Ink of the Constitution," remarks before the Smith County, Texas, Bar Association, Law Day address, Tyler, Texas, May 1987.

"A Sprig of Laurel for Chief Judge Redmann," remarks on the occasion of the retirement of Chief Judge William V. Redmann, Louisiana Court of Appeal, Fourth Circuit, New Orleans, May 1987.

"Role Playing and Simulation in the Teaching of Constitutional Law," before the section on Teaching Methods of the Association of American Law School, Miami, Fla., January 1988.

Time and The Court," Oration on the Occasion of the Bicentennial of the Supreme Court of the United States, February 2, 1990, delivered in the Chamber of the Louisiana Supreme Court, New Orleans.

"Chief Justice Dixon: Twenty Years in Retrospect," remarks delivered at retirement proceedings honoring Chief Justice Dixon, Louisiana Supreme Court, March 1990.

"Use of Media in the Classroom," AALS Minority Law Teachers' Conference, University of Cincinnati College of Law, Cincinnati, Ohio, October 1990.

SELECT SPEAKING ENGAGEMENTS (Cont'd.)

"Hugo L. Black and His Books: The Education of a Justice," American Studies Fall Forum, Louisiana State University, Shreveport, Louisiana, November 1990.

"Of Jefferson and Lafayette: *Les amis de la liberté*," remarks on the Bicentennial of the Bill of Rights, before the Lafayette Parish Bar Association, Lafayette, Louisiana, February 1991.

"The Bill of Rights and Beyond: *La Liberté en Louisiana*," remarks on the Bicentennial of the Bill of Rights, before the Shreveport Bar Association, Law Day 1991.

"Remarks to the Southern Conference of Bar Presidents Introducing Justice Antonin Scalia as Keynote Speaker," New Orleans, September 1991.

"Louisiana's Luther F. Cole: Achievement on the Wing," remarks delivered at retirement proceedings honoring Justice Luther F. Cole, Louisiana Supreme Court, December 1992.

"The Changing Supreme Court," remarks to the New Orleans Bar Ass'n, April 1993.

"O'er the Land of the Free," address before Boyd-Ewing Post 58, The American Legion, LSU, December 1995.

"Preserving Our Past," remarks to the Baton Rouge Daughters of the American Revolution, September 18, 1995, Baton Rouge Woman's Club.

"The Sole Practitioner and the Bill of Rights," remarks before the Sole Practitioners and Small Firms Section, Louisiana State Bar Ass'n, Metairie, Louisiana, February 1997.

"Lawyers in the Great Tradition," 12th Annual Fifth Circuit Appellate Practice and Advocacy Program, New Orleans, April 1997.

"*Ethica Campea*: The Ethics of Oral Argument," 13th Annual Fifth Circuit Appellate Practice and Advocacy Program, New Orleans, February 1998.

"Civil Rights Decisions of the Supreme Court of the United States: Recent and Pending Cases," Baton Rouge Bar Ass'n Continuing Legal Education Program, Baton Rouge, Louisiana, December 1999.

"U.S. Supreme Court Review, October Term 2000, with Attorney General Richard P. Ieyoub, Baton Rouge Bar Ass'n Continuing Legal Education Program, December 2000.

"Chief Judge Melvin Shortess: A Pencil Sketch from Life," remarks delivered at retirement proceedings honoring Chief Judge Melvin Shortess, Louisiana First Circuit Court of Appeal, July 27, 2000.

"Baier's Eye on the Bill of Rights," U.S. Supreme Court Review, October Term 2001, Baton Rouge Bar Ass'n Continuing Legal Education Program, December 2001.

"Father Chief Justice": Edward Douglass White and the Constitution, an invited run of the play, Centennial annual meeting of the American Association of Law Libraries, July 2006, St. Louis, MO.

"Preserving Our Past," before the Philemon Thomas Chapter of the Sons of the American Revolution, February 8, 2007, Baton Rouge Country Club.

SELECT SPEAKING ENGAGEMENTS (Cont'd.)

"Beyond Black Ink: From Langdell to the Oyez Project—The Voice of the Past," Southeastern Association of Law Schools 61st Annual Meeting, July, 2008, Palm Beach, FL, The Ritz Carlton.

"Father Chief Justice: Notes for a Play," Judicial Conference of the United States Fifth Circuit Court of Appeals, May 5, 2009, The Ritz-Carlton, New Orleans, LA. The luncheon program was sold out, with over 280 judges and guests, including Justice Antonin Scalia, in attendance.

"Hugo Black and Judicial Lawmaking: Forty Years in Retrospect," Chapman Univ. School of Law, Feb. 27, 2009. I was the featured speaker in Chapman's Symposium on Judicial Activism, Same-Sex Marriage, and the Right of Privacy in the Aftermath of Proposition 8, podcast and archived by its NEXIS JOURNAL.

SYMPOSIA AND COLLOQUIA

ALBERT TATE, JR. SEMINAR: *Bridging Academia, The Bench & The Bar*, Loyola Univ., New Orleans, May 1987. "Of Judicial Freedom and Judicial Constraint: The Voice of Louisiana's Judge Albert Tate, Jr."

THE BILL OF RIGHTS AND JUDICIAL BALANCE: A TRIBUTE TO LEWIS F. POWELL, JR. I arranged and moderated this colloquium for the inaugural meeting of the Bill of Rights Section of the Louisiana Bar Ass'n held in New Orleans, May 1989. I drafted the Resolution creating the Bill of Rights Section, which was approved by the L.S.B.A. House of Delegates in 1987, and I have served as Sec./Treas. (now Vice-Chair) of the Section charged with arranging our Section's programs ever since. Justice Powell accepted my invitation to participate, along with Erwin N. Griswold, Judge Elbert Tuttle, Judge John Minor Wisdom, and Justice James L. Dennis of the Louisiana Supreme Court. Dean Griswold said of this program: "I think it was the best bar association program I ever participated in."

COURT REPORTS AND REPORTERS OF DECISIONS: *From Edmundus Plowden to Henry Putzel, jr.*, for presentation at the 1990 Annual Meeting of the Ass'n of Reporters of Judicial Decisions, New Orleans, August 1990.

JUDGES OF LIBERTY, LSBA Bill of Rights Section Colloquium, San Destin, Fla., June 1993, featuring Chief Justice John A. Dixon, Jr., Justice Revius Ortique, and Judge Emilio Garza, U.S. Fifth Cir. The influence of past judges of liberty on present thinking was the theme of the program.

LAWYERS IN THE GREAT TRADITION: LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT, LSBA Bill of Rights Section Colloquium, Perdido Key, Alabama, June 1996, featuring U.S. Fifth Circuit Chief Judge Henry Politz.

MANDATORY DRUG TESTING OF STATE EMPLOYEES: THE URINE HOLE IN THE FOURTH AMENDMENT, LSBA Bill of Rights Section Colloquium, Sandestin, Fla., June 1999, featuring Walker Chandler (*Chander v. Miller*, 520 U.S. 305 (1997)), Sam Dalton, Attorney General Richard P. Ieyoub, State Representative Arthur Morrell, and Governor Mike Foster (portrayed by Garland Rolling, President Louisiana Bar Foundation).

FOURTH AMENDMENT BORDERLANDS, Baton Rouge Bar Ass'n Bench Bar Conference, Orange Beach, Ala., April 2001, with Chief Judge Carolyn King, U.S. 5th Cir.; Judge Eugene Davis, U.S. 5th Cir.; Louisiana Attorney General Richard P. Ieyoub.

SYMPOSIA AND COLLOQUIA (Cont'd.)

FROM *BROWN TO GRUTTER: AFFIRMATIVE ACTION AND HIGHER EDUCATION IN THE SOUTH*, Tulane University Law School, Sept. 2003, "Of *Bakke's* Balance, *Gratz* and *Grutter*: The Voice of Justice Powell."

JUDICIAL ACTIVISM, SAME-SEX MARRIAGE, AND THE RIGHT OF PRIVACY IN THE AFTERMATH OF PROPOSITION 8, Nexus Symposium, Chapman University School of Law, Orange, California, Feb. 27, 2009, "Hugo Black and Judicial Legislation: Forty Years in Retrospect."

WORKS IN PROGRESS

WRITTEN IN WATER: AN EXPERIMENT IN LEGAL BIOGRAPHY (with Jacob A. Stein). Colonel Frederick Bernays Wiener is our man of interest, "A lawyer whose arguments are much esteemed by every member of this Court." This from Justice Felix Frankfurter, Frederick Bernays Wiener's teacher in the Federal Jurisdiction Seminar at the Harvard Law School, 1929-30. I have Colonel Wiener's personal papers, put in my hands by his family. Fritz Wiener, a friend and correspondent of some fifteen years, is the only lawyer in the history of the Supreme Court of the United States to lose a case, only to have the Court change its mind on rehearing and withdraw its previously published adverse opinion, substituting therefor an ultimate triumph, *Reid v. Covert II*, 354 U.S. 1 (1957),—"the lawyer's dream come true."

SPEECHES and SELECT LEGAL PAPERS, with a *Foreword* by Justice Harry A. Blackmun, the product of forty years' stumping and scribbling; manuscript complete.

How to Read the American Constitution: Reflections from the Cour Mirabeau and the Philosophenweg. A comparative essay on civilian interpretative techniques and American constitutional interpretation.

SUMMER TEACHING ABROAD

Aix-Marseilles III *Faculté de droit*, Aix-en-Provence, France, June-July 1986. Constitutional Interpretation: *Procédés d'Elaboration*, with Justice Harry A. Blackmun of the Supreme Court of the United States.

Heidelberg University, Heidelberg, Germany, August 1986. *How to Read the American Constitution: Reflections from the Philosophenweg.*

University of Siena, Siena, Italy, July 1991. Separation of Powers and the Rule of Law, with Justice Antonin Scalia of the Supreme Court of the United States.

Aix-Marseilles III *Faculté de droit*, Aix-en-Provence, France, June-July 1992. Constitutional Interpretation: *Procédés d'Elaboration*, with Justice Harry A. Blackmun of the Supreme Court of the United States.

Frei Universität Berlin, Berlin, Germany, July 1992. German and American Constitutionalism: Some Observations from Berlin, with Justice Harry A. Blackmun.

PUBLIC SERVICE

Secretary, Supreme Court of Louisiana Historical Society, since 2007.

Consultant, PREVIEW, Public Education Division of the American Bar Association, Association of American Law Schools, and American Newspaper Publishers Association Foundation.

Member, Association of American Law Schools, Section on Teaching Methods, Annual Meeting Planning Committee, since 2008.

PUBLIC SERVICE (cont.)

Member, Annual Meeting Planning Committee, Supreme Court Historical Society, Wash. D.C., 1977-1980.

Member, Supreme Court Historical Society Oral History Project Committee, 1989 - 1992 (Geoffrey Hazard, Yale Law School, Chairman).

Executive Director, Louisiana Commission on the Bicentennial of the United States Constitution, 1987-Dec. 15, 1991.

Special Assistant Louisiana State Attorney General and counsel to Attorney General William J. Guste, Jr., 1989-1991, *United States v. Louisiana*; *Guste, Attorney General v. Roemer, Governor*.

Special Counsel to Louisiana Attorney General Richard P. Ieyoub, *United States v. Louisiana* (1993), Higher Education Desegregation Case, U.S. Fifth Cir.; *Louisiana v. Hays* (1995), U.S. Sup. Ct, Louisiana Congressional Reapportionment Case; *Foster v. Love* (1998), U.S. Sup. Ct, Federal Election Day Case; *Campbell v. Louisiana* (1998), U.S. Sup. Ct, Race Discrimination/Grand Jury Foreperson Case.

Scholar in Residence, Louisiana Bar Foundation, 1990-1992.

Member, Governing Board of The Edward Douglass White Historic Site, by nomination of Louisiana Secretary of State W. Fox McKeithen and confirmation by Louisiana Senate, 1993-1998.

Secretary/Treasurer, Vice-Chairman, Bill of Rights Section, Louisiana State Bar Ass'n, 1987-2010..

Pro Bono counsel by appointment of the Court, *James v. Whitley*, 39 F.3d 607 (5th Cir. 1994). A battle for federal habeas corpus on Nolan James's claim of race discrimination in the selection of grand jury foremen in Ascension Parish, Louisiana.

Pro Bono counsel by appointment of the Court, *Young v. Cain*, No. 99-30870 (5th Cir. 1999). On appeal from the district court's dismissal of a prisoner's *pro se* habeas corpus petition claiming race discrimination in the selection of grand jury foremen in Washington Parish, Louisiana. This case came to me by way of mail from the Louisiana State Penitentiary at Angola. On Christmas Eve, Dec. 23, 1999, Judge Eugene Davis signed an order granting Young's request for a C.O.A., *viz.*: "Young argues that the district court's reliance upon *Campbell v. Louisiana* is misplaced as the district court relied upon Justice Thomas's dissent rather than the Court's majority opinion in determining that Young's conviction by the petit jury foreclosed his challenge regarding the selection of the grand jury foreman. Young's request for a C.O.A. is *granted*."

Amicus Curiae, *Wooley v. State Farm Insurance*, 893 So.2d 746 (La. 2004). The district court appointed me amicus in a case involving a Louisiana statute that expressly denies judicial review to any state agency where an administrative law judge rules against the agency's adjudicative position, La. R.S. 49:964(A)(2) ("No agency or official thereof, or other person acting on behalf of an agency or official thereof, shall be entitled to judicial review of a decision made pursuant to this Chapter."). As amicus I urged the unconstitutionality of the statute on separation of powers grounds. The trial court so held. Thereafter on appeal to the Louisiana Supreme Court, I briefed and argued the matter as amicus curiae (9/7/04) urging affirmance.

Amicus Curiae, *State of Louisiana v. Anthony Scott*, 921 So.2d 904 (La. 2006), on behalf of the Louisiana Psychological Ass'n, *et al.*, raising the question of the proper legal standards for determining mental retardation in capital cases.

PUBLIC SERVICE (cont.)

Amicus Curiae, *Patrick Kennedy v. Louisiana*, Supreme Court of the United States, 554 U.S. 407 (2008), on behalf of Louisiana Ass'n Criminal Defense Lawyers and Louisiana Public Defenders Ass'n in support of Petitioner.

Amicus Curiae, *State v. Castillo*, 57 So.3d 1012 (La. 2011), by appointment of Chief Justice Kimball.

Amicus Curiae, *State of Louisiana v. Michael J. Garcia*, No. 2009-KA-1578, *sub judice*. I appeared pro bono publico with my good friend and Southern University Law Center colleague Russell Jones. As amici we urged reversal of a trend in Louisiana's criminal justice jurisprudence that pays only lip service only to the golden rule of *State v. Prieur*, 277 So.2d 126 (La. 1973) (prior crimes and undue prejudice).

HONORS

Judicial Fellow, Supreme Court of the United States, 1975-76;

Scholar in Residence, Louisiana Bar Foundation, 1990-92;

George M. Armstrong, Jr., Professor of Law, LSU Law Center, 1992.

"Distinguished Professor 2004", Louisiana Bar Foundation, 19th Annual Dinner, April 15, 2005, Ritz-Carlton Hotel, New Orleans;

Distinguished Undergraduate Teaching Award, Tiger Athletic Foundation, LSU Honors College, May, 2007.

Professor of the Year 2010, LSU Law Center, by vote of the Senior Class.

Distinguished Undergraduate Teaching Award, Tiger Athletic Foundation, LSU Honors College, April, 2011.

Judge Henry A. Politz Professor of Law, LSU Law Center, approved by LSU Board of Supervisors, effective November 1, 2013

REFERENCES

President Emeritus William L. Jenkins, Louisiana State University, 1913 Stratton Court, Colleyville, TX 76034 (817) 251-1731.

Chancellor Jack M. Weiss, Paul M. Hebert Law Center, LSU, Baton Rouge, Louisiana, (225) 578-8479.

Judge James L. Dennis, United States Court of Appeals for the Fifth Circuit, under whom I served as Executive Director of the Louisiana Comm'n on the Bicentennial of the United States Constitution, 1987-91, (504) 310-8000.

Justice Harry T. Lemmon, Louisiana Supreme Court (Ret.), New Orleans, (504) 581-2155.

Richard P. Ieyoub, Attorney General of Louisiana (Ret.), Baton Rouge (225)763-9422.

Professor James D. Hardy, Jr., Dept. of History, Louisiana State University, Founding Associate Dean, LSU Honors College, with whom I teach an Honors Law course in the LSU Law Center, (225) 769-2455.